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ORDINANCE NUMBER O- 21212 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 07 2020

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT, FOR THEIR APPROVAL OR REJECTION AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2020, ONE MEASURE AMENDING THE CITY CHARTER BY AMENDING ARTICLE VI, SECTION 66, TO ESTABLISH DISTRICT-ONLY ELECTIONS FOR MEMBERS OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code (Elections Code) section 9255(a)(2), and San Diego City 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 Election; and

WHEREAS, by San Diego Ordinance O- 21212, introduced and adopted on July 7, 2020, the Council has called a Municipal Special Election to be consolidated with the California State General Election to be held November 3, 2020, for the purpose of submitting to the qualified voters of the City one or more ballot measures; and

WHEREAS, California Constitution, art. IX, 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 boards of education shall be elected or appointed, for their qualifications, compensation and 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 Board of Education of the San Diego Unified School District (School Board); and

WHEREAS, Charter section 66 directs that the School Board be composed of five members, elected at the same time as the City Council, with the top two vote-getters in individual district primary elections advancing to a general election in the entire San Diego Unified School District (School District); and that School Board members serve four-year terms; and

WHEREAS, the Council now seeks to amend Charter section 66 to provide that School Board members would be elected in general elections by voters in their individual districts, rather than in elections held across the entire School District, and is proposing this ballot measure for that purpose; and

WHEREAS, the district-only election process would be similar to that used for City Council elections; and

WHEREAS, the proposal to amend Charter section 66 to establish district-only elections in both the primary and general elections for School Board members was submitted by Parents for Quality Education and, in accordance with Council Policy 000-21, discussed at hearings of the Council's Rules Committee on July 31, 2019 and May 13, 2020; and

WHEREAS, the Rules Committee voted 5-0 on May 13, 2020 to forward the Charter amendment ballot measure proposal to the Council for consideration for the November 2020 ballot; and

WHEREAS, the Council, by resolution, has also asked the San Diego County Board of Supervisors to approve consolidating the Municipal Special Election ballot with the ballot for the statewide general election for the November 3, 2020 election; and

WHEREAS, passage of this measure requires the affirmative vote of a majority of those qualified electors registered within the legal 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 City Charter amendment regarding School Board 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 Council now desires to submit to the voters registered within School District boundaries, at the Municipal Special Election to be held November 3, 2020, one measure amending the Charter by amending Article VI, section 66, to establish district-only elections for members of the Board of Education of the San Diego Unified School District; and

WHEREAS, the Council's proposal of a Charter amendment is governed by California Constitution, article XI, section 3(b), Elections Code section 9255(a)(2), 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 City Charter by amending Article VI, section 66, to establish district-only elections for members of the Board of Education of 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 3, 2020, 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 ~~M~~municipal ~~P~~primary ~~E~~elections and ~~the~~Municipal ~~G~~general municipal ~~E~~elections, at the same time as the election of Councilmembers. At the ~~M~~municipal ~~P~~primary ~~E~~election, ~~there shall be chosen by~~ the registered voters of ~~each an individual~~ Board of Education District shall nominate two candidates to fill the office of their ~~for the office of any~~ Board of Education member ~~from in~~ a District whose term expires the ~~succeeding~~following December. The top two vote-getters in the Municipal Primary Election for an individual seat will advance to the Municipal General Election. At the ~~general~~Mmunicipal General ~~E~~election, the registered voters of the individual Board of Education District ~~whole San Diego Unified School District~~ shall select one of the nominees to fill the seat ~~from among the candidates chosen at the primary election in each district one candidate for the office of each Board of Education member whose term expires the succeeding~~ December. 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.

Any vacancy occurring ~~in~~ 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 ~~said~~ 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 ~~in the district in which the vacancy occurs~~ and a general election ~~within the entire school district~~ 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 said resolution.

**END OF MEASURE**

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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 ____ . CHARTER AMENDMENT: DISTRICT-ONLY ELECTIONS FOR SCHOOL BOARD MEMBERS.</b> Shall the Charter be amended to change the process for electing School Board members in the San Diego Unified School District, by providing that voters in individual sub-districts nominate and elect their representative in both the primary and general elections, rather than the current system in which candidates are nominated in individual sub-districts in the primary but advance to a general election in the entire School District?	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 City 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 City 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 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 available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By           /s/ Sharon B. Spivak            
Sharon B. Spivak  
Senior Deputy City Attorney

SBS:jdf  
06/25/2020  
Or.Dept: Rules Committee  
Doc. No.: 2414914



Passed by the Council of The City of San Diego on JUL 07 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<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"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 07 2020.

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *Hy Beady*, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 07 2020, 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)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *Hy Beady*, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>21212</u>