




MEMO

ORANGE COUNTY DEPARTMENT OF EDUCATION

October 3, 2023

23-143

To: Orange County Committee on School District Organization

From: Jeffrey J. Riel 
General Counsel

Re: Orange County Board of Education Petition

On August 7, 2023, the Orange County Board of Education (County Board) submitted the attached Petition to the State Board of Education (State Board) seeking to transfer the duties and powers of the Orange County Committee on School District Organization (County Committee) to the County Board pursuant to Education Code section 4020 (Attachment A). The California Department of Education indicated the State Board will hear the County Board's Petition during its November 8-9, 2023 meeting.

The purpose of this staff report is to provide the County Committee with information related to the Petition, the role of the County Committee, and the State Board's process to inform the County Committee's discussion and decision of whether to support or oppose the County Board's Petition before the State Board.

I. Education Code Section 4020

Education Code section 4020 provides that either a county committee on school district organization (county committee) or a county board of education (county board) may petition the State Board to order the county board to act as the county committee. The State Board must either approve or reject a petition to transfer the duties and powers of the county committee within ninety (90) days after receiving the petition. If the State Board approves the petition, the county board would succeed and be vested with all duties, powers, purposes, responsibilities, and jurisdiction formerly vested in the county committee. (Education Code¹ section 4021.)

If duties and powers have been transferred to a county board under Section 4020, Section 4022 also permits the State Board to reestablish a county committee upon its own motion, upon petition from the county board, or upon a petition from a majority of districts in the county.

¹ Unless otherwise noted, all further references will be to the Education Code.

II. Background of County Committees on School District Organization

In reviewing the County Board's Petition under Section 4020, it is important to understand the history of county committees in California. First, public schools are a matter of statewide rather than local concern and their establishment, regulation and operation are governed by the Constitution. (Hall v. City of Taft (1956) 47 Cal.2d 177, 302 P.2d 574, Levi v. O'Connell (App. 3 Dist. 2006) 50 Cal.Rptr.3d 691, 144 Cal.App.4th 700.) The management and control of the public schools are a matter of state, not local, care and supervision. (Vergara v. State of California (App. 2 Dist. 2016) 209 Cal.Rptr.3d 532, 246 Cal.App.4th 619.) Because public education is a matter of statewide concern, the Legislature has placed the organization of school districts under the authority of the State Board under the rules established by statute.

Modern school district reorganization began in 1945 with the Optional Reorganization Act (Act), intended to address the problems with past practices of school district organization. The Act created the Commission on School Districts (Commission) to conduct surveys, establish committees, and make recommendations to the State Board. The Commission was disbanded in 1949 and its powers were transferred to the State Board. To assist the State Board with its statewide functions related to school district organization, every county was required to establish a county committee. Therefore, county committees have continuously existed since 1945; however, the county committee's statutory authority has been modified over the years.

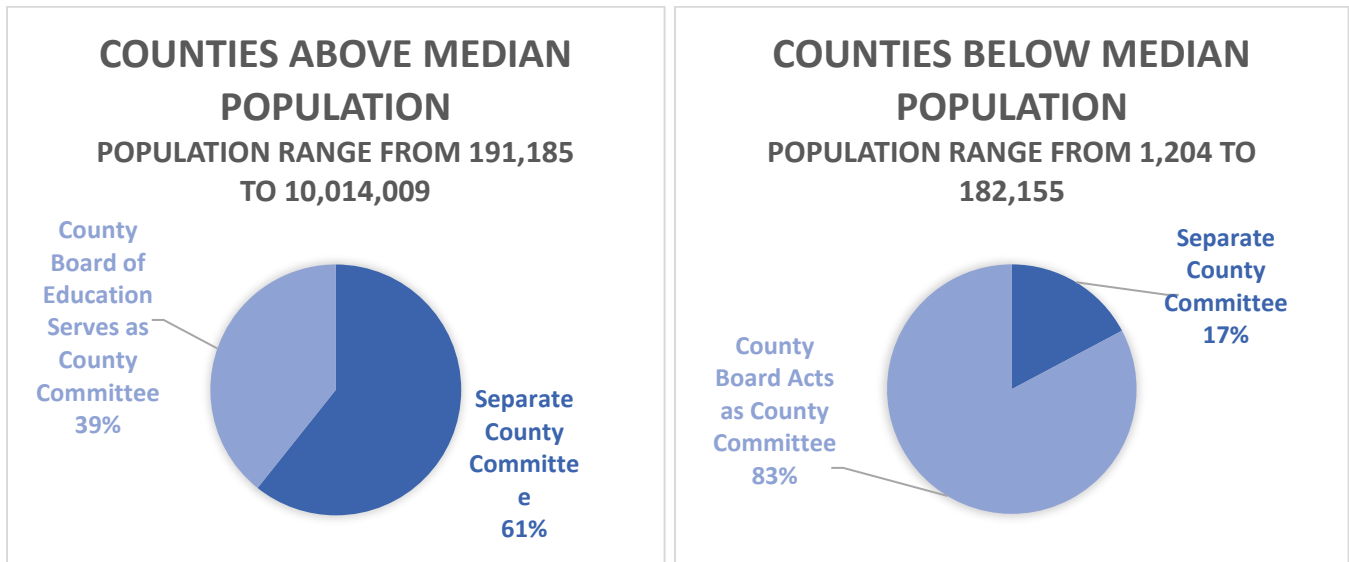
In 1966, the Legislature enacted the predecessor to Section 4020² permitting the State Board to order a transfer of all duties and powers vested in the county committee to the county board. Since 1966, 35 of 57³ counties in California have transferred the duties and powers of the county committee to the county board through the petition process. In 22 counties, including Orange County, the county has a separate county committee. Attachment B contains a listing of all counties in California delineated by total population with and without a separate county committee.

When considering population size, it is not surprising that the majority (83%) of smaller counties (below the median by population) have transferred the powers and duties of the county committee to the county board. In contrast, the majority (61%) of the larger counties (above the median by population) have maintained a separate county committee. Of the top five counties by population (over two million), 80% have a separate county committee.

² Education Code section 4020 was derived from Education Code section 3163.

³ Although there are 58 counties in California, San Francisco does not require a county committee because it is both a city and county. The remaining 57 counties all have a county committee.

In counties below the median by population, the majority, or 83% of counties, have a county board of education that acts as a county committee.



III. Orange County Committee on School District Organization

County committees are created by statute. (Sections 4000-4014.) Consistent with Section 4003, the Orange County Committee is comprised of 11 members who each serve four-year terms. County Committee members are elected at the annual Orange County School Boards Association meeting by a nomination committee that consists of one elected board member from each of the 32 school districts and community college districts in Orange County. Ten County Committee members are elected based on residency within the five Orange County Board of Supervisor Districts (two members per district) and one County Committee member is elected at-large.

Because county committee members are nominated and elected by representatives of local school boards, county committee members are often current or former school board members. In Orange County, ten of the eleven County Committee members are current or former school board members with significant experience understanding the interests of school districts and their local community.

IV. Duties and Powers of the County Committee

A county committee plays an important role for school districts and community college districts in two primary areas: (1) school district organization, and (2) governing board elections. Both of these areas can significantly impact local school districts.

A. School District Organization

The county committee is the local initiator, coordinator, analyst, facilitator and arbitrator for the reorganization of school districts. It formulates plans, responds to petitions, conducts public hearings, develops and releases information, and analyzes proposals throughout the approval process of a reorganization. For petitions for transfers of territory (and certain formations of new school districts where state approval is not required), the county committee gives final approval or disapproval (Sections 35709, 35710), subject only to appeal to the State Board. (Sections 35710.5, 35711.)

The county committee is charged with the duty of studying the school district organization of its county and shall, under the direction of the State Board or pursuant to a petition by local electors or certain local entities, hold hearings and formulate plans and recommendations for the unification or other reorganization of the districts in the county, including, if necessary, a portion of one or more adjacent counties. (Sections 35720-35724, 74105 et seq.)

In the area of school district reorganization, the county committee is responsible for reviewing and making decisions on proposed changes to school district boundaries, including annexations (adding territory to a district), transfers of territory between school districts, unification of school districts, reorganizing existing school districts and the formation of new school districts. (Section 35500 et seq. and Section 35700 et seq.)

B. Trustee Areas for Governing Board Elections

Regarding school board member elections, the county committee is responsible for establishing or abolishing trustee areas, rearranging the boundaries of trustee areas, adopting one of the alternative methods of electing governing board members, increasing to seven or decreasing to five the number of members of the governing board in any school district or community college district, and establishing or abolishing a common governing board for a high school district and an elementary school district within the boundaries of the high school district. (Section 5019.) A proposal to make any of the foregoing changes to the election system may be initiated by the county committee itself, by a resolution submitted by the governing board, or by a petition submitted by the electorate. (Section 5019(c).)

The county committee is also involved in adjusting trustee area boundaries following each decennial census. However, for school districts and community college districts, the county committee only gets involved if the governing board of the school district or community college district fails to timely adjust its boundaries following the decennial census. (Section 5019.5.)

For county boards of education, the county committee has the power to regulate the election of members to county boards of education. (Section 1000.) At the request of the county board, the county committee is responsible for changing the boundaries of any or all of the trustee areas of the county, or proposing an increase or decrease of the number of members of the county board of education, or both. (Section 1002.)

Following the decennial census, the county committee is responsible for adjusting the boundaries of any or all of the trustee areas of the county board as necessary. (Section 1002(b).) Generally, county committees only address the county board's trustee area boundaries once every ten years.

As noted in the County Board's Petition, in 2022 the County Board filed litigation against the County Committee challenging the County Committee's authority to adjust the County Board's trustee areas following the decennial census.⁴ In the lawsuit, the County Board alleged (1) that the County Board had its own authority to create trustee area boundaries and was not required to go through the County Committee; and (2) that the County Board of Supervisors, by a resolution, conferred upon the County Board the authority to determine the manner of selection of the County Board which included the authority to adjust its trustee areas boundaries. The lower court ruled in favor of the County Committee on both issues, and the County Board appealed that decision. The Court of Appeal will hear oral arguments on the County Board's appeal on October 23, 2023. The issues in the litigation are related to the current Petition in that both seek to transfer authority currently vested in the County Committee to the County Board.

V. California Department of Education Guidance

The California Department of Education has developed a School District Organization Handbook (Handbook) providing guidance on the role and responsibilities of county committees as well as the State Board in school district organization matters. As noted above, Education Code section 4020 provides that either a county committee or a county board may petition the State Board to order a county board to act as the county committee. The State Board must either approve or reject a petition to transfer duties within 90 days after receiving the petition.

Aside from the 90-day timeline, the Education Code does not provide the State Board any guidance on the process or factors to consider when deciding whether to approve or reject a petition. In communicating with staff from the California Department of Education, it is our understanding that the State Board and the California Department of Education have processed very few, if any, such petitions in the past twenty years.

The California Department of Education's Handbook provides guidance⁵ as to the process for considering a transfer of duties petition and how the State Board would decide a petition under Section 4020. The Handbook indicates that the State Board would consider several factors, including:

- (1) The recommendation of the county committee;
- (2) The recommendation of the county board of education; and
- (3) The workload for school district organization in recent years in the county, including the number of territory transfers, new districts formed, annexations, and number of school district trustee areas that have been established.

⁴ Orange County Board of Education v. Orange County Committee on School District Organization, California Court of Appeal, Fourth Appellate Dist., Div. 3, No. G061395

⁵ The Handbook indicates that the guidance is not binding.

We anticipate the California Department of Education staff will generate a staff report and recommendation for the State Board to consider when making its determination. Presumably, the California Department of Education's report and recommendation will consider the factors outlined above.

It is our understanding the California Department of Education staff sent a letter to all school districts in Orange County inviting the district's superintendent or school board to provide input to the California Department of Education regarding any information that the school district believes should be considered by the California Department of Education or the State Board in making this determination. The California Department of Education requested input from school districts because under Education Code section 4022, a majority of school districts may petition the State Board to reestablish a county committee.

VI. Orange County Board of Education's Petition

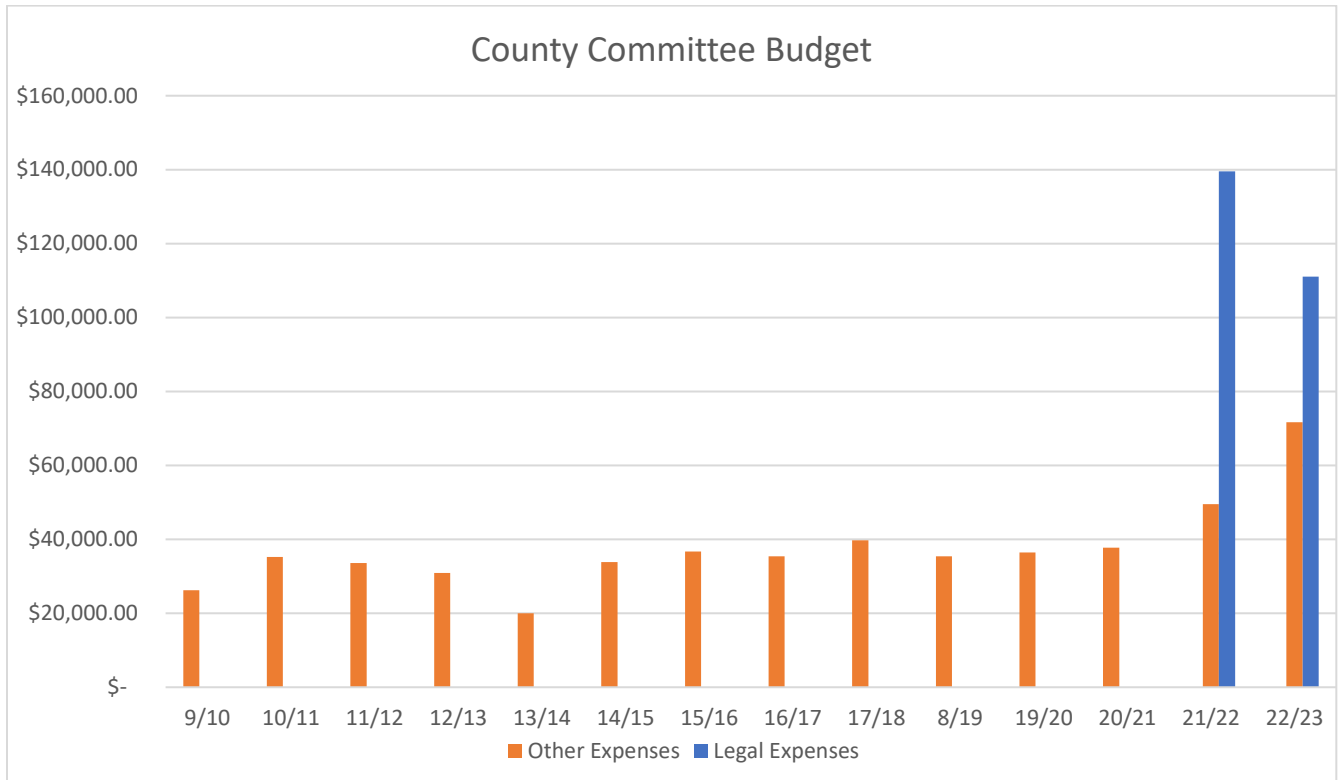
The County Board's Petition seeking to transfer duties and powers of the County Committee to the County Board states the following reasons for the transfer: (1) fiscal prudence and economy; (2) efficiency and clarity; (3) administrative convenience; and (4) public accountability. Each reason will be discussed below.

A. Fiscal Prudence and Economy

The County Board indicates that its Petition is grounded in fiscal prudence and economic considerations, and that transferring the County Committee's duties and powers to the County Board would save costs by eliminating the need to provide support and operations for a separate county committee.

The Orange County Department of Education (OCDE) has a single county school services fund that supports the functions of the County Superintendent of Schools, County Board, and the County Committee. (Education Code sections 1080, 1500, and 1510.) By statute, the county school services fund supports the functions of the County Committee. (Section 1510.) As Secretary to the County Committee, the County Superintendent provides administrative support to the County Committee through county office personnel employed by the County Superintendent.

The chart below provides the County Committee's budget since 2009/2010 fiscal year.



From 2010 to 2021, the County Committee’s total annual budget fluctuated between \$20,000 to \$40,000 per year. The County Committee’s annual budget for general expenses includes a portion of the salaries and benefits for specific OCDE employees who support the County Committee, general supplies, operational costs, expenses related to legal notices, and advertising for public hearings. In addition, the County Committee’s budget also includes an allocation for legal expenses. Members of the County Committee serve without compensation or health and welfare benefits, and only receive reimbursement for any actual and necessary travel expenses. (Section 4010.) For perspective, the total county school services fund budget is approximately \$300,000,000 per year.

The County Committee requires support from OCDE staff to perform its statutory functions. The general expenses required to support the work of the County Committee will be required regardless of whether the functions of the County Committee are performed by the County Committee or the County Board.

In the 2021/2022 fiscal year, the County Committee’s general expenses and legal expenses increased when the County Board filed a lawsuit against the County Committee challenging the County Committee’s legal authority to adjust the County Board’s trustee areas under Education Code section 1002(b) following the decennial census. The County Committee’s budget was increased due to increased staffing needs and additional expenses to engage outside litigation counsel to defend the County Committee. The county school services fund’s budget covers all litigation expenses for both the County Board and the County Committee. The Court of Appeal is

expected to issue a decision within approximately 90-days following oral argument. Until the appeal is determined and the case finally resolved, it is not clear what, if any, ongoing legal expenses will be incurred on behalf of the County Committee for this matter.

It is worth noting that the limited legal services provided by in-house staff attorneys for the County Committee are not included in the County Committee's budget. However, if the County Board, acting as the County Committee, did not use in-house staff attorneys and engaged outside legal counsel on an hourly basis, there would be increases in the operational costs for the County Committee.

B. Efficiency and Clarity

The Petition indicates that it would be more efficient to eliminate the County Committee and transfer its duties and powers to the County Board so that a single public body would perform the duties and powers of the County Board and the County Committee. As noted above, regardless of whether the County Committee or the County Board perform the statutory functions of the County Committee, the general expenses, including Orange County Department of Education staff time budgeted to support the functions of the County Committee, would still be required. The work would still need to be done by Orange County Department of Education staff.

The Petition also states that transferring the duties and powers to the County Board would provide clarity in Orange County because, according to the Petition, the Orange County Board of Supervisors delegated to the County Board all duties and powers related to school district organization through a 1977 Resolution. On August 22, 2023, counsel for the County Board sent additional correspondence indicating the County Board is currently responsible for all school district organization pursuant to the 1977 Resolution. (Attachment C.) On this issue, the Petition appears to misstate the significance of the 1977 Resolution and the current legal authority of the County Committee.

A county board of supervisors may transfer to a county board of education specific duties and functions of an educational nature performed by the county board of supervisors. (Section 1080.) Education Code section 1080, as it read in 1977, authorized a board of supervisors to transfer to the county board "**any** duties and functions relative to the organization or reorganization of school districts"⁶ (emphasis added). In 1977, the Orange County Board of Supervisors passed Resolution No. 77-933, where the County Superintendent and the County Board "proposed that all duties and functions of an educational nature **performed by the Board of Supervisors** be transferred to the County Board of Education" (emphasis added). The Petition states that "all" powers and duties regarding the reorganization of school districts was transferred to the County Board; however, this is not accurate. The 1977 Resolution only transferred to the County Board the duties and functions relative to the organization or reorganization of school districts that the County Board of Supervisors was authorized by statute to perform at the time of the adoption of the 1977 Resolution.

⁶ In 1987, Education Code section 1080 was amended to remove this quoted language.

In 1977, the Board of Supervisors had some statutory authority regarding the organization and reorganization of school districts that was appropriately transferred to the County Board through the 1977 Resolution. However, in 1980 the Legislature significantly amended the Education Code provisions related to the reorganization of school districts and community college districts, essentially eliminating the statutory authority of the county board of supervisors relative to school district reorganization and vested that authority in the county committee.⁷

The Legislature indicated that on or after January 1, 1981, Chapter 3 (commencing with Section 35500) and Chapter 4 (commencing with Section 35700) shall apply to any action to reorganize school districts. (Section 35501.) Since that time, the Legislature has consistently vested the duty and authority over school district reorganization in the county committee and, ultimately, in the State Board or the electorate.

When the Legislature eliminated the authority of a county board of supervisors relative to school district reorganization, whatever authority the County Board of Supervisors transferred to the County Board in 1977 was also extinguished. The County Committee has been and continues to be responsible for school district reorganization in Orange County.

C. Administrative Convenience: Workload of the County Committee

As previously discussed, the County Committee is responsible for two primary areas: (1) the reorganization of school districts, and (2) the election of governing board members. The Petition states that the workload of the County Committee in these areas is minimal.

Regarding school district reorganization, the County Committee has addressed five territory transfer petitions under Education Code section 35700 *et seq.* since 2010. Each petition required public hearings in each of the affected school districts, which included Orange Unified School District, Tustin Unified School District, Los Alamitos Unified School District, Cypress School District and Saddleback Valley Unified School District.

Regarding governing board member elections, in 2016 the County Committee considered the Brea Olinda Unified School District's petition to decrease the number of governing board members from seven to five. (Section 5019.) The County Committee held a public hearing and ordered an election to be consolidated with the November 2016 General Election.

Beginning in 2014, there has been significant activity in Orange County with school districts receiving demands to transition to a by-trustee area election method due to alleged violations of the California Voting Rights Act. When a school district transitions to a by-trustee area elections the County Committee must hold a public hearing to address school district's resolution to

⁷ A county board of supervisors has limited ongoing functions related to school district reorganization. Under current law, the County Board of Supervisors' functions concerning school district and community college reorganization are limited to the following: making the order to effectuate an action to organize or reorganize school districts (Sections 35530 and 35765); computing and making of orders related to tax rates and bonded indebtedness for reorganized districts (Sections 35576 through 35579 and 74290); receiving notification of specific actions taken by the County Committee and the outcomes of elections (Sections 35709, 35710.1, and 35785); and issuing orders to effectuate the change and update legal descriptions and maps of each district changed in any action. (Sections 74250 and 74251.)

transition from an at-large method of election to by-trustee areas by establishing trustee area boundaries. The County Committee has evaluated 20 petitions to change the method of election from school districts in Orange County since 2014.

In Orange County, there are six school districts that continue to use an at-large method of election and, among these, five have not established trustee areas. On September 19, 2023, Huntington Beach Union High School District adopted proposed trustee area maps and has requested that the County Committee schedule a public hearing to review and approve the proposed maps. The County Committee is in the process of scheduling the public hearing, which is likely to occur just after the State Board's meeting. Fountain Valley School District recently adopted a resolution to establish trustee areas, which is an initial step in creating trustee area boundaries that will come to the County Committee for public hearing, review, and approval.

The Petition states that the County Committee's work has waned because many districts in Orange County have transitioned to trustee area boundaries. However, Section 5019 is not limited to establishing trustee areas. Under Section 5019, the County Committee is required to stand ready to 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 to adopt one of the alternative methods of electing governing board members specified in Education Code section 5030. A school district in Orange County could trigger any of these actions at any time.

Under Education Code section 5019.5, the governing board of each school district or community college district that has established trustee areas must adjust their trustee area boundaries following the decennial census. The County Committee only adjusts school district and community college trustee boundaries if their governing boards fail to timely do so. Following decennial census in 2020, the County Committee was not required to adjust any school district or community college district boundaries.

D. Public Accountability

The Petition states that transferring the duties and powers of the County Committee to the County Board would provide greater accountability because County Board members are elected by citizens of Orange County. Accountability is important and the County Committee should be accountable to those that it serves. However, the manner the Legislature chose to elect county committee members does not suggest a legislative intent that members of the county committee should be elected by citizens of the county. When county committees were established, the Legislature created a system whereby county committee members are elected by a nomination committee comprised of one elected board member from each of the school district and community college district boards in Orange County. (Sections 4003 and 4005.) If the Legislature intended that citizens of the county have direct oversight over the county committee, the Legislature could have made the county committee a countywide elected body. The manner of election for members of the county committee has not change since 1945.

The primary purpose of the county committee is to review petitions submitted by local school districts and make recommendations and decisions on various aspects of school district boundaries,

reorganizations, and related issues. The county committee's specialized and technical work primarily impacts school districts and community college districts. The Legislature's decision to have representatives of local school boards elect county committee members is entirely consistent with the duty and authority vested in the county committee and ensures that decisions impacting local school districts and community college districts are made by elected representatives of those school districts. As such, the county committee is accountable to local school districts and community college districts through their elected representatives on the nomination committee.

Although county committee members are elected by school district representatives, the County Committee is also directly accountable to the citizens of Orange County as many of the recommendations and decisions made by the County Committee, including decisions reviewed by the State Board, are subject to an election in those areas impacted by the decisions. (See Sections 1004, 5019, 5020, 35709, 35710, and 35756.) Through the election process, citizens of Orange County directly vote on actions taken by the County Committee.

VII. Information from School Districts and the Community

On September 7, 2023, the California Department of Education sent a letter to all school district superintendents in Orange County seeking input from school districts, by October 1, 2023, regarding their perspective on the Petition to transfer duties and powers to the County Board. The California Department of Education sought input from school districts for its analysis and recommendation to the State Board because a majority of school districts in the county could petition the State Board to reestablish the county committee under Section 4022.

On September 25, 2023, the Fourth District Parent Teacher Association (4th District PTA) submitted a letter to the State Board and the California Department of Education regarding the County Board's Petition. (Attachment D.) On September 20, 2023, the members of the 4th District PTA, representing 90,000 members in Orange County, voted to oppose the Petition to transfer the duties of the County Committee and recommends that the State Board deny the request. According to letter, the 4th District PTA opposes the Petition for several reasons including:

- The current County Committee is a broadly representative group reflecting the views of every part of the county;
- Eliminating the county committee would not result in greater efficiency or cost savings;
- Keeping the County Committee and its related duties intact supports local control and representation for all districts in Orange County; and
- The current structure and locus of responsibilities and serves the county well.

On September 26, 2023, the Orange County Districts Superintendents Organization (Superintendents Organization) submitted a letter to the State Board and California Department of Education indicating that based on their experience and respect for local control, they believed that a separate County Committee should be maintained. (Attachment D.) The Superintendents Organization is comprised of the superintendents from the 28 PK-12 school districts in Orange County and collectively serve 450,000 students in 600 schools. The letter was signed by 20 superintendents in Orange County.

The letter from the Superintendents Organization opposing the Petition noted the following:

- The Superintendents Organization has a common deep commitment to supporting and advancing student success and upholding local control.
- The County Committee is representative of the diversity and experience of school districts and community colleges in the county.
- County Committee members are elected by school board representatives who are familiar with local and neighboring boundaries of their districts and are active in their community.
- The current nomination and selection process ensures the voices of local educational agencies across the county are included in the important work of the County Committee. This local representation is critical because the primary issues and decisions before the County Committee can have significant impacts on our districts.
- The election of the eleven committee members by representatives of the 32 local educational agencies provides transparency and confidence in the County Committee's process and decisions. California's public education system is based on local control, the County Committee is an important reflection of this tenet.

The Superintendents Organization further noted that should the duties and powers of the County Committee be transferred to the County Board of Education, it is likely that a majority of the school districts would seek a petition to reestablish the County Committee under Education Code section 4022.

On September 29, 2023, individual school board members from Orange County submitted a letter to the State Board and the California Department of Education opposing the County Board's Petition (Attachment D). The letter, endorsed by 34 elected school board members from Orange County, indicated that based on their experience and respect for local control, a separate County Committee should be retained. In opposing the Petition, the letter noted the following:

- The County Committee is representative of the diversity and experience of school districts and community college districts in the county.
- As elected representatives of individual districts, the nominating committee members are familiar with local and neighboring boundaries, are active in our communities, and are accessible and accountable to the public.
- The current nomination selection process ensures the voices of local educational agencies across the county are included in the important work of the County Committee. This local representation is critical because the primary issues and decisions before the County Committee have significant impacts on our districts.
- The election of 11 committee members by representatives of the 32 local educational agencies provides transparency and confidence in the County Committee's process and decisions. California's public education system is based on local control and the County Committee is an important reflection of that tenet.

The letter also indicated that should the County Committee's duties and powers be transferred to the County Board it is extremely likely that the majority of the school district would seek a petition to reestablish the County Committee under education code section 4022.

The letters referenced above are included as Attachment D for your review.

VIII. Next Steps for County Committee

The State Board will decide the County Board's Petition to transfer duties and power of the County Committee to the County Board during its November 8-9, 2023, meeting. We anticipate that the California Department of Education will provide the State Board a staff report and recommendation that will, in part, consider any input provided by the County Committee regarding this matter. In making its decision, we anticipate that the State Board will provide an opportunity for public comment and would seek input from the County Committee and the County Board regarding their respective positions.

Based on the County Board's Petition and the information provided herein, it is recommended that the County Committee discuss the Petition and take a position to either support or oppose the Petition to transfer the duties and power of the County Committee to the County Board. Staff has provided a draft Resolution that can be used to either support or oppose the Petition.

- Attachment A: Orange County Board of Education Resolution to Transfer Duties and Powers of the County Committee
- Attachment B: Chart of County Committees on School District Organization by Population
- Attachment C: Letter from County Board's Counsel
- Attachment D: Letters from Fourth District PTA, Superintendents Organization, and Orange County School Board Members

ATTACHMENT A

RESOLUTION OF THE BOARD OF EDUCATION

ORANGE COUNTY, CALIFORNIA

Resolution of The Orange County Board Of Education authorizing the filing of a petition pursuant to Education Code section 4020 with the California State Board Of Education for an order that The Orange County Board Of Education act as the County Committee On School District Organization

AUGUST 2, 2023

WHEREAS, the Orange County Board of Education is the duly elected body representing the residents of Orange County, a charter county, with regard to fiscal and other matters pertaining to the educational system in the county; and

WHEREAS, the Orange County Committee on School District Organization is a body of 11 (eleven) persons appointed by representatives of the school districts in the county (Ed. Code §§ 4000 et seq.); and

WHEREAS, the budget of the Orange County Department of Education includes funding for the operations of the county committee; and

WHEREAS, Education Code § 4020 provides:

(a) Upon the petition of the county committee on school district organization of a county, or of the county board of education of that county, the State Board of Education may order the county board of education to act as the county committee on school district organization for that county.

(b) The State Board of Education shall approve or reject a petition to transfer the duties and powers of the county committee on school district organization of a county to the county board of education of that county and shall notify the petitioning agency of its action within 90 days after receiving the petition.

WHEREAS, Education Code § 4021 provides:

- Upon the order of the State Board of Education issued pursuant to Section 4020, the county board of education of a county succeeds to and is vested with all duties, powers, purposes, responsibilities, and jurisdiction formerly vested in the county committee on school district organization of that county.

WHEREAS, vesting the existing duties, powers, purposes, responsibilities, and jurisdiction (“duties and powers”) of the Orange County Committee on School District Organization in the Orange County Board of Education would achieve the following:

- Efficiency and clarity (considering the unique circumstances in Orange County in which responsibility for school district reorganization was vested in

the board of education in 1977 in accordance with law), by consolidating all duties of the county committee in the Orange County Board of Education,

- Administrative convenience given the minimal workload of the county committee,
- Fiscal prudence and economy by eliminating the need to provide for the support and operations of a separate county committee with minimal duties,
- Public accountability by vesting the duties of the county committee in an elected body;

WHEREAS, the California State Board of Education has acted pursuant to Education Code §§ 4020 and 4021 to order consolidation the duties and powers of a county committee in the county board of education in 35 of California's 57 counties with county committees (see CDE, "School District Reorganization Handbook", Ch. 3, Page 2, last reviewed on 7/19/2023) and has, to the knowledge of the Orange County Board of Education, never denied a petition for an order under section 4020;

WHEREAS, the duties and powers of a county committee on school district organization are:

- processing petitions for the organization and reorganization of school districts in the county including granting some petitions under certain circumstances (Ed. Code §§ 35511, 35700 et seq.);
- changing the governance structure of school districts within a county including the number of trustees and the manner by which they are elected ("at-large," "by-trustee areas," or "from-trustee areas") (Ed. Code §§ 5019 and 5019.5);
- upon request of the county board of education, changing the boundaries of the trustee areas of a county board of education and, after the decennial federal Census, ensuring that the "boundaries of any or all of the trustee areas of the county board of education" "meet the [equal] population criteria" (Ed. Code § 1002);

WHEREAS, the workload of the Orange County Committee on School District Organization with regard to reorganization of school district boundaries is minimal: in the last decade, the county committee considered only three petitions for a territory transfer, two in 2016 and one in 2017, and the California State Board of Education reversed the county committee decision on the latter (see final Minutes of November 2-3, 2022 Meeting of SBE, Item #10); and

WHEREAS, the county committee's exercise of authority in those few reorganizational matters cited in the previous paragraph is contrary to Resolution No. 77-933 of the Orange County Board of Supervisors, which on June 7, 1977, pursuant to Education Code § 1080 as it then existed, transferred to the Orange County Board of Education, "[A]ll duties and functions relative to the organization or reorganization of school districts and community college district (sic)" (copy

attached and incorporated herein by reference) and granting a petition pursuant to Education Code § 4020 would be consistent with the historical and legally authorized allocation of responsibilities for school district reorganization in Orange County; and

WHEREAS, the county committee in 2016 processed only one petition for a reduction in the size of the governing board of a school district from seven to five members; and

WHEREAS, the Orange County Committee on School District Organization has heard numerous requests by school districts to transition from at-large voting for governing board members to voting “by-trustee area,” such that, of Orange County’s 28 school districts, all but four now elect governing board members “by-trustee area”; and

WHEREAS, one of the remaining four school districts using an at-large method of election for governing board members is in the process of establishing “by-trustee area” election, in which case only 3 out of 28 districts will continue to vote at-large in governing board elections and could consider transitioning to by-trustee area elections at a future time; and

WHEREAS, the Orange County Committee on School District Organization has not been required to adjust the trustee area boundaries of any Orange County school district pursuant to Education Code § 5019 or § 5019.5; and

WHEREAS, the county committee did not meet at all on a reorganization or school district governance matter in 2013, 2019, 2021, and, so far, 2023; and

WHEREAS, in December 2021 and January 2022, the Orange County Committee on School District Organization met to consider the adjustment of the trustee area boundaries of the Orange County Board of Education, a once per decade requirement (Ed. Code § 1002); and

WHEREAS, prior to the county committee’s consideration, the Orange County Board of Education had met concerning redistricting and the 2020 Census at nine public meetings, including 3 public hearings, and considered 10 draft maps for adjustment of the board’s trustee area boundaries, selecting one for submission to the county committee that satisfied all legal requirements, including completely equal population in the trustee areas and compliance with the federal Voting Rights Act, and respected minority communities of interest, in particular that of the Vietnamese community in Orange County; and

WHEREAS, the county committee disregarded the adjustment plan submitted by the Orange County Board of Education and adopted a map of its own design, which had been made public only 24 hours earlier and, unlike the redistricting plan adopted by the Orange County Board of Education, split the Vietnamese community, a minority community of interest, cracking it across two districts and thus diluting its voting strength; and

WHEREAS, the Vietnamese community of Orange County appeared at the county committee meetings and bitterly opposed the map adopted by the county committee and supported the map adopted by the Orange County Board of Education, but because the members of the county committee are not elected, the Vietnamese community is without political recourse against the offense to its voting power; and

WHEREAS, on February 1, 2022, pursuant to Education Code § 1000(a), the Orange County Board of Supervisors passed Resolution No. S8A vesting authority in the Orange County Board of Education to change or adjust the boundaries of the trustee areas of the board of education following the decennial federal Census; and

WHEREAS, although the county committee disputes the validity of Resolution No. S8A, any role the county committee has in the adjustment of the trustee areas of the Orange County Board of Education arises only once every ten years or upon request of the Orange County Board of Education, and in counties in which the duties of the county committee are consolidated in the board of education, the decennial adjustment of the trustee areas of the board of education is subject to the same laws as in counties with a separate county committee; and

WHEREAS, Orange County Board of Education and the Orange County Committee on School District Organization are currently engaged in litigation pending on appeal concerning the proper interpretation of authority granted under Sections 1001(a) and Section 1002 of the Education Code, (*Orange County Board of Education v. Orange County Committee on School District Organization*, California Court of Appeal, Fourth Appellate Dist., Div. 3, No. G061395, “the litigation, herein”), causing the county office of education to expend hundreds of thousands of dollars on litigation rather than on the education of students; and

WHEREAS, the multiple goals and purposes of this petition outweigh and exceed the issues disputed in the litigation and cannot be resolved through resolution of that matter; and

WHEREAS, the Orange County Board of Education has advised the Orange County Committee on School District Organization about this resolution and its purposes, and requested the county committee’s support;

NOW THEREFORE, THE ORANGE COUNTY BOARD OF EDUCATION RESOLVES:

1. The foregoing recitals are true and correct.
2. The Board of Education authorizes the filing of this resolution with the California State Board of Education as a petition pursuant to Education Code § 4020 requesting an order by the State Board of Education that the Orange County Board of Education act as the county committee on school district organization for Orange County, thus transferring the duties and powers of the Orange County Committee on School District Organization to the Orange County Board of Education.
3. Upon the order of the State Board of Education issued pursuant to Education Code § 4020, the Orange County Board of Education will succeed to and be vested with all duties, powers, purposes, responsibilities, and jurisdiction formerly vested in the Orange County Committee on School District Organization.
4. The Orange County Board of Education unanimously and wholeheartedly supports the granting of this petition pursuant to Education Code § 4020 by the State Board of Education.

5. The Executive Committee of the Orange County Board of Education is authorized to continue advising the existing Orange County Committee on School District Organization about this resolution and continue seeking the county committee's support for the petition pursuant to Education Code § 4020.

6. The Executive Committee of the Orange County Board of Education is authorized to work with the board's general counsel and such other consultants as counsel deems appropriate to file with the California State Board of Education any and all information deemed necessary to assist in the processing of this petition and taking all other appropriate actions to support the issuance of an order of the State Board of Education granting the petition, including requesting an opportunity to address the State Board at a public meeting as appropriate.

ADOPTED by the Orange County Board of Education on August 2, 2023.

Ayes: 5

No: 0

Absent: 0

State of California

County of Orange

I, Tim Shaw, President of the Board of Education Of Orange County, California, hereby certify that the foregoing resolution was duly and regularly adopted by the said board at a special meeting thereof held on the 2nd day of August, 2023 and was passed by a vote of (5 - 0) of said members present.

IN WITNESS THEREOF, I have hereunto set my hand and seal on the 2nd day of August, 2023.



Tim Shaw, President
Orange County Board Of Education

Resolution #14-23

ATTACHMENT B

County Committees on School District Organization by Population

Counties	Population	Separate County Committee	County Board of Education serves as County Committee
Los Angeles	10,014,009	X	
San Diego	3,298,634		X
Orange	3,186,989	X	
Riverside	2,418,185	X	
San Bernardino	2,181,654	X	
Santa Clara	1,936,259	X	
Alameda	1,682,353		X
Sacramento	1,585,055		X
Contra Costa	1,165,927		X
Fresno	1,008,654	X	
Kern	909,235	X	
Ventura	843,843	X	
San Joaquin	779,233		X
San Mateo	764,442	X	
Stanislaus	552,878	X	
Sonoma	488,863	X	
Tulare	473,117	X	
Solano	453,491		X
Santa Barbara	448,229	X	
Monterey	439,035		X
Placer	404,739	X	
San Luis Obispo	282,424	X	
Merced	281,202	X	
Santa Cruz	270,861		X
Marin	262,321	X	
Yolo	216,403		X
Butte	211,632		X
El Dorado	191,185		X
Shasta	182,155		X
Imperial	179,702		X
Madera	156,255		X
Kings	152,486		X
Napa	138,019		X
Humboldt	136,463	X	
Nevada	102,241	X	

Counties	Population	Separate County Committee	County Board of Education serves as County Committee
Sutter	99,633		X
Mendocino	91,601		X
Yuba	81,575		X
Lake	68,163		X
Tehama	65,829		X
San Benito	64,209	X	
Tuolumne	55,620		X
Calaveras	45,292		X
Siskiyou	44,076		X
Amador	40,474		X
Lassen	32,730	X	
Glenn	28,917		X
Del Norte	27,743		X
Colusa	21,839		X
Plumas	19,790		X
Inyo	19,016		X
Mariposa	17,131		X
Trinity	16,112		X
Mono	13,195	X	
Modoc	8,700		X
Sierra	3,236		X
Alpine	1,204		X
Total Population:	39,538,223		
Median :	681,694		
* Census, April 2020 https://www.census.gov/quickfacts/fact/table/CA/POP010220			

Adapted from the California Department of Education School District Organizational Handbook, Chapter 3, pp.11-13

ATTACHMENT C

Gregory J. Rolan
direct: (415) 281-7654
grolan@hbblaw.com

Haight Brown & Bonesteel LLP
505 Sansome Street
Suite 1701
San Francisco, California 94111
415.546.7500
415.546.7505 fax
www.hbblaw.com

August 22, 2023

VIA EMAIL AND U.S. MAIL

Jeffrey J. Riel, Esq.
General Counsel
Schools Legal Service
Orange County Department of Education
200 Kalmus Drive
Costa Mesa, CA 92626
Email: JRiel@ocde.us

Re: Transfer of Duties re Reorganization to OCBOE

Dear Mr. Riel:

As you know, the Orange County Board of Education has filed a petition with the California State Board of Education under California Education Code § 4020 for the County Board to act as the Orange County Committee on School District Organization and perform the duties as required by law. The petition is consistent with the practice in two-thirds of California's counties. As set forth in the Board's petition, the purpose is to streamline and modernize the county committee process in Orange County, provide clarity for the county's school districts and voters about authority for the performance of those duties, and provide accountability. This is especially important given Resolution No. 77-933 of the Orange County Board of Supervisors transferring to the Orange County Board of Education "[A]ll duties and functions relative to the organization or reorganization of school districts and community college district (sic)". The committee may not be aware of the resolution which the County Board of Supervisors passed in 1977 pursuant to the authority of Education Code § 1080 then in effect, which provided in relevant part:

The county board of supervisors, by resolution, may transfer all of the following duties and functions of the county board of supervisors to the county board of education:

...

Jeffrey J. Riel, Esq.
August 22, 2023
Page 2

(d) By agreement with the county board of education, in addition to the functions specified in Section 1043, any duties and functions relative to the organization or reorganization of school districts and community college districts.

...

(See AB 3100 (Greene – 1976), Ch. 1010, Stats. 1976, emphasis added.)

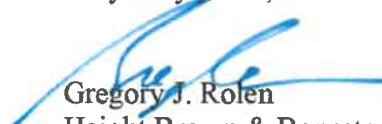
We realize that reorganization activity in Orange County is at best sporadic. Nevertheless, authority over such matters rest with the Orange County Board of Education, without regard to the outcome of the board’s Section 4020 petition currently pending with the State Board of Education.

It has come to the attention of the Board of Education that the Orange County Committee on School District Organization processed and approved in 2017 a reorganization of school district boundaries involving a transfer of territory from Orange Unified School District to Tustin Unified School District. The Board of Education was not informed about the pendency of that territory transfer petition. The Board of Education became aware of it because the State Board of Education on November 22, 2022, reversed the action of the county committee thus preserving the integrity of the boundaries of Orange Unified School District.

To avoid confusion to county residents and school districts, please direct all petitions and resolutions for the organization and reorganization of the county’s school districts to the Board of Education. The county committee can allay confusion if the county committee amends its website to delete references and discussion of reorganization matters as within its purview and directs interested parties to the website of the Orange County Board of Education. We would be happy to work with the secretary to the county committee to ensure clear directives and information on the respective websites of these agencies.

On behalf of the Board of Education, I again request the County Committee’s support for the board’s petition under Education Code § 4020 to streamline and modernize the county committee process in Orange County, provide clarity for the county’s school districts and voters, and provide accountability.

Very truly yours,



Gregory J. Rolan
Haight Brown & Bonesteel LLP

cc: Marguerite Leoni
Gina Plate

ATTACHMENT D



September 25, 2023

The Honorable Tony Thurmond
State Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, CA 95814

Dr. Linda Darling-Hammond
President, State Board of Education
1430 N Street, Room 5111
Sacramento, CA 95814

Dear State Superintendent Thurmond and State Board President Darling-Hammond:

This letter is in response to the Orange County Board of Education’s petition to assume the duties of the Orange County Committee on School District Organization (OCCSDO).

Fourth District PTA, representing PTAs throughout Orange County, disagrees with the proposed change and asks that the State Board deny this request. Our reasons are as follows:

- OCCSDO is comprised of 11 members who are elected by a Nomination Committee that has members from each of the 31 school boards in Orange County. Thus, it is a broadly representative group reflecting the views of every part of the county.
- The same budget and support staff are needed to accomplish the work, whether it is done by the 11-member committee or the 5-member board. Therefore, eliminating the committee would not result in greater efficiency or cost savings.
- Most large counties in California use a separate county committee to deal with these responsibilities.
- Orange County’s current system is similar to California’s statewide practice of using a bipartisan Citizens Redistricting Commission to draw the districts for state legislators, eliminating any potential perception that lawmakers are creating districts that benefit their own election prospects.

Keeping the County Committee and its related duties intact supports local control and representation for all 31 districts in Orange County.



Fourth District PTA

1520 Brookhollow Dr. Unit 40 • Santa Ana, CA 92705 • 714-241-0495 Fax 714-241-0497

Orange County PTA members voted to take this position at an Association Meeting on September 20.

Fourth District PTA represents over 90,000 members in Orange County and a small section of Los Angeles County.

We believe the current structure and locus of responsibilities and duties serves our county well. Therefore, Fourth District PTA urges your denial of the petition submitted by the Orange County Board of Education to assume the duties of the Orange County Committee on School District Organization.

Sincerely,

Ellen Gravitt
Fourth District PTA
President

Candi Kern
Fourth District PTA
Director of Legislation

cc: Orange County Committee on Organization

ORANGE COUNTY SUPERINTENDENT'S GROUP



September 26, 2023

The Honorable Tony Thurmond
State Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, CA 95814

Dr. Linda Darling-Hammond
President, State Board of Education
1430 N Street, Room 5111
Sacramento, CA 95814

Dear State Superintendent Thurmond and State Board President Darling-Hammond:

The Orange County District Superintendents Organization appreciates the opportunity to provide comments on the petition from the Orange County Board of Education to the State Board of Education to transfer duties and powers of the Orange County Committee on School District Organization (County Committee) to the County Board. **Based on our experience and respect for local control, we believe the separate County Committee should be retained.**

The District Superintendents Organization is comprised of the superintendents of the 28 PK-12 school districts in Orange County. Collectively we serve 450,000 students in 600 schools across 790 square land miles. Orange County is the 3rd most populous county in the state and one of the most diverse. Our districts include large unified districts in urban and suburban areas as well as a number of elementary districts and high school districts. Across this diversity we have a common deep commitment to supporting and advancing student success and upholding local control. The County Committee is representative of the diversity and experience of school districts and community colleges in the county.

The County Committee was established by statute over 70 years ago. The Committee is comprised of eleven members, two representatives from each county supervisorial district and one member at large. Committee members are elected by school board member representatives from the 32 school and community college boards in Orange County. As representatives of their individual districts, they are familiar with their local and neighboring boundaries and are active in their community. The County Committee Members are elected by the Nominating Committee at the joint meeting of the Orange County School Boards Association/ Association of California School Administrators which is held between October 1 and December 1. (See <https://ocde.us/CCSDO/Pages/default.aspx>)

The current nomination and selection process ensures the voices of local educational agencies across the county are included in the important work of the County Committee. This local representation is critical because the primary issues and decisions before the County Committee can have significant impacts on our districts. The election of the 11 committee members by representatives of the 32 local educational agencies provides transparency and confidence in the County Committee's process and decisions. California's public education system is based on local control, the County Committee is an important reflection of this tenet.

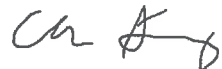
If the County Committee's duties and powers are transferred to the County Board of Education, it is likely that a majority of the school districts would seek a petition to reestablish the County Committee under Education Code section 4022. We believe that the current County Committee, comprised of representatives elected by local school boards, is appropriately serving the public and our districts; therefore, we believe the separate County Committee should be retained.

Thank you for your consideration. Please don't hesitate to contact us if you have any questions or would like to discuss this matter.

Sincerely,



Ms. Norma Martinez,
Superintendent, Centralia Elementary School District
Chairperson, OC Superintendent Group



Christopher Downing, Ed.D.
Superintendent, Anaheim Elementary School District



Mr. Michael B. Matsuda,
Superintendent, Anaheim Union High School District



Chris Brown, Ed.D.
Superintendent, Capistrano Unified School District



Ms. Anne Silavs,
Superintendent, Cypress School District



Gabriela Mafi, Ed.D.
Superintendent, Garden Grove Unified School District



Leisa Winston, Ed.D.
Superintendent, Huntington Beach City School District



Clint Harwick, Ed.D.
Superintendent, Huntington Beach Union High School District



Mr. Terry L. Walker,
Superintendent, Irvine Unified School District



Jason Vilorio, Ed.D.
Superintendent, Laguna Beach Unified School District



Andrew Pulver, Ed.D.
Superintendent, Los Alamitos Unified School District



Frank Donovan, Ed.D.
Superintendent, Magnolia School District



Wesley Smith, Ed.D.
Superintendent, Newport-Mesa Unified School District



Crystal Turner, Ed.D.
Superintendent, Saddleback Valley Unified School District



Mr. Jerry Almendarez
Superintendent, Santa Ana Unified School District



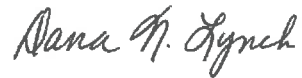
Sue Johnson, Ed.D.
Superintendent, Savanna School District



Mark Johnson, Ed.D.
Superintendent



Gunn Marie Hansen, Ph.D.
Superintendent, Westminster School District



Mr. Dana Lynch
Superintendent, North Orange County ROP

CC: Orange County Committee on Organization

CC: Orange County Board of Education

September 29, 2023

The Honorable Tony Thurmond
State Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, CA 95814

Dr. Linda Darling-Hammond
President, State Board of Education
1430 N Street, Room 5111
Sacramento, CA 95814

Dear State Superintendent Thurmond and State Board President Darling-Hammond:

As individual Trustees from the 32 school and community college boards in Orange County we appreciate the opportunity to provide comments on the petition from the Orange County Board of Education to the State Board of Education to transfer duties and powers of the Orange County Committee on School District Organization (County Committee) to the County Board. Based on our experience and respect for local control, **we believe the separate County Committee should be retained.**

Orange County is the third most populous county in the state and one of the most diverse with 450,000 students in 600 schools. As Trustees we serve districts large and small, urban and suburban, unified, elementary and high school, as well as community colleges. As elected school board officials we have a deep commitment to our communities to support and advance student success, ensure safety, and uphold local control. The County Committee is representative of the diversity and experience of school districts and community colleges in the county.

The County Committee was established by statute over 70 years ago. The Committee is comprised of eleven members, two representatives from each county supervisorial district and one member at large. Committee members are elected by school board member representatives from the 32 school and community college boards in Orange County. As representatives of our individual districts, the Nominating Committee members are familiar

with our local and neighboring boundaries, are active in our communities, and are accessible and accountable to the public. The County Committee Members are elected by the Nominating Committee at the joint meeting of the Orange County School Boards Association/Association of California School Administrators which is held between October 1 and December 1. (See <https://ocde.us/CCSDO/Pages/default.aspx>)

The current nomination and selection process ensures the voices of local educational agencies across the county are included in the important work of the County Committee. This local representation is critical because the primary issues and decisions before the County Committee can have significant impacts on our districts. The election of the 11 committee members by representatives of the 32 local educational agencies provides transparency and confidence in the County Committee's process and decisions. California's public education system is based on local control and the County Committee is an important reflection of that tenet.

If the County Committee's duties and powers are transferred to the County Board of Education, it is extremely likely that a majority of the school districts would seek a petition to reestablish the County Committee under Education Code section 4022. We believe that the current County Committee, comprised of representatives elected by local school boards, is appropriately serving the public and our districts; therefore, we believe the separate County Committee should be retained.

Thank you for your consideration. Please don't hesitate to contact us if you have any questions or would like to discuss this matter.

Sincerely,

Susan Henry, Trustee, Huntington Beach Union High SD; Board of Directors, Orange County School Boards Association

Suzie Swartz, Trustee, Saddleback Valley Unified SD; Secretary, Orange County School Boards Association

Barbara Schulman, Trustee, Saddleback Valley Unified SD; Board of Directors, Orange County School Boards Association

Candi Kern, Trustee, Cypress SD; Vice President, Orange County School Boards Association

Carrie Buck, Trustee, Placentia Yorba Linda Unified SD; Board of Directors, Orange County School Boards Association

Carrie Flanders, Trustee, Brea Olinda Unified SD; Board of Directors, Orange County School Boards Association

Jackie Filbeck, Trustee, Anaheim Elementary SD; Board of Directors, Orange County School Boards Association

Lauren Brooks, Trustee, Irvine Unified SD; President, Orange County School Boards Association

David Johnson, Trustee, Westminster SD

Tina Gustin Gurney, Trustee, Westminster SD

Elizabeth Dorn Parker, Trustee, Coast Community College District

Diana Carey, Trustee, Huntington Beach Union HSD

Bonnie Castrey, Trustee, Huntington Beach Union HSD

Duane Dishno, Trustee, Huntington Beach Union HSD

Dr. Michael Simons, Trustee, Huntington Beach Union HSD

Ed Wong, Trustee, Saddleback Valley Unified SD

Kris Erickson, Trustee, Orange Unified SD

Dr. James Kelly, Trustee, Laguna Beach Unified SD

Dr. Joan Malczewski, Trustee, Laguna Beach Unified SD

Dee Perry, Trustee, Laguna Beach Unified SD

Kelly Osborne, Trustee, Laguna Beach Unified SD

Jan Vickers, Trustee, Laguna Beach Unified SD

Daniel Walsh, Trustee, Saddleback Valley Unified SD

Ryan A. Ruelas, Trustee, Anaheim Elementary SD

Juan Gabriel Alvarez, Trustee, Anaheim Elementary SD

Mark A. Lopez, Trustee, Anaheim Elementary SD

Dr. Jose Paolo Magcalas, Trustee, Anaheim Elementary SD

Paul Bokota, Trustee, Irvine Unified SD

Annemarie Randle Trejo, Trustee, Anaheim Union HSD

Sandra Lee, Trustee, Cypress SD

Patricia Singer, Trustee, Oceanview SD

Gina Clayton-Tarvin, Trustee, Oceanview SD

Morgan Westmoreland, Trustee, Oceanview SD

Jack C Souders, Trustee, Oceanview SD

CC: Orange County Committee on Organization

CC: Orange County Board of Education