

ORDINANCE NUMBER O- 21841 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 22 2024

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, ONE MEASURE AMENDING THE SAN DIEGO CHARTER BY AMENDING ARTICLE VI, SECTION 66, RELATING TO BOARD OF EDUCATION ELECTIONS.

WHEREAS, under article XI, section 3(b) of the California Constitution, California Elections Code (Elections Code) section 9255, and San Diego Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Special Election; and

WHEREAS, by San Diego Ordinance O-21824, introduced and adopted on June 10, 2024, the Council called a Municipal Special Election to be consolidated with the California State General Election to be held November 5, 2024, for the purpose of submitting to the qualified voters of the City of San Diego (City) one or more ballot measures; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one measure amending the Charter by amending Article VI, section 66, relating to Board of Education (School Board) elections for the San Diego Unified School District (School District); and

WHEREAS, California Constitution, article IX, section 16(a) authorizes charter cities that include school districts to provide for “the manner in which, the times at which, and the terms for which the members of the board of education shall be elected or appointed, for their

qualifications, compensation, or removal, and for the number which shall constitute any one of such boards;” and

WHEREAS, Charter section 66 governs the composition and elections of the School Board; and

WHEREAS, in 2020, the voters approved amendments to Charter section 66 which changed the election of members from a district-wide vote to individual district-based elections, as well as amended the elections process when there is a vacancy on the School Board; and

WHEREAS, under Charter section 66, “[at] the Municipal Primary Election, the registered voters of an individual [School Board] District shall nominate two candidates to fill the office of their [School Board] member . . . . The top two vote-getters in the Municipal Primary Election for an individual seat will advance to the Municipal General Election;” and

WHEREAS, under this Charter section 66 requirement, when there are only two candidates on the ballot for a School Board seat in the Municipal Primary Election (Primary), those two candidates must run twice: first in the primary and a second time in the Municipal General Election (General Election); and

WHEREAS, under Charter section 66, a candidate running unopposed for a School Board seat must also run twice, in the Primary and the General Election; and

WHEREAS, the practical effect of Charter section 66 is that the School District must bear the cost of both a primary and a general election, even when the candidates are the same or the race is uncontested; and

WHEREAS, the School District estimates that it spent \$430,000 on the election for School Board members in the 2024 Primary, even though the General Election will be identical, with two candidates running unopposed and the third seat having the same candidates as the Primary; and

WHEREAS, the School District believes that eliminating the need for duplicative elections will allow the School District to better preserve its funds for educational purposes; and

WHEREAS, on March 26, 2024, the School Board approved this proposed ballot measure to change the process for electing members; and

WHEREAS, the Charter amendments were proposed by the School Board as part of the Council Policy 000-21 process, and were heard by the Council's Rules Committee on April 18, 2024, and again on June 5, 2024, and are presented in this Ordinance for placement on the November 5, 2024 Municipal Special Election ballot; and

WHEREAS, the Council, in San Diego Resolution R-315590 (Jun. 10, 2024), has asked the San Diego County Board of Supervisors to approve consolidating the Municipal Special Election ballot with the ballot for the State General Election on November 5, 2024; and

WHEREAS, passage of this measure requires the affirmative majority vote of those qualified electors registered within the legal boundaries of the School District voting on the matter at the Municipal Special Election and, in accordance with Article IX, section 16(b) of the California Constitution, only those voters registered to vote within the geographic boundaries of the School District may vote on a Charter amendment regarding School Board members, their removal from office, and their elections; and

WHEREAS, the City will request that the San Diego County Registrar of Voters submit this particular ballot measure only to those voters who are registered to vote within the legal boundaries of the School District; and

WHEREAS, the School Board's General Counsel represented to the Rules Committee that the School Board will bear the cost of placing this measure on the ballot; and

WHEREAS, the Council now desires to submit to the voters registered within School District boundaries, at the Municipal Special Election to be held on November 5, 2024, one measure amending the Charter by amending Article VI, section 66 to amend the election process for the School Board to eliminate the Primary election for a specific seat when there are two or fewer candidates for the seat; and

WHEREAS, the Office of the City Attorney has drafted this Ordinance based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; and

WHEREAS, the Council's proposal, on its own motion, of a Charter amendment is governed by article XI, section 3(b) of the California Constitution, Elections Code section 9255, and California Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. One measure amending the San Diego Charter by amending Article VI, section 66, related to Board of Education elections for the San Diego Unified School District, is hereby submitted to the qualified voters of the San Diego Unified School District at the

Municipal Special Election to be held on November 5, 2024, and consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

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**MEASURE**

**ARTICLE VI**

**BOARD OF EDUCATION**

**SECTION 66: BOARD OF EDUCATION**

The government of the San Diego Unified School District shall be vested in a Board of Education, composed of five members who shall be nominated and elected by the registered voters of the individual Board of Education District for which they are a candidate. Board of Education elections will be held at the regular Municipal Primary Elections and Municipal General Elections, at the same time as the election of Councilmembers. At the Municipal Primary Election, the registered voters of an individual Board of Education District shall nominate two candidates to fill the office of their Board of Education member in a District whose term expires the following December. When more than two candidates, including write-in candidates, qualify for a particular office in the Municipal Primary Election, the top two candidates receiving the highest number of votes~~vote-getters~~ for a particular office in the Municipal Primary Election ~~for an individual seat~~ will advance to the Municipal

General Election. Write-in candidates may participate in the Municipal Primary Election if they meet the requirements for write-in candidates for the Board of Education set forth in the San Diego Municipal Code. If two or fewer candidates, including write-in candidates, qualify to participate in the Municipal Primary Election for a particular elective office, the office shall be voted upon at the Municipal General Election and not the Municipal Primary Election and the names of the write-in candidate(s) who qualified to participate in the Municipal Primary Election shall be printed on the Municipal General Election ballot as qualified candidates. At the Municipal General Election, the registered voters of the individual Board of Education District shall select one of the nominees to fill the seat. Each candidate for the Board of Education shall have been a registered voter of the San Diego Unified School District and an actual resident of the election district from which the candidate seeks to be nominated for thirty (30) days immediately preceding the filing of a nomination petition. The members shall serve for a term of four years from and after 10 a.m. the first Monday after the first day of December next succeeding this election and until their successors are elected and qualified, except as herein provided.

Notwithstanding any other provision of this Charter, and commencing in 2020, no person shall serve more than three four-year terms as a member of the Board of Education. Board members who hold the office as of the

date of the Municipal General Election in 2020 shall not have prior or current terms counted for purposes of applying this term limit provision. Article XVI of this Charter shall govern: (1) when a vacancy in the office of member of the Board of Education shall be deemed to occur, and (2) when a member of the Board of Education shall be removed for cause. Vacancies for the office of member of the Board of Education shall be filled as provided in this Charter section.

Any vacancy occurring on the Board shall be filled from the election district in which the vacancy occurs, by appointment by the remaining Board members; but in the event that the remaining members fail to fill such vacancy by appointment within thirty (30) days after the vacancy occurs, they must immediately cause to be held a primary election and a general election as set forth in this section to fill such vacancy; provided, however, that any person appointed to fill such vacancy shall hold office only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term.

For the purpose of electing members of the Board of Education, the San Diego Unified School District shall be divided into five (5) districts as nearly equal in registered voter population as practicable. For the first primary and regular election held under this section, as amended, the boundaries of such election districts shall be established by the Board of Education as such Board existed on the effective date of the amendment to this section. Thereafter, the boundaries of such election districts shall be

subject to alteration and change under the provisions of this section. The Board of Education, by resolution, may change and alter the boundaries of the election districts and in the resolution may describe the new boundaries by reference to a map on file in the office of the City Clerk; a metes and bounds description of the new boundaries need not be contained in the resolution.

**END OF MEASURE**

Section 2. The measure shall be presented and printed upon the ballot and submitted to the voters registered to vote within the geographic boundaries of the San Diego Unified School District in the manner and form set out in Section 3 of this Ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

<b>MEASURE ____ . AMENDMENTS TO CHARTER SECTION 66 REGARDING BOARD OF EDUCATION ELECTIONS.</b> Shall Charter section 66 be amended to eliminate the primary election when two or fewer candidates for particular seat for the Board of Education of the San Diego Unified School District, including write-in candidates, qualify for the primary election, with the qualifying candidates automatically moving forward to the general election?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this measure. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the measure.

Section 5. Passage of this measure requires the affirmative vote of a majority of those qualified electors registered to vote within the geographic boundaries of the San Diego Unified



School District voting on the matter at the Municipal Special Election. In accordance with California Constitution article IX, section 16(b), only those voters registered to vote within the geographic boundaries of the School District may vote on a Charter amendment regarding School Board Elections.

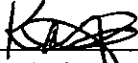
Section 6. The City Clerk shall cause this Ordinance or a digest of this Ordinance to be published once in the official newspaper following this Ordinance's adoption by the Council.

Section 7. In compliance with San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The City Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this Ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the Council and the public prior to the day of its passage.

Section 9. Under Charter sections 295(b) and 295(d), this Ordinance shall take effect on the date of passage by the Council, which is deemed the date of its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By  \_\_\_\_\_  
Kathy J. Stemman  
Senior Deputy City Attorney

KJS:jvg  
June 29, 2024  
Or. Dept: Rules Committee  
Doc. No. 3630671

Passed by the Council of The City of San Diego on JUL 22 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 22 2024.

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Kristell Medina, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 22 2024, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Kristell Medina, Deputy

Office of the City Clerk, San Diego, California
<b>21841</b>
Ordinance Number O-_____