



Fagen Friedman & Fulfroft LLP

# **Transition to by-Trustee Area Election Process, Options and Impact of Potential Reduction from 7 to 5 Trustees, Including Waiver Steps Related Process**



Santa Clara Unified  
School District



Jonathan Salt  
February 25, 2021

[F3law.com](http://F3law.com)

# Tentative Election Transition Timeline

## Pre-Map Public Hearings

September 9, 2021	6:30 p.m.
September 23, 2021	6:30 p.m.

Early October 2021 – Demographer to Create Options

## Public Hearings on Map Options

October 28, 2021	6:30 p.m.
November 18, 2021	6:30 p.m.
December 9, 2021	6:30 p.m.



# Map Creation Considerations

## ■ Federal Requirements

### ☐ *Equal Population*

- As equal as practicable based on data and criteria from most recent Census Total Population

### ☐ *Minority Voting Rights*

- No Discriminatory Purpose; No Vote Dilution

### ☐ *Equal Protection*

- Race must not be a predominant factor

## ■ State Requirements

### ☐ Topography

### ☐ Geography

### ☐ Cohesiveness, Contiguity, Integrity, & Compactness of territory

### ☐ Community of Interest



# Updated Census Release Date



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## Census Bureau Statement on Redistricting Data Timeline

 English 

Sections 

**FOR IMMEDIATE RELEASE: FRIDAY, FEBRUARY 12, 2021**

FEBRUARY 12, 2021  
RELEASE NUMBER CB21-CN.14

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**FEB. 12, 2021** — The U.S. Census Bureau announced today that it will deliver the Public Law 94-171 redistricting data to all states by **Sept. 30, 2021**. COVID-19-related delays and prioritizing the delivery of the apportionment results delayed the Census Bureau's original plan to deliver the redistricting data to the states by March 31, 2021.

Different from previous censuses, the Census Bureau will deliver the data for all states at once, instead of on a flow basis. This change has been made because of COVID-19-related shifts in data collection and in the data processing schedule and it enables the Census Bureau to deliver complete and accurate redistricting data in a more timely fashion overall for the states.

The redistricting data includes counts of population by race, ethnicity (Hispanic or Latino origin), voting age, housing occupancy status, and group quarters population, all at the census block level. This is the information that states need to redraw or "redistrict" their legislative boundaries.

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# County Committee

- County Committee required to hold a public hearing within the District on the District's Proposal
- Ordinarily, once approved by County Committee, the transition from at-large to by-trustee area elections is placed on ballot for approval by electorate; **HOWEVER...**



# Potential Waiver from SBE

- State Board of Education has power to waive requirement that the proposal be placed on ballot (Ed Code § 33050.)
- CDE has approved of such waivers
- Requirements:
  - Consult with bargaining units, school site councils, advisory committees
  - Hold public hearing on the waiver



# Trustee Area Election Waiver Frequency

- The waiver of the election at the conclusion of the trustee area transition process is commonly sought and obtained – in bulk.
- From just May 2019 – May 2020 for example, **60 school districts** sought and obtained a waiver for these purposes.

## WAIVERS / ACTION AND CONSENT ITEMS

The following agenda items include waivers that are proposed for consent and those waivers scheduled for separate action because CDE staff may have recommended denial, or determined may present new or unusual issues. Waivers proposed for consent are so indicated on each waiver's agenda item; however, any board member may remove a waiver from proposed consent and the item may be heard individually. Action different from that recommended by CDE staff may be taken.





# Trustee Area Election Waiver Frequency

SCHOOL DISTRICT REORGANIZATION (Elimination of Election Requirement)

[Item W-07](#) (DOCX)

**Subject:** Requests by **sixteen local educational agencies** to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a districtwide election to establish a by-trustee-area method of election.

**Waiver Numbers:**

- Arcata Elementary School District 6-2-2020
- Brea-Olinda Unified School District 23-1-2020
- Cabrillo Unified School District 18-3-2020
- Cotati-Rohnert Park Unified School District 20-1-2020
- El Tejon Unified School District 4-4-2020
- Folsom-Cordova Unified School District 20-3-2020
- Gilroy Unified School District 17-3-2020
- Glendora Unified School District 3-2-2020
- Hacienda la Puente Unified School District 12-2-2020
- Napa Valley Unified School District 23-2-2020
- Rosedale Union Elementary School District 5-4-2020
- Rowland Unified School District 8-3-2020
- San Juan Unified School District 15-3-2020
- Solana Beach Elementary School District 1-4-2020
- Sonoma Valley Unified School District 4-2-2020
- South San Francisco Unified School District 3-3-2020

- March 2020 – 15 districts
- May 2020 - 16 districts

(Recommended for APPROVAL)



# Option: Reduce Board Membership from 7-to-5

- Ed Code 5019(a)(1):

- ...the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven from five, or decrease from seven to five, the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.



# Option: Reduce Board Membership from 7-to-5

- What is required?
  - County Committee Approval:
    - Initiated by the County Committee
    - Petition by registered voters
    - School District Board resolution
  - Approval by Voters in Districtwide election\*

*\*May be waived*



# Waiver Benefits

- Expedites final action, avoiding delay until next District election
- Reduces cost of election
- Eliminates outcome uncertainty



# Seat Reduction Waiver Frequency

- While still non-controversial, and also appearing on consent agenda, 7 to 5 shifts (and related waivers) are rare.
- Last 5 Years: 2 Districts - Similar Waiver
  - March 2016: Southern Humboldt JUSD
  - March 2020: Linden USD
- A handful of small districts have reduced Board membership from 5 to 3 Trustees over the same period



# Possible Rationales to Shift from 7-to-5

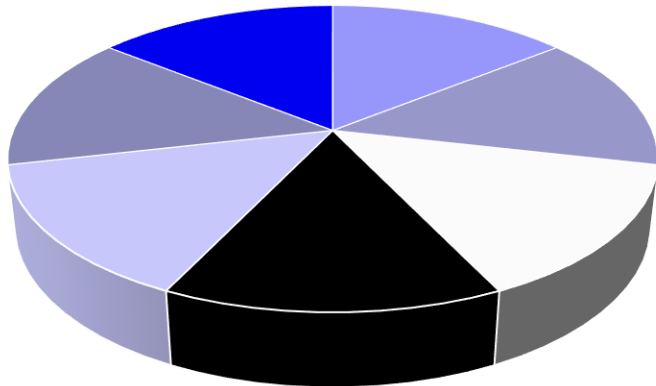
- Difficulty finding community members willing to commit to serving four years
- Frequent vacancies
- Unable to fill vacancies
- Preference



# Seat Reduction Timing & Impact of Election Transition

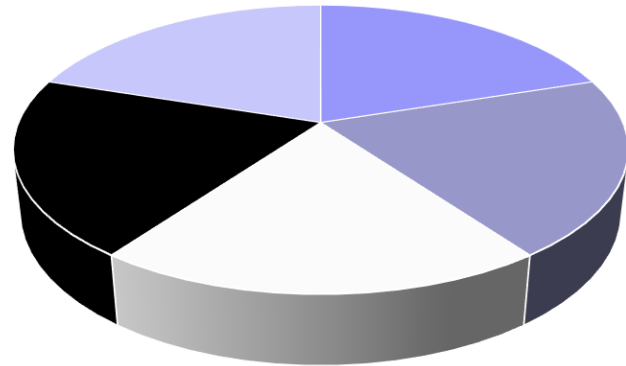
- Remember the map-drawing criteria, including that each area must have as equal total population as practicable.

7 Member Board  
Population per Area



■ Area 1 ■ Area 2 ■ Area 3 ■ Area 4 ■ Area 5 ■ Area 6 ■ Area 7

5 Member Board  
Population per Area



■ Area 1 ■ Area 2 ■ Area 3 ■ Area 4 ■ Area 5



# Seat Reduction Timing & Impact of Election Transition


- Without seat reduction election waiver – may have to re-draw trustee area map again for 5 Areas
- Consider/decide **as soon as possible**
- After Census release (now projected September 2021), the election transition process will go full steam ahead.
- If 7 vs. 5 is resolved sooner:
  - Save on costs of drawing two sets of map options;
  - Avoid community confusion with 2 sets of maps;
  - Avoid “contingency” map approvals






# SCUSD Election Transition Updates

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## Board of Trustees

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Voting](#) >

## Board of Trustees Homepage

The Santa Clara Unified School District Board of Trustees is comprised of seven members, elected at large to serve 4-year terms.

Citizen oversight of local government is the cornerstone of democracy in the United States. School board members are locally elected public officials entrusted with governing a community's public schools. The role of the school board is to ensure that school districts are responsive to the values, beliefs, and priorities of their communities. Boards fulfill this role by performing five major responsibilities:

- Setting direction
- Establishing an effective and efficient structure
- Providing support
- Ensuring accountability
- Providing community leadership as advocates for children, the school district, and public schools

These five responsibilities represent core functions that are so fundamental to a school system's accountability to the public that they can only be performed by an elected governing body. Authority is granted to the board as a whole, not each member individually. Therefore, **board members fulfill these responsibilities by working together as a governance team with the superintendent** to make decisions that will best serve all the students in the community.

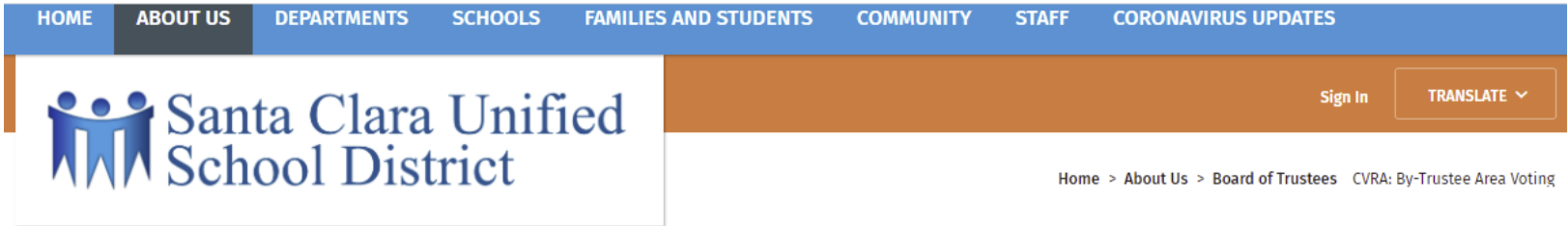
## Contact

Cory Sanfilippo  
Executive Assistant to the  
Superintendent and Board of  
Trustees  
(408) 423-2006  
[csanfilippo@scusd.net](mailto:csanfilippo@scusd.net)

## Upcoming Board Meetings

**MARCH****11****Thursday**Board  
Meeting→ 6:30 PM  
- 10:00 PM

# SCUSD Election Transition Updates



## Board of Trustees

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## CVRA: By-Trustee Area Voting

### What is CVRA?

Senate Bill 976, also known as the California Voting Rights Act of 2001 (CVRA), signed into law in 2002, prohibits the use of any election system “that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election.” Jurisdictions can be sued if they elect their governing body using an “at-large” election system. If the court finds against a jurisdiction, the jurisdiction must change its election system to a “by-trustee area” election system and pay the plaintiff’s attorneys, experts, and other expenses. Jurisdictions that fought CVRA claims have paid settlement or judgment amounts ranging from \$3,000 to over \$4 million.

### Why Transition to By-Trustee Area Elections?

While the district does not believe that its current form of elections violates the CVRA, it does believe that it is in the public interest to begin the process to transition from at-large to by-trustee area elections to minimize the future potential for impermissible racially-polarized voting or legal claims. The only election system that provides Santa Clara Unified School District (SCUSD) complete protection from a CVRA legal claim is a by-trustee area election system.

## Contact

[cvra@scusd.net](mailto:cvra@scusd.net)

## Quick Links

- CVRA Presentation on 1/19/2021
- CVRA Updates
- SB 976: CVRA of 2001

# SCUSD Election Transition Updates

The public is invited to provide input on the trustee area boundary mapping during public hearings prior to the Board of Trustees asking the Santa Clara County Committee on School District Organization (County Committee) to approve the change. Opportunities for public input regarding the content of the draft maps and the sequence of elections include but are not limited to four public hearings. Pursuant to [Elections Code section 10010, subdivision \(a\)](#), the district will hold at least two public hearings before the drawing of draft trustee area maps and two public hearings after all the draft maps are drawn. **The tentative dates and times of the currently scheduled upcoming public hearings are shown below.**

Based on the tentative schedule below, it is expected that the Board of Trustees will vote on the final trustee area maps and send them on to the county committee for approval during their December 9, 2021 board meeting.

## Public Hearing Schedule (Tentative)

### Public Hearings — Prior to Creation of Map Options

**September 9, 2021 | 6:30 p.m.**

Location to be determined\*

**September 23, 2021 | 6:30 p.m.**

Location to be determined\*

### Public Hearings — After Creation of Map Options

**October 28, 2021 | 6:30 p.m.**

Location to be determined\*

**November 18, 2021 | 6:30 p.m.**

Location to be determined\*

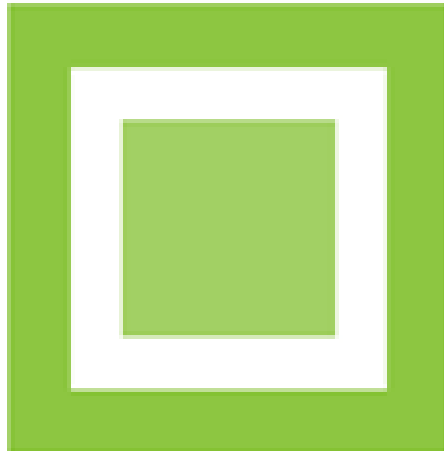
**December 9, 2021 | 6:30 p.m. \*\***

Location to be determined\*

#### **Note:**

\* Public hearing locations will be determined during the summer of 2021.

\*\* The Board of Trustees vote on “by-trustee area” boundaries will immediately follow the third post-map release Public Hearing on December 9, 2021 at 6:30 p.m.



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