

DANNIS WOLIVER KELLEY
Attorneys at Law

BOARD OF SUPERVISORS

2017 JAN -3 A 10: 21

275 Battery Street
Suite 1150
San Francisco, CA 94111
TEL 415.543.4111
FAX 415.543.4384

115 Pine Avenue
Suite 500
Long Beach, CA 90802
TEL 562.366.8500
FAX 562.366.8505

750 B Street
Suite 2310
San Diego, CA 92101
TEL 619.595.0202
FAX 619.702.6202

1682 Novato Boulevard
Suite 251
Novato, CA 94947
TEL 415.543.4111
FAX 415.543.4384

2485 Notre Dame Boulevard
Suite 370-A
Chico, CA 95928
TEL 530.343.3334
FAX 530.924.4784

555 Capitol Mall
Suite 645
Sacramento, CA 95814
TEL 916.978.4040
FAX 916.978.4039

1065 Higuera Street
Suite 301
San Luis Obispo, CA 93401
TEL 805.980.7900
FAX 916.978.4039

www.DWKesq.com

ROMAN J. MUÑOZ
Attorney at Law
rmunoz@DWKesq.com

Sacramento

December 29, 2016

VIA FACSIMILE, CERTIFIED MAIL AND U.S. MAIL

County of Stanislaus
Elizabeth A. King
Clerk of the Board of Supervisors
1010 10th Street, Suite 6500
Modesto, CA 95354

**Re: Request for Rescheduling Election of Governing Board Members -
Resolution No. 15a-110316**

Dear Ms. King:

Our office serves as general counsel to the Empire Union School District ("District"). The District requested we send you the enclosed Empire Union School District Board of Trustees Resolution No. 15a-110316 - Resolution to Reschedule Election of Governing Board Members ("Resolution"). On November 3, 2016, the Board of Trustees adopted the above-mentioned Resolution to request a change from odd-year elections to even-year elections.

The District Board adopted this Resolution in order to save public funds, provide greater voter input and participation into school Board elections, and avoid any potential liability under the California Voter Participation Act (commencing with Election Code section 14050 and following). The District may achieve a savings in the cost of its elections if the District's elections are consolidated with the statewide general elections and the elections are held in either two or three trustee areas at each general election. Additionally, voter turnout is greater for statewide general elections than for local elections, including school board member elections held in November of odd-numbered years.

Under California Elections Code section 10404.5, the District adopted the Resolution to change their election dates from November of odd-numbered years to the statewide direct primary of even-numbered years. The Resolution requests the Board of Supervisors to approve the new election date from the first Tuesday after the first Monday in November 2017 to the first Tuesday after the first Monday in November 2018 with Board members whose terms would have expired in 2017 being extended to 2018 and Board members whose terms would have expired in 2019 being extended

County of Stanislaus
Elizabeth A. King
Clerk of the Board of Supervisors
December 29, 2016
Page 2

to 2020. California Elections Code section 10404.5(d)(1) provides that the Board of Supervisors shall approve such a school district consolidation resolution unless it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled.

If you should have any questions, please feel free to contact me at (916) 978-4049 or District Superintendent, David E. Garcia at (209) 521-2800.

Very truly yours,

DANNIS WOLIVER KELLEY

A handwritten signature in black ink, appearing to read 'Roman J. Muñoz', written over the typed name.

Roman J. Muñoz

RJM:mg

Attachments: Resolution No 15a-110316 - Rescheduling Election of Governing
Board Members

cc: David E. Garcia, Superintendent
Loretta Stein, Board President
Lee Lundrigan, Stanislaus County Registrar of Voters and Clerk Recorder

**EMPIRE UNION SCHOOL DISTRICT
BOARD OF TRUSTEES
RESOLUTION #15a-110316
RESOLUTION TO RESCHEDULE ELECTION
OF GOVERNING BOARD MEMBERS**

WHEREAS, the current date for election of members of the Governing Board of the Empire Union School District ("District") is every two (2) years on the first Tuesday after the first Monday in November of odd-numbered years (e.g., November 2017) (Education Code Section 5000 and Elections Code Section 1302(a)); and

WHEREAS, statewide general elections are held in California only in June and November of even-numbered years (e.g., November 2016) (Elections Code Section 1001); and

WHEREAS, the District is located within Stanislaus County; and

WHEREAS, generally voter turnout is greater for statewide general elections than for local elections, including school board member elections held in November of odd-numbered years; and

WHEREAS, California Senate Bill 415, an act (which may be cited to as the California Voter Participation Rights Act (herein "the Act")) to add Chapter 1.7 (commencing with Section 14050) to Division 14 of the Elections Code, was approved by the California Governor and filed with the Secretary of State on September 1, 2015; and

WHEREAS, commencing January 1, 2018, the Act prohibits a political subdivision from holding an election other than on a statewide election date (i.e. "off-cycle") if holding an election on a non-concurrent date has previously resulted in voter turnout for a regularly scheduled election in the political subdivision being at least 25% less than the average voter turnout within the political subdivision for the four previous statewide general elections; and

WHEREAS, a political subdivision may, however, hold an off-cycle election if, by January 1, 2018, the political subdivision has adopted a plan to consolidate a future election with a statewide election not later than the November 8, 2022, statewide general election; and

WHEREAS, the Act authorizes attorney's fees to a prevailing plaintiff who has appropriately filed an action in superior court to enforce the Act's prohibition; and

WHEREAS, the District may achieve a savings in the cost of its elections, if the District's elections are consolidated with the statewide general elections; and

WHEREAS, as a result of these facts, the Board desires to change the date of future board member elections to be consolidated with the California statewide general election in order to save public funds and provide greater voter input to school board elections; and

WHEREAS, Elections Code 1302(b) establishes a procedure whereby the Governing Board may change the election date for its board members by adopting a resolution seeking approval of the change by the Board of Supervisors of the affected county (Elections Code Section 10404.5); and

WHEREAS, if the change in election date is approved, it is requested that the new election date be moved from the first Tuesday after the first Monday in November 2017 to the first Tuesday after the first Monday in November 2018 with board members whose terms would have expired in 2017 being extended to 2018 and board members whose terms would have expired in 2019 being extended to 2020 (*refer to Appendix A*).

NOW, THEREFORE, BE IT RESOLVED, that the Governing Board hereby finds, determines and/or declares, as follows:

1. Each of the foregoing is true and correct.
2. The Governing Board declares its intent to adopt this resolution to consolidate the election date for members of the Board with the date for the California general election in November in even-numbered years (Elections Code Section 1001) pursuant to Elections Code Section 1302(b).
3. The Superintendent will forward this resolution to the Stanislaus County Board of Supervisors explaining the rationale for the resolution and requesting formal approval of the change by the Board of Supervisors at a public meeting held within 60 days after submission and after the resolution has been posted in accordance with the law.
4. The Superintendent will notify the Stanislaus County Elections Office that the District is prepared to pay the expense of mailing notice of approval of the change in election date by the Stanislaus County Board of Supervisors as required by Elections Code 10404.5(e).
5. If the consolidation of election is approved by the Board of Supervisors, the date of that election will be moved to the first Tuesday after the first Monday in November 2018 and each subsequent board member election will be held two years thereafter in November of even years.

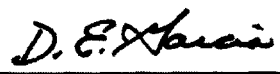
PASSED AND ADOPTED by the Governing Board on November 3, 2016, by the following vote:

AYES 4 NAYS 0 ABSTAIN 0 ABSENT 1



Board President
EMPIRE UNION SCHOOL DISTRICT

Attest:



Secretary

APPENDIX A

RESOLUTION TO RESCHEDULE ELECTION
OF GOVERNING BOARD MEMBERS
RESOLUTION #15a-110316

<u>Board Member</u>	<u>Current Election Year Cycle</u>	<u>Proposed Election Year Cycle</u>
Loretta Stein	2019	2020
Carole Dovichi	2019	2020
Doug Bentley	2017	2018
Nicholas Bavaro	2017	2018
Patricia Shafer	2017	2018