



BEFORE THE GOVERNING BOARD OF THE LINDEN UNIFIED SCHOOL DISTRICT OF SAN JOAQUIN COUNTY, STATE OF CALIFORNIA

RESOLUTION NO. 111313-R10

RESOLUTION OF THE BOARD OF EDUCATION OF THE LINDEN UNIFIED SCHOOL AUTHORIZING REQUEST FOR WAIVER OF THE REQUIREMENT THAT THE ESTABLISHMENT OF TRUSTEE AREAS AND ADOPTION OF A "BY-TRUSTEE AREA" ELECTION PROCESS BE SUBMITTED TO THE ELECTIONS AS SET FORTH IN EDUCATION CODE SECTIONS 5019, 5020, 5021 AND 5030

WHEREAS, the Linden Unified School District ("District") currently uses an at-large system of electing its governing board members; and

WHEREAS, at-large electoral systems such as the Districts are subject to challenge under the California Voting Rights Act of 2001, codified at sections 14025-14032 of the California Elections code ("CVRA"); and

WHEREAS, "by-trustee area" electoral systems are not vulnerable to challenge under the CVRA; and

WHEREAS, in a by-trustee area system of election, candidates for the District's governing board (the "Board") must reside within a specific geographic subarea often District called a "trustee area" and candidates are elected only by the voters of that trustee area; and

WHEREAS, one method of transitioning from an at-large electoral system to a by-trustee area electoral system is for the school district board of trustees to petition the local county committee on school district organization by resolution to initiate the transition under California Education Code Section 5019(c)(1); and

WHEREAS, under the provisions of Education Code Section 5020 and related sections the establishment of trustee areas and adoption of a by-trustee area election process must be put to a vote by the electors of the District; and

WHEREAS, several Districts in California have been sued or threatened with a lawsuit for alleged violations of the CVRA by a group that has filed several such lawsuits over the past few years as a result of such Districts at-large-election systems; and

WHEREAS, to avoid the cost, expenses and uncertainty inherent in such litigation, the District has proceeded expeditiously to change its current at-large election system; and

WHEREAS, in order to complete the transition in a timely manner and to guarantee that the new by-trustee area process will be in place in time to elect new governing board members in November of 2014, the District must obtain a waiver of the election process of Education Code sections 5019, 5020, 5021 and 5030 from the State Board of Education; and

WHEREAS, Education Code Section 33050 *et seq.* allows the governing board of a school district to request the State Board of Education to waive all or part of any section of the Education Code or any regulation adopted by the State Board of Education that implements a provision of the Education Code, subject to certain exceptions; and

WHEREAS, Education Code section 5020 and related sections are not listed as exception in Education Code section 33050 *et seq.* and can thus be waived; and

WHEREAS, to obtain a waiver, the District must comply with Education Code and California Department of Education and State Board of Education regulations; and

WHEREAS, the District must consult with all collective bargaining units; and

WHEREAS, the District must consult with any advisory and other committees or councils with an interest in the waiver; and

WHEREAS, the District must conduct a properly noticed public hearing, at which time the public may testify on the merits of obtaining a waiver from the State Board of Education; and

WHEREAS, the District must submit a complete General Waiver Request form to the California Department of Education; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Education of the Linden Unified School District as follows:

1. That the above recitals are true and correct.
2. That the Board hereby declares the Board's intention to seek a waiver of Education Code section 5020 and portions of related sections pertaining to the requirement that the establishment of trustee areas and adoption of a by-trustee area election process must be put to a vote by the electors of the District.
3. That the District has consulted all collective bargaining units, made every effort to include them as a participant in the waiver process and shall note the collective bargaining units' position regarding the waiver in the District's General Waiver Request.
4. That the District has consulted all committees and councils with an interest in the waiver, and shall note the position of such groups regarding the waiver in the District's General Waiver Request.
5. That the District distributed a notice specifically inviting public testimony regarding the waiver, and said notice was printed in a newspaper of general circulation and included the date, time, location and subject of the hearing.
6. That on the 13th day of November, 2013, the District conducted a properly noticed public hearing held during a board meeting at which time the public was able to testify on the waiver proposal.
7. That the District's Superintendent and/or designee is authorized and directed to submit a General Waiver Request to the California Department of Education, seeking a waiver of the requirement that the establishment of trustee areas and adoption of a by-trustee area

election process must be put to a vote by the electors of the District under Education Code section 5020 and related sections in order to ensure the timely adoption of the District's trustee areas and the District's transition from its current at-large electoral process to a by-trustee area electoral process.

PASSED AND ADOPTED, by the Board of Education of the Linden Unified School District this 13th day of November 2013, by the following vote, to wit

AYES:

NOES:

ABSTAIN:

ABSENT:

Clay Titus, President
BOARD OF EDUCATION

Kirstin Holtberg, Clerk
BOARD OF EDUCATION