

PREFACE

Most people see school districts as stable or even permanent governmental entities. School district boundaries, however, do change. Territory is transferred from one school district to another, districts are divided or combined with their neighbors, and some districts are terminated. This handbook describes how these changes come about.

This handbook was originally developed in 1993, and revised in 1997, through the joint efforts of the California State Board of Education, the California County Superintendents Educational Services Association, the Fiscal Crisis and Management Assistance Team, and the California Department of Education (CDE). Since 1998, portions of the handbook are updated by the CDE with input from school district organization staff from county offices of education across the state. The handbook is intended as a resource for county committees on school district organization, school district governing boards and administrators, and interested members of the public.

Any comments or suggestions regarding the content of this handbook should be sent to:

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NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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CHAPTER 1

INTRODUCTION

This chapter lists the source documents, laws, and regulations that are the foundation for the other chapters in this handbook. There are also definitions of common terms used throughout the document. The last section in the chapter discusses the process by which certain functions listed as the responsibilities of the county board of supervisors may have been transferred to the county superintendent of schools.

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A. Foundations of This Handbook

This handbook focuses on legal procedures and provisions governing school district reorganization and on the decision process that brings about a reorganization action. (*Education Code* Section [hereinafter *EC*] 35511)

These actions are governed generally by six major segments of the California *Education Code*:

1. Part 2

EC sections 1000 to 1097 and 1500 to 1630, describing the election, organization, and funding of county boards of education, which have the major role in the reorganization process.

2. Part 3

EC sections 4000 to 4024, describing the organization and functions of the County Committee on School District Organization and the transfer of those functions to/from the County Board of Education.

3. Part 4

EC sections 5000 to 5442, concerning district governing board members, elections, and trustee areas.

4. Part 21,

Chapters 3 and 4, including *EC* sections 35500 to 35787, describing the procedure and requirements for the reorganization of districts.

5. Part 25,

Chapters 4 and 5, *EC* sections 44803, 44847, 44902.1, 44902.2, 44903, 45119, 45120, 45120.1, and 45121, concerning employees in a reorganization action.

6. Part 46

EC sections 74000 to 74290, concerning the reorganization or formation of community college districts.

Other codes of legislation, such as the *Government Code* and the *Elections Code*, are also referenced. Legal references appear in parentheses following the paragraphs to which they apply. *Education Code* references will be shown as (*EC* ___); other legal references are spelled out within the parentheses.

The regulations regarding school district organization are in Appendix A, State Board of Education Regulations and Criteria Regarding School District Reorganization.

The *Education Code* does not address every issue of the school district reorganization process that may occur. Moreover, the *Education Code* (and, subsequently, the information contained in this handbook) is subject to change by the California Legislature. It is recommended that county (or other legal) counsel be consulted whenever school district reorganization issues arise.

B. Definitions

1. An "action to reorganize districts" means either of the following:

An "action to reorganize districts" means either of the following:

- a. An action to form a new school district, which is accomplished through any of, or any combination of, the following:
 - i. Dissolving two or more existing school districts of the same kind and forming one or more new school districts of that same kind from the entire territory of the original districts.
 - ii. Forming one or more new school districts of the same kind from all or parts of one or more existing school districts of that same kind.
 - iii. Unifying school districts, including the consolidation of all or part of one or more high school districts with all or part of one or more component school districts into one or more new unified school districts.
 - iv. Deunifying a school district, including the conversion of all or part of a unified school district into one or more new high school districts, each with two or more new component districts.
- b. An action to transfer territory, including the transfer of all or part of an existing school district to another existing school district. (*EC 35511*)

See additional elements for reorganization of community college districts in *Education Code* Section 74014.

2. Lapsation

Lapsation means an action to dissolve a school district and annex the entire territory of that district to one or more adjoining school districts. (*EC 35780.1*) There is no procedure for the lapsation of community college districts.

3. County Committee

County committee means the county committee on school district organization or a county board of education organized and acting as the county committee as provided for in Article 1 (commencing with Section 4000) of Chapter 1, Part 3, of the Education Code or as provided for in Article 2 (commencing with Section 4020) of Chapter 4 of Part 21 of the *Education Code*. (EC 35512, 74015)

4. Districts

Districts means school districts of every kind or class. (EC 35514)

5. Districts of the Same Kind

Districts of the same kind means districts having the same general grade-level groupings. All elementary school districts are districts of the same kind, all high school districts are districts of the same kind, and all unified school districts are districts of the same kind. (EC 35513)

6. Component District

Component district means any of the following:

- a. An elementary school district that is included within a high school district (EC 35515);
- b. An elementary school district that is excluded from an action to unify a high school district but that continues to feed into the high schools of the new unified school district pursuant to subdivision (b) of Section 35542 (EC 35515); or,
- c. A high school or unified school district that is included within a community college district. (EC 74012)

7. Affected District

Affected district means a district that has been, or is proposed to be, affected by an action to reorganize pursuant to Section 35511 or by an action to lapse a district pursuant to Section 35780.1. Affected districts include all of the following district types (EC 35514):

- a. Original district means a district as it existed before an action to reorganize pursuant to Section 35511 or before an action to lapse a district pursuant to Section 35780.1. The boundaries of an “original district” are those of the district as it existed immediately before the action to reorganize or lapse.

- b. Former district means a district that has been wholly included in another district, or has had all of its territory made part of two or more other districts, through any action taken pursuant to Section 35511 or through a lapse pursuant to Section 35780.1. The boundaries of a former district are those of the district as it existed immediately before an action to reorganize or lapse.
- c. New district means a district that is formed from all or portions of one or more other districts by an action to reorganize taken pursuant to subdivision (a) of Section 35511. A new district does not exist before such an action.
- d. Acquiring district means a district that has all or portions of one or more other districts transferred into, or lapsed into, its boundaries pursuant to subdivision (b) of Section 35511 or Section 35780.1.
- e. Divided district means a district that has had a portion of its territory become part of a new district or transferred into one or more other districts by an action to reorganize taken pursuant to Section 35511.

8. Reorganized District

Reorganized district means a district that is a new district, an acquiring district, or a divided district. (*EC 35514*)

9. Affected districts (community college districts)

Affected districts, for community college districts, means any component school district or nondistrict territory within the territory to be transferred, annexed, or formed, or both, or any community college district subject to an action to reorganize districts. (*EC 74016*)

10. Uninhabited territory

Uninhabited territory means territory in which fewer than 12 persons are registered to vote at least 54 days before the time of filing of a petition or adoption of a resolution for school district boundary change. (*EC 35517*)

C. Transfer of Functions

In many counties, the duties or functions of the county board of supervisors relating to matters of school district organization have been transferred to the county board of education, by resolution pursuant to *Education Code* sections 1043 and 1080. Therefore, duties or functions that are described in this handbook as a responsibility of the board of supervisors may actually be the responsibility of the county board of education in certain counties. Legal

counsel should be consulted where there are questions relating to this topic in any individual county.

Chapter 3 contains a discussion of transferring the duties of the county committee.

CHAPTER 2

HISTORY OF SCHOOL DISTRICT ORGANIZATION IN CALIFORNIA

This chapter will be useful to community members, school district administrators, and county committees on school district organization alike to know the history of the changes in school district organization. The chapter discusses the various methods used over the years by the Legislature to attempt consolidation and overall reduction in the number of school districts.

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A. Brief History of School District Organization

1. Early Organization

School district organization began with the provisions for school support established by the framers of California's Constitution in 1849. With increases in population and movement from an agricultural-based economy, the educational needs in the state grew at a rapid pace. By 1935 there were over 3,500 school districts in the state.

About that same time, new laws made it possible to combine elementary and high school districts into a single district under one board of education defined as a "unified" school district.

In addition to the process of unification, another common method of change in school district organization had been "annexation." This process has been referred to as "unionization" or "consolidation" in the past, but the basic meaning is the same. Annexation occurs when two or more like districts (e.g., two or more elementary school districts) join to form a single district through the process of reorganization.

2. Process of Reorganization

Modern school district reorganization in California began in 1945 with the passage of the Optional Reorganization Act, drafted by the State Reconstruction and Reemployment Commission. This Act addressed the problems that resulted from the past practices of school district organization. One result of the Optional Reorganization Act was the formation of the Commission on School Districts. This commission was created to conduct surveys, establish committees, and make recommendations to the State Board of Education.

By 1945, the number of school districts in the state had been reduced to 2,568. In 1949, the Commission on School Districts was disbanded, and the responsibility for school district organization fell to the State Board of Education. Provisions were made for counties to carry on the work the commission had started. To assist the counties in this effort, the California Department of Education established the Bureau of School District Organization, which acted as an advisory group within the Division of Public School Administration. In the four years the Commission on School Districts was active, it was able to reduce the number of districts another 18 percent, to a total of 2,111 districts.

3. Early Attempts to Establish Incentives for Reorganization

Among the recommendations of the Commission on School Districts was a proposal that unified school districts be rewarded with a higher level of support.

Incentives for unification included state assistance for capital outlay and transportation.

In 1950, a law was enacted to provide state funding for the excess cost of transportation incurred as a result of unification, including the purchases of buses. The funding was limited to the first five years of the existence of a unified school district.

In 1951, the funding level for unified school districts was increased by \$5 per unit of average daily attendance (ADA) for the first five years of existence. This amount was hardly enough to interest any but the most needy of school districts.

In 1953, the funding level of a unified school district formed by county committee recommendation was increased by 5 percent in the first year; but each year thereafter it was diminished by 1 percent until the district was back to normal funding levels. This change did provide a substantial increase for the first year but was temporary and diminishing in value. It did have some beneficial influence, and a number of districts were formed with the temporary increased support in mind.

In 1959, the Legislature provided both an incentive and a deadline in the form of a new law. The incentive was that unless reorganization was achieved locally, the California Department of Education would initiate the action.

The new statute required that on or before September 15, 1964, each county committee must have submitted to the State Board of Education a master plan of school district organization for its county—to consist either of a system of unified school districts or of such organization as would constitute an intermediate step to unification. If the county committee failed to submit such a plan, the California Department of Education would do so by September 15, 1965. This action caused an increase in the number of plans reaching the State Board of Education, and the number of proposals approved by electors increased.

In spite of these legislative attempts at reorganization, the reluctance of people to accept unification without perceiving tangible financial benefits was considerable; but progress was made in the reduction of the number of school districts in the state. From 1935 to 1945, the total number of school districts in California decreased from 3,500 to 2,508. From 1945 to July 1, 1964, the total number of elementary and high school districts was reduced from 2,508 to 1,325. Unified school districts increased in number from 46 to 164.

4. Reorganization and Assembly Bill 145

In 1964, major new legislation was passed in the form of a bill introduced by Assemblyman Jesse Unruh, which offered new incentives for school districts that reorganized and new disincentives for districts that chose not to reorganize. This bill; AB 145, provided a mandate for unification but was primarily a financial

measure. Unified school districts were to be formed according to plans formulated by the State Board of Education.

This bill made its position clear by providing a statement of intent that the unified school district should be the ultimate form of school district organization in the state. Thus minimum standards for both numbers of students and geographical size were established for school district organization.

A school district could be divided into two or more unified districts. However, each resulting district must be adequate in size and financial ability and not deviate materially in wealth (assessed valuation) per pupil in ADA from the district from which it was created.

To encourage voters to form unified school districts, AB 145 stipulated that the funding level for qualified unified school districts be increased by \$15 per ADA. In addition to increasing support for unified school districts, for each elementary school district that voted in favor of unification, even if the whole proposition failed, the funding level of that district would be increased by \$15 per ADA. The law required that unification had to be along high school district boundaries, but each elementary school district had to have a “yes” vote. If one district voted “no,” the unification failed; but those voting “yes” received a bonus.

These were to be permanent increases in the level of support. In 1967, the incentive was increased to give \$20 per ADA “for more efficiently organized districts.”

The Legislature granted a series of reprieves from this mandatory election until 1972, when the Master Plan in each county was voted on (with few exceptions). Through June 30, 1974, the total number of elementary and high school districts in the state was reduced to 1,048, a decrease of 529 from 1964, and the total number of unified districts increased from 164 to 253.

5. The Thompson Bill, Senate Bill 1537

In the 1994 session of the State Legislature, Senate Bill (SB) 1537 was enacted, making significant adjustments to school district organization statutes. The bill, affecting reorganizations approved by the State Board of Education after January 1995, makes it possible for a high school district to unify without affecting all of the feeder elementary school districts by allowing individual component elementary school districts to request that the State Board of Education exclude them from a unification of the high school district in which they are located (*EC 35542[b]*). The effect of the legislation is that elementary school districts can exist within the boundaries of a unified school district. Voters in those districts that wish to unify are not impeded if the residents of one or more component school districts opt not to be included in the process.

The computation of a newly unified school district's funding was also clarified by SB 1537, adding a step-by-step procedure to calculate a revenue limit for the newly unified school district. This procedure included (1) a process to blend the revenue limits of the former districts, (2) a potential inclusion of an adjustment for salaries and benefits of the former districts, limited to a maximum increase of 10 percent over the blended revenue limit, (3) a provision that an elementary school district that unifies did not actually receive all of the additional unified school district revenue limit income until it houses and educates its own high school students (the school of attendance received credit for the ADA of the secondary students in the interim), and (4) an annual review process by the California Department of Education if the new school district was unable to house all of its own secondary students within five years after unification. Enactment of the Local Control Funding Formula of 2013 repealed the funding computations of SB 1537.

6. Attempts to Reorganize Los Angeles Unified School District

Legislative attempts to divide the Los Angeles Unified School District (LAUSD) have been made since at least the 1970s when enabling legislation was introduced and passed but vetoed by Governor Reagan. Since then, hearings have been held and bills introduced to no effect until 1995, when two measures were signed into law on the issue. Assembly Bill 107 (*EC 35700[b], 35721[b]*) lowered the threshold for the number of petition signatures required to initiate a school district reorganization petition, while Senate Bill 699 (*EC 35730.1*) imposed conditions that must be met by any new school district created from LAUSD.

7. The Carter Bill, Assembly Bill 174

In the 2009 session of the State Legislature, Assembly Bill 174 was enacted, allowing unification proposals supported by all affected local education agencies to be approved by the county committee on school district organization and sent to a local election without coming to the State Board of Education for additional approval. Certain other conditions apply to this local approval of unification proposals. (*EC 35710*)

Chapter 5 of this handbook provides a more detailed description of the local approval process for unification proposals.

8. Changes to Territory Transfer Appeal Process

On July 1, 2020, legislation went into effect to reduce the number of county committee actions on territory transfers that can be appealed to the State Board of Education. Prior to this date, any action of the county committee to either approve or disapprove a territory transfer could be appealed. Under the new legislation only county committee actions to approve a territory transfer are eligible for appeal.

This action by the legislature continued the trend to provide more local authority over the school district reorganization process (see the above discussion of the Carter Bill).

9. Results of Reorganization

The impact of voluntary reorganization has not been dramatic. From 1971–72 through 2020–21, the total number of school districts declined as indicated in Table 2.1.

Table 2.1: Change in Number of School Districts

School District Type	1971–72	2021–22	Change
Unified	242	345	+103
Elementary	709	519	-1874
High	117	76	-41
Total	1,068	940	-128

Since 1931–32, when there were 3,595 school districts in California, the total number of districts has decreased by 2,655, or almost 74 percent. The pace of change in school district organization may have slowed, but it is still proceeding at a steady rate.

10. 2002 California Master Plan for Education

In 1999, the Legislature passed Senate Concurrent Resolution 29, which called for the creation of a new Master Plan for Education. This Master Plan, finalized in 2002, contains recommendations that the State take steps to bring all school districts into unified structures and that the Legislature develop fiscal and governance incentives to promote local communities organizing their schools into unified districts.

Enabling legislation will be required to enact any of the recommendations in the Master Plan. Therefore, the effects of these recommendations on school district organization, if any, cannot be determined at this time.

11. Local Control Funding Formula

Chapter 47, Statutes of 2013 (Assembly Bill 97)—enacted as part of the 2013–14 budget package—made major changes to the way the state funds school districts. The goal of this new school finance system, known as the Local Control Funding Formula (LCFF), is to significantly simplify how state funding is provided to school

districts. Under LCFF, revenue limits and most state categorical programs are eliminated. School districts receive funding based on the demographic profile of the students they serve and gain greater flexibility to use these funds. The LCFF funding targets consist of grade span-specific base grants plus supplemental and concentration grants that provide additional funds based on student demographic factors such as low income, English learner, and foster students.

Thus, as noted in section 5, there no longer is an increase to funding allocations as a result of school district reorganizations. It remains to be seen how the loss of this financial incentive will affect school district reorganization efforts.

B. California School District Organization Data

Table 2.2 shows the number of each type of school district in California, by selected years, since 1932. It also indicates the total number of districts in each of the years shown. Following the table is a list of events (by the year the event occurred) that either were designed to affect the number of districts in the state or signify milestones in the historic reduction in numbers of districts statewide.

Table 2.2: Number of School Districts, by Type and by Selected Years

Year	Unified	Elementary	High	Total
1932	N/A	N/A	N/A	3,579
1940–41	40	2,512	265	2,817
1945–46	46	2,248	260	2,554
1950–51	67	1,779	245	2,091
1955–56	92	1,533	233	1,858
1960–61	119	1,316	221	1,636
1963–64	155	1,179	201	1,535
1964–65	164	1,129	196	1,489
1965–66	191	998	168	1,357
1966–67	228	829	132	1,189
1967–68	235	752	120	1,107
1970–71	240	712	118	1,070

Year	Unified	Elementary	High	Total
1971–72	242	709	117	1,068
1973–74	251	689	114	1,054
1974–75	253	680	115	1,048
1979–80	263	664	115	1,042
1985–86	271	645	112	1,028
1986–87	278	635	112	1,025
1987–88	279	633	112	1,024
1988–89	283	623	111	1,017
1989–90	287	613	110	1,010
1990–91	288	612	110	1,010
1991–92	291	609	109	1,009
1992–93	296	601	109	1,006
1993–94	302	593	104	1,002
1994–95	305	590	106	1,001
1995–96	309	586	104	999
1996–97	310	585	104	999
1997–98	315	580	99	994
1998–99	323	572	93	988
2004–05	329	562	88	979
2009–10	334	546	83	963
2014–15	343	527	77	947
2021–22	345	519	76	940

List of events related to numbers of districts depicted in Table 2.2

1940–41: Passage of coterminous boundary laws

1963–64: Passage of unification laws 1963-64

1971–72: Last mandated unification election

1979–80: Passage of voluntary reorganization laws

1985–86: Seventy-eight percent decrease in elementary school districts in 50 years

1985–86: Sixty-three percent decrease in high school districts in 50 years

1985–86: Seventy-two percent decrease in number of school districts in 50 years

1995–96: Thompson Bill enacted

2009–10: Carter Bill enacted

2014–15: Local Control Funding Formula enacted

CHAPTER 3

ORGANIZATION AND RESPONSIBILITIES OF THE COUNTY COMMITTEE

The county committee on school district organization has a major role in the review and approval of proposals to change school district organization in the county. This chapter discusses how the members are selected, how committees should function, and how they are financed. In 35 counties in the state, the functions of the county committee on school district organization have been transferred to the county board of education. A list of counties in both categories can be found at the end of this chapter.

This chapter will be of greatest help to county committee members and to county superintendents of schools. They can use this chapter to aid them in calling elections and meetings for the county committees.

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A. General

There is in each county, except a county that is also a city and school district (i.e., San Francisco), a county committee on school district organization.

(EC 4000) As shown in Table 3.1, 39 percent of the counties have committees that are separate from the county board of education. In the remainder of the counties, the county board of education acts as the county committee on school district organization by order of the State Board of Education. (EC 4021) Where all of the territory of a county superintendent of schools is included in one unified school district, the governing board of the unified school district serves as the county committee. (EC 4001)

1. Transfer of Duties to the County Board of Education

Section 4020 of the *Education Code* states that the duties of the county committee on school district organization may be transferred to the county board of education. That section states that, upon petition by the county committee or the county board of education, the State Board of Education may transfer the duties and must notify the petitioning agency within 90 days after receiving the petition. The duties have been so transferred in 35 of 57 counties with county committees. (See Table 3.1 at the end of this chapter)

Procedure

In reviewing such transfer petitions, the State Board of Education considers several factors:

- a. The recommendation of the county committee
- b. The recommendation of the county board of education
- c. The workload for school district organization in recent years in the county, including:
 - i. Number of territory transfers
 - ii. Number of unifications
 - iii. Number of annexations
 - iv. Number of cases in which school district trustee areas have been established

2. Reestablishment of a County Committee

Section 4022 of the *Education Code* states that a county committee on school district organization may be reestablished and its duties transferred from the county board of education to the county committee. That action may be initiated by the county board of education or by a majority of the school district governing boards in the county. In considering such action, the State Board of Education considers several factors:

- a. The level of school district organization activity in the county since the duties were transferred to the county board of education. For example, the State Board of Education considers:
 - i. Number of territory transfers
 - ii. Number of new districts formed
 - iii. Number of annexations
 - iv. Number of cases in which school district trustee areas have been established
- b. If the motion to reestablish a county committee is initiated by a majority of the school districts in the county, the views of the remaining districts regarding the requested transfer of duties
- c. The opinion of the county board of education on the petition
- d. The estimated cost to reestablish the 11-member committee based on any recent reorganization activity in the county
- e. The reasons given by the petitioning districts for reestablishing the committee

3. State Board of Education Action

A proposal for transferring the duties to the county board of education or for reestablishing the county committee is considered by the State Board of Education.

- a. The State Board of Education considers the proposal and the California Department of Education's recommendation.
- b. The State Board of Education may conduct a public hearing on the matter, although a public hearing is not required by law. By practice, the parties involved may address the board on request.
- c. Action by the State Board of Education is final.

- d. If the State Board of Education votes to reestablish the county committee, the first meeting of the county committee must be held within 30 days. (*EC* 4023)

B. Responsibilities

1. 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 (*EC* 35709, 35710), subject only to appeal to the State Board of Education. (*EC* 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 of Education 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. (*EC* 35720-35724, 74105 et seq.)

Specific tasks of the county committee regarding district organization are shown in the charts in this manual (quick-reference charts in Chapter 5). They depict the approval processes for the various types of petitions and plans.

Education Code Section 35751 requires county and district submission of the statistical information required by the California Department of Education to complete a study for the State Board of Education.

The provisions of Section 35751 apply to both unification proposals and to appeals of county committee decisions on transfers of territory. With either type of action, the county committee should include sufficient information to demonstrate that the committee studied the background on each of the criteria in *Education Code* Section 35753(a) and *California Code of Regulations*, Title 5, Section 18573. (See Appendix A.)

An administrative record for any reorganization proposal submitted to the State Board of Education should include the petition to reorganize, notices of the public hearings, the description of the petition provided to the public before the public hearings, summary minutes and/or transcripts of the public hearings and meetings, related letters, legal briefs, and any other materials relevant to the proposal that would enable the State Board of Education to determine whether there is evidence to support the county committee's recommendation.

In particular, the county committee should examine data on the current status of the school district and the impact of the proposed change on the racial and ethnic composition of the affected districts at both the school and district levels. Also, data on the current educational achievement levels and standardized test scores of pupils and the existence of special educational programs are included. If any unusual financial situations exist that would adversely affect the district's ability to maintain its educational programs, that information should be included. Such information is typically included in a study conducted for the county committee by the secretary to the committee and other county office staff (or by a contracted consultant).

It is recommended that the record include the county committee's votes taken on each one of the Section 35753(a) criteria as well as the summary vote taken according to Section 35707. The county committee should maintain the same standard of documentation concerning petitions for transfer of territory in case its decision is appealed to the State Board of Education.

2. Trustee Areas for Governing Board Elections

The county committee has the power to regulate the election of members to county boards of education, except in chartered counties. In chartered counties the manner of selection of the county board of education shall be prescribed in the county charter or by the county board of supervisors. (EC 1000)

The county committee has the power to establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, adopt one of the alternative methods of electing governing board members, and increase to seven or decrease to five the number of members of the governing board in any school district or community college district. (EC 5019) It has no authority, however, in a situation involving a school district governed by a board of education provided for in the charter of a city or city and county.

Quick-reference charts in Chapter 10 depict the approval processes for the various types of petitions and plans for establishing, abolishing, or changing trustee areas.

3. Legal and Regulatory Guidance

The county committee is subject to the legal requirements in the *Education Code*, to policies and regulations adopted by the State Board of Education (*California Code of Regulations*, Title 5), sections of the *Government Code* related to petition preparation, sections of the *Elections Code* related to petitions, the *Government and Public Resources Code* relating to the California Environmental Quality Act, and the

Ralph M. Brown Act (*Government Code* Section 54950 et al.) regarding the conduct of public meetings. County committees are given great latitude within

which to work so that each local situation can be considered within its own context. Each proposal made by the county committee is to be considered in light of its appropriateness to the local area concerned.

4. County Committee Master Plans

On or before September 15, 1963, each county committee had to prepare and submit a master plan to the State Board of Education for including the entire territory of the county in school districts so that each school district had to provide for a kindergarten- or grade-one-through-grade-twelve educational program. This date was extended for certain counties up to September 15, 1964. If a county failed to submit a master plan by the extended date, then the California Department of Education had to prepare the master plan for the county by September 15, 1965.

When the *Education Code* provisions pertaining to school district organization were rewritten in 1980, it was the legislative intent to utilize the organization of districts as they existed on January 1, 1981, and the master plan for school district organization in each county as it existed prior to January 1, 1981, or any approved updated version of the master plan as the basis for future reorganization of districts in each county.

Legislation has since removed all references to master plans from the *Education Code*. Currently, there are no legal provisions requiring that a county committee revise its original master plan or base reorganization decisions on existing master plans. It is now the intent of the Legislature to utilize the organization of districts as they existed on January 1, 1981, and local educational needs and concerns as the basis for future reorganization of districts in each county. (EC 35500)

5. Waiver Authority

The *Education Code* sections pertaining to school district organization issues may be waived except those sections relating to school finance in Part 24 (local control funding formula). *Education Code* Section 33050 permits county boards of education and school districts to petition the State Board of Education for waivers after holding the necessary public hearings and consulting with appropriate bargaining units. County committees on school district organization are separate governmental entities and cannot submit a waiver request directly to the State Board of Education. County committees that identify a potential need for a waiver should consult with California Department of Education staff before requesting that the county board of education or the governing board of an affected school district submit a waiver request.

Common requests to waive school district organization statute include:

- Elimination of election requirement to establish trustee areas and by-trustee area methods of election. (*EC 5019, 5020*)
- Elimination of election requirement for approval of territory transfers and formations of new school districts. (*EC 35710*)
- Alteration of effective date for reorganized districts. (*EC 35534*)
- Conditions and timelines for lapsation of districts. (*EC 35780, 35786*)

6. Withdrawal of Grades Seven and Eight from a District

The process for withdrawing grades seven and eight from a high school district does not involve the county committee on school district organization or the State Board of Education.

County superintendents and county staff confronted by petitions regarding such changes should acquaint themselves with an appellate court case entitled *San Dieguito Union High School District v. Rosander* (1985), 171 Cal.App.3d 968 (1985) along with the 1992 decision in *Board of Supervisors v. LAFCO*, 3 Cal 4th 903, and consult with legal counsel regarding the steps to be taken to determine the area of election.

C. Membership

1. Selection of County Committee Members

If there are fewer than six districts or community college districts under the jurisdiction of the county superintendent of schools, the superintendent must determine the number of county committee members and must appoint the members. In all other counties, the county committee must have 11 members (unless the county board of education serves as the county committee).

These 11 members must be elected to the committee by an annual meeting of school district trustee representatives that shall be called by the county superintendent of schools and shall be held between October 1 and December 1 of each year. The governing board of each school district must elect a voting representative at its initial meeting. (*EC 4002, 4003, 4005, 35023, 72403*)

To increase participation of school district voting representatives in the county committee election, the Legislature authorized an option for the school district voting representatives to vote for county committee members by means of an absentee ballot. (*EC 4006*)

There can be exceptions to the election process. For example, effective August 1994, the State Board of Education approved a request to waive *Education Code* Section 4005 and a portion of Section 4006 for elections of members to

the Santa Clara County Committee on School District Organization. This waiver eliminates the need to hold the election at an annual meeting of school district trustee representatives in Santa Clara County and allows the election to be conducted entirely by mail-in ballot in that county. Any county that wishes to pursue this option should contact the appropriate California Department of Education staff.

2. Nomination Process

The nomination process for members of the county committee varies, depending upon the bylaws of each school district organization committee. In some counties any registered voter may be nominated by a school board or may nominate himself or herself, usually by a certain date before the annual caucus. The nomination may require the filing of a letter of candidacy and a biographical data sheet with the county superintendent prior to the election date. These are then sent to all board representatives prior to the election date. In other counties, nominations must be made by school board representatives and may be accepted up to the day of and at the meeting.

3. Exclusions, Area Represented, and Terms of Office

Any registered voter residing in the appropriate supervisorial district may serve as a county committee member. Members of school district governing boards may serve concurrently as a school district trustee and county committee member. No county superintendent of schools, employee of the office of a county superintendent of schools, employee of a school district, or employee of a community college district shall be a member of the county committee. Any member of the governing board of a school district or community college district in the same or any other county who is otherwise eligible may simultaneously serve as a member of the county committee. (*EC 4007*) At least two members must be elected from among the qualified electors of each county supervisorial district. The term of office of each member must be four years. (*EC 4008, 4009*)

4. Vacancies

Vacancies on the county committee are created by any of the events described in Section 1770 of the *Government Code*. (*EC 4006*)

- a. Although it is not specifically addressed in law, many county committees require that if a county committee member chooses to resign, the resignation will be in writing and submitted to the secretary of the county committee or his or her designee. The vacancy becomes an established fact upon the date indicated in the written resignation or upon receipt of the written resignation if no date is indicated.
- b. Should a committee member cease to be a resident of the supervisorial district for which he or she was chosen or appointed, the office becomes

vacant. A member may cease to be a resident if the member moves out of the supervisorial district in which he or she was elected.

If any change in the boundaries of a county supervisorial district in the county affects an incumbent member of the county committee, the affected member must serve the remainder of his or her term of office. (EC 4008)

- c. Should a committee member cease to discharge the duties of office for the period of three consecutive months, except when prevented by illness, the office becomes vacant.
- d. Should a cause for vacancy, other than a member's resignation, come to the committee's attention, the committee chair should inform the affected member of the cause. Should the member fail to dispute the cause for vacancy, then the vacancy should be declared at the next regular county committee meeting.

The remaining members of the committee must make appointments to fill vacancies in the committee membership or, if they fail to fill such vacancies within 70 days or if the vacancy occurs in a county having fewer than six school districts, the county superintendent of schools must do so. Persons appointed to fill such vacancies must hold office for the duration of the unexpired term. (EC 4002 and 4006)

5. Compensation to Members

The members of the county committee must serve without pay but shall be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties. (EC 4010)

D. Organization and Procedures

1. Officers, Meetings, Quorum

Within 30 days after the election or appointment of the county committee, the county superintendent of schools calls the first meeting of the county committee for the purpose of electing a chair and a vice-chair. The county superintendent of schools or his or her designee must act as the secretary of the county committee but must not be a member of the committee. (EC 4012) Meetings of the county committee may be called by the chair or by a majority of its members. (EC 4013) A majority of the county committee (i.e., six or more members) will constitute a quorum for the transaction of business. (EC 4014)

2. Agenda

The secretary of the county committee must prepare the agenda for all meetings. Items for the agenda may be suggested by committee members as well as by any county or school district employee or any local citizen. During the county committee meeting, any and all subjects on the agenda may be heard by the committee. There must be no discussion of, or action on, items not listed on the agenda for the meeting unless the provisions of *Government Code* Section 54954.2 (b) are enacted.

3. Meeting Procedure

California state law requires that all actions of the county committee must be taken openly and that all of its deliberations must be conducted openly. Therefore, the county committee meeting must be conducted in accordance with sections 54950-54962 of the *Government Code*, known as the Ralph M. Brown Act.

A common practice for county committees is to follow parliamentary procedures as prescribed in *Robert's Rules of Order* (newly revised) when they are not in conflict with the county committee's bylaws or any applicable law, rule, or regulation. One exception is that the chair may discuss and have a vote on all matters put before the committee.

Any recommendation to change the boundaries of any or all of the trustee areas of the county board of education, or recommendations to increase or decrease the number of members of the county board of education, requires adoption by a two-thirds vote of all members entitled to vote (e.g., eight or more affirmative votes). (EC 1002)

In addition to these procedures, the bylaws of some county committees specify that all motions that will affect the operation of any school district in the county require adoption by a majority of all members entitled to vote (i.e., six or more affirmative votes).

4. Minutes

A further recommendation is that the official minutes of the county committee meeting should be recorded by the secretary of the committee. The secretary should mail a copy of the minutes of each meeting to each member of the committee prior to the ensuing regular committee meeting. The minutes should contain the exact wording of all motions made and the names of the maker and seconder of each motion. The voting result should be recorded by number of ayes and nays; or, if a roll call vote was requested, the vote of each member should be recorded as cast.

The minute books for the county committee must be open to inspection by the public at the office of the county superintendent of schools during the usual business hours. (Public Records Act, *Government Code* Section 6250 et seq.) Such inspection should be under the supervision of an employee of the county office of education.

5. Bylaws

Although not required by law, most county committees on school district organization have adopted rules and regulations, not inconsistent with the laws of this state, for their own governance. (See Appendix B for sample county committee bylaws.)

E. Administration and Finance

To carry out its activities, the county committee relies on the county board of education and the county superintendent of schools for support. All expenses necessary for the county committee to comply with the provisions of the *Education Code* may be provided by the county board of education. Any expenses of the county superintendent of schools, the county board of education, and the county committee on school district organization required by any section of the *Education Code* must be paid from the county general fund. (EC 1510) When a county board of education is fiscally independent, the county school service fund is responsible for county committee expenses. (EC 1080, 1604, 1621)

The county superintendent of schools may employ personnel to (1) conduct research in connection with the activities of the county committee; and (2) develop systems, procedures, and methods for applying such research findings to improve the effectiveness of those activities. (EC 1943)

The county counsel or, if there is no county counsel, the district attorney may provide legal services to the county committee. In the event the county board of education is fiscally independent of the board of supervisors, the county board may provide the committee with private legal counsel to be selected by the committee. (EC 4011)

Table 3.1: County Committees on School District Organization

In some counties, the county board of education acts as the county committee. In the remainder of the counties, the county committee is a body separate from the county board of education. San Francisco County has no county committee (EC 4000).

Counties with a separate County Committee	Counties in which the County Board of Education serves as the County Committee
Fresno	Alameda
Humboldt	Alpine
Kern	Amador
Lassen	Butte
Los Angeles	Calaveras
Marin	Colusa
Merced	Contra Costa
Mono	Del Norte
Nevada	El Dorado
Orange	Glenn
Placer	Imperial
Riverside	Inyo
San Benito	Kings
San Bernardino	Lake
San Luis Obispo	Madera
San Mateo	Mariposa
Santa Barbara	Mendocino
Santa Clara	Modoc
Sonoma	Monterey
Stanislaus	Napa
Tulare	Plumas
Ventura	Sacramento
N/A	San Diego

N/A	San Joaquin
N/A	Santa Cruz
N/A	Shasta
N/A	Sierra
N/A	Siskiyou
N/A	Solano
N/A	Sutter
N/A	Tehama
N/A	Trinity
N/A	Tuolumne
N/A	Yolo
N/A	Yuba

CHAPTER 4

ROLES AND RESPONSIBILITIES

THE STATE BOARD OF EDUCATION AND THE

CALIFORNIA DEPARTMENT OF EDUCATION

This chapter discusses the authority and responsibilities of the State Board of Education in school district organization and the assistance and support provided to the State Board of Education by the California Department of Education. The chapter distinguishes between the roles of the county committee on school district organization and of the State Board of Education. Petitioners and county committee members alike will find it useful in understanding what happens to school district organization proposals after the county committee has acted.

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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A. Powers of the State Board of Education

The State Board of Education is the principal statutory authority responsible for deciding whether to approve or disapprove each petition to form a new school district, except for those meeting conditions established in *Education Code* Section 35710. (*EC* 35753 and 35754) A petition moves forward for local vote only if approved by the State Board of Education. (*EC* 35755 and 35756) The State Board of Education must hold a public hearing on each petition pertaining to the unification's substance and conformity with the minimum conditions for approval. (*EC* 35753, 35754)

The terms "unifications" and "formations of new school districts" are used interchangeably throughout this handbook. Formations of new elementary and high school districts also are "formations of new school districts." However, such reorganizations historically have been quite rare; so the term "unification," over time, has come to be synonymous with "formation of a new school district."

The State Board of Education also is required to take certain actions that pertain to the unification's impact or lack thereof on the environment, pursuant to the California Environmental Quality Act (CEQA), *Public Resources Code* Section 21000 et seq. This requirement was temporarily removed, effective October 28, 1998, when CEQA Guidelines were revised by the Resources Agency of California to specify that school district reorganizations are not projects subject to CEQA. Those revisions were challenged in Sacramento Superior Court and, in April 2001, were invalidated (*Communities for a Better Environment v. California Resources Agency*; Sacramento Superior Court Case No. 00 CS 00300). The superior court decision subsequently was upheld on appeal, thus reinstating the requirement to address CEQA.

The State Board of Education also has authority to hear and decide appeals from decisions of county committees on school district organization concerning transfers of territory between school districts and certain formations of new school districts that have the support of all affected districts. (*EC* 35710.5, 35711)

The State Board of Education is required by statute to establish minimum standards to be used in approving or disapproving petitions for the formation or reorganization of school districts. (*EC* 35750)

The State Board of Education has both general and specific authority to establish regulations governing school district organization. (*EC* 33031, 35712, 35753[a][10], 35768) The adopted regulations specific to school district organization and procedures for public hearings are contained in the *California Code of Regulations (CCR)*, Title 5, sections 18570–18573. (*CCR* Title 5 18570–18573)

Finally, based upon properly completed local requests, the State Board of Education has authority to waive many provisions of the *Education Code* and accompanying regulations. (*EC* 33050 et seq.) Waiver requests are submitted to

overcome specific obstacles encountered during the school district organization process. At the time of the most recent revision of this chapter, the State Board of Education has been receiving (and has approved) numerous requests to waive the election to establish trustee areas for governing board elections (see Chapter 10 of this Handbook).

2. Conditions for Approval of Reorganization Petitions

- a. *Authority to Approve If Conditions Are Substantially Met.* The State Board of Education may, but is not required to, approve proposals for reorganization of school districts if the conditions set forth in *EC 35753(a)* are substantially met.

Several criteria that clarify the conditions for approval are found in *CCR Title 5 Section 18573*. This section is now largely repetitive of statute because of 1990 legislation (Senate Bill 1927, Chapter 1658, Statutes of 1990), which codified much of the preexisting regulation. A side-by-side comparison of statute and regulation can be found at the end of Chapter 6.

- b. *Authority to Approve If an Exceptional Situation Exists.* The State Board of Education may depart from the minimum conditions for approval in certain situations.

Specifically, the State Board of Education may determine that it is not practical or possible to apply the conditions literally and that exceptional circumstances exist that are sufficient to justify approval of the proposal. (*EC 35753[b]*)

- c. *Authority to Amend or Modify Proposals.* The State Board of Education has authority to amend a proposal, but the authority is limited to certain items (*EC 35730–35738*) that relate generally to governing board membership, area of election, and division of assets. Otherwise, the State Board of Education can approve or disapprove only the proposal that was determined to be sufficient by the county superintendent. (*EC 35704, 35754*)

3. Public Hearings on Petitions and Appeals

The State Board of Education currently holds its regular meetings every other month (January, March, May, July, September, November), usually on the second Wednesday and Thursday of the month. Following the analysis of unification proposals by California Department of Education staff and the preparation of recommendations to the State Board of Education, public hearings are scheduled as the business of the State Board of Education permits.

For the public hearing addressing the unification proposal's substance and minimum conditions for approval, it is typical for the State Board of Education's

presiding officer to set a time limit of 10 to 15 minutes each for proponents and opponents to present witnesses and other testimony, sometimes followed by a five-minute rebuttal period for each side. However, when the matters in disagreement are very limited and focused in nature (or when only one side plans to present testimony), the presiding officer typically will reduce the time allowance. On the other hand, when the matters in disagreement are very broad or complex and large numbers of speakers are expected, the presiding officer may increase the presentation time limit. It should be noted that the State Board of Education will not entertain repetition of arguments. (CCR, Title 5 18571)

County committees on school district organization have authority to approve or disapprove transfers of territory between school districts and certain proposals to form new school districts that have the support of all the affected districts without action by the State Board of Education. (EC 35706, 35709, and 35710) However, appeals from these decisions may be filed with the State Board of Education. (EC 35710.5) The appeals must be limited to specific issues of noncompliance with *Education Code* Section 35705, 35706, 35709, or 35710. Although appeals must be limited to the above stated specific issues of noncompliance, the courts have made it clear that State Board of Education review of the appeal is *de novo*. (*Burch, et al v. California State Board of Education* [1998], Los Angeles Superior Court Case No. B5034463; *San Rafael Elementary School District v. California State Board of Education* [1999], 73 Cal. App. 4th 1018) Thus, the State Board of Education, when hearing an appeal, is free to consider all factors of a territory transfer proposal including not only procedural issues, but facts to satisfy the conditions of Section 35753.

The State Board of Education does not necessarily schedule public hearings to consider appeals. If no public hearing is scheduled, it is typical for the State Board of Education's presiding officer to set a time limit of one to three minutes each for individuals wishing to address the State Board of Education on the appeal.

Individuals wishing to address the State Board of Education at a public hearing must notify the State Board of Education Office in writing by noon of the third working day before the scheduled hearing. (CCR, Title 5 Section 18461) The notice should indicate the subject to be addressed, the organization (if any) being represented, and the nature of the testimony. Persons addressing the State Board of Education are well advised to be succinct and clear and to refrain from repeating what previous witnesses have said and from presenting substantial written materials at the meeting itself. Arrangements can be made with the State Board of Education Office to distribute substantial written materials to State Board of Education members, California Department of Education staff, and other interested parties in advance of the meeting; it is advisable to contact the State Board of Education Office at least two weeks before the meeting to work out the details of such a distribution.

B. Role of the California Department of Education

1. Staff Studies

The California Department of Education assists the State Board of Education by preparing the studies and reports needed for school district organization proposals. (*EC 35751* and *CCR, Title 5 18570*) Reorganization proposals and appeals are filed with the State Board of Education and are referred to specific staff in the California Department of Education's School Fiscal Services Division for completion of the necessary studies, reports, and recommendations. For assistance from that office, call 916-324-4541 or write to:

School Fiscal Services Division
California Department of Education
1430 N Street, Suite 3800
Sacramento, CA 95814

Staff reports and services provided by that office include:

- Contacting state and local agencies to determine possible adverse environmental effects or to obtain additional information relative to the district reorganization.
- Completing preliminary CEQA studies for the State Board of Education.
- Submitting CEQA documents to the State Clearinghouse in the Governor's Office of Planning and Research.
- Reviewing district reorganization proposals for compliance with statutes and regulations.
- Preparing reports and recommendations to the State Board of Education on whether to approve reorganization proposals.
- Reviewing the administrative record on appeals from county committees on school district organization decisions on transfers of territory and certain proposals to form new school districts that have the support of all the affected districts.
- Preparing reports and recommendations to the State Board of Education on actions to be taken to approve or deny appeals.
- Providing assistance to county committees on school district organization, school district administrators, and members of the public on legal requirements for school district reorganization.

- Coordinating with other California Department of Education units for their specialized studies and review of proposals. In particular, the Office of Equal Opportunity provides review of the possible impact of reorganization on racial and ethnic status; the Assessment, Accountability, and Awards Division reviews the possible impact on educational programs; and the School Facilities Planning Division assists in determining possible increased costs for school housing.

2. Legal Counsel

Although the State Board of Education retains its own legal counsel, the California Department of Education also provides legal review of school district organization issues before the State Board of Education. Legal counsel is essential at each stage of preparation of recommendations to the State Board of Education, and counsel reviews all proposals to be presented to the State Board of Education. The California Department of Education's legal counsel also assists in representing the State Board of Education in litigation challenging State Board of Education decisions.

A local education agency (e.g., school district, county office of education, county committee) needing legal advice regarding a school district organization issue should consult its own legal counsel. The California Department of Education Legal Office does not advise anyone outside of the Department.

CHAPTER 5

REORGANIZATION OF SCHOOL DISTRICTS IN CALIFORNIA

This chapter describes step by step the process of forming or abolishing school districts, consolidating school districts, transferring territory from one district to another, and unifying school districts. Anyone involved in school district organization, from petitioners to members of the State Board of Education, will find this chapter useful in understanding legal requirements.

The complete process is outlined, including reorganization proposals initiated by:

- A 25 percent petition (or a governing board resolution)
- A 10 percent petition (or a resolution from certain local agencies)
- County committee plans and recommendations

Following each chart, the major requirements of reorganization proposals and the review and approval process are discussed in detail. Section A provides a concise overview of the procedures used in reorganizing school districts. At the end of the chapter are lists of tasks to aid county office staff and county committees in tracking the recommended and required tasks associated with district reorganization.

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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A. Introduction

1. Definition of Reorganization

An "action to reorganize districts" (*Education Code* Section [EC] 35111) means either of the following:

- a. An action to form a new school district, which is accomplished through any of, or any combination of, the following:
 1. Dissolving two or more existing school districts of the same kind and forming one or more new school districts of that same kind from the entire territory of the original districts.
 2. Forming one or more new school districts of the same kind from all or parts of one or more existing school districts of that same kind.
 3. Unifying school districts, including the consolidation of all or part of one or more high school districts with all or part of one or more component school districts into one or more new unified school districts.
 4. Deunifying a school district, including the conversion of all or part of a unified school district into one or more new high school districts, each with two or more new component districts.
- b. An action to transfer territory, including the transfer of all or part of an existing school district to another existing school district.

Lapsations of school districts are local actions to dissolve a school district and annex its territory to one or more adjacent districts. Districts are required to lapse because of low student enrollment, low numbers of voters residing in the district, or other issues that the district and the county superintendent of schools determine will threaten the district's long-term viability. Although lapsation is a reorganization of school districts, it is not included in the *Education Code* Section 35511 definition for the following reasons:

- Lapsations are not initiated through the same processes as are the *EC* Section 35511 defined actions to reorganize districts.
- Lapsations are not subject to the same timelines, hearing requirements, and local processes as are the actions defined in *EC* 35511.
- Lapsations are handled entirely at the local level and are not subject to review or action by the State Board of Education.

Lapsations, however, are subject to certain laws governing the *EC* 35111 defined actions to reorganize districts (see *EC* 35787).

Certain changes to school district boundaries are not considered reorganizations of districts. These changes are merely corrections and relocations of boundary lines that conflict or are incorrectly described or that are indefinite or conflict with lines of assessment because of the resubdivision of land or other property change. In these cases the board of supervisors may correct and relocate the boundaries to follow definite, established property lines. These changes must conform as nearly as practicable to the general location of the former boundaries and must be made in such a manner that most of the affected parcel or property determines the district in which the parcel or property will be located. (*EC 2600*) (When such changes are made, local, county, and state government agencies are required to be notified. See Section C, item 8.)

2. Basic Types of Reorganization

Four types of reorganization are most common:

- a. Territory transfers: Transfer of a portion (or portions) or all of one district to another.
- b. Formations of new school districts: Typically, these are unifications that involve (1) reorganizing entire elementary and high school districts or portions of them into unified districts serving kindergarten through grade twelve or (2) reorganizing or splitting an existing unified district into two or more new unified school districts. Although unification is the most frequent new district formation, new elementary or high school districts also may be formed from combinations of existing districts.
- c. Unifications with components (i.e., Thompson unifications): Unifications where one or more of the feeder elementary school districts are completely within a high school district and are excluded from action to unify the portion of the high school district in which it is contained. The governing board of the elementary school district must receive approval for exclusion from the agency approving the unification (either the county committee on school district organization or the State Board of Education). (*EC 35542*)
- d. Lapsations of districts: Lapsations of school districts are local actions to dissolve a school district and annex its territory to one or more adjacent districts.

3. Overall Process

This chapter discusses the major requirements and procedures of the reorganization proposal, review, and approval process. It describes the ways in which proposals may be initiated, reviewed by the county committee, and presented at public meetings and the steps involved in bringing an action to approval with or without State Board of Education involvement.

Section B, “Process: Quick-Reference Charts,” provides a succinct reference for readers to learn quickly what is involved in the various types of reorganization proposals. Each type of proposal is summarized in an outline that identifies the necessary steps of the process, including important legal references. The Reference Charts depict the sequence of those necessary steps. The seven types of reorganization proposals described in these Reference Charts are:

- a. Territory transfers initiated by owners of uninhabited territory, by a 25 percent petition, or by a district governing board. A 25 percent petition process is used when the owners of uninhabited territory or the district governing board or 25 percent of the registered voters in the affected area petition to transfer territory or when registered voters equaling 8 percent of the number of votes cast in the last gubernatorial election petition to reorganize a district with over 200,000 ADA into two or more districts.
- b. Territory transfers initiated by a 10 percent petition, certain local agencies (e.g., county board of supervisors, city council, local agency formation commission), or county committee. A 10 percent petition process is used when county committees, certain local agencies, or 10 percent of the registered voters in an entire school district wish to transfer territory or when 5 percent of the registered voters petition to reorganize a district with over 200,000 ADA into two or more districts.
- c. Unifications initiated by owners, a 25 percent petition, district governing boards, or an 8 percent petition in districts with over 200,000 ADA.
- d. Unifications initiated by a 10 percent petition, certain local agencies, a county committee, or a 5 percent petition in districts with over 200,000 ADA.
- e. Reorganizations (unifications or territory transfers) initiated by the county committee or under the direction of the State Board of Education.
- f. Unifications under circumstances allowing approval by the county committee.
- g. Lapsations of school districts by a county committee. Because of the relative simplicity of this process, there is no corresponding flowchart.

Note that the terms “unifications” and “formations of new school districts” are used interchangeably throughout this handbook. Formations of new elementary and high school districts also are “formations of new school districts.” However, such reorganizations historically have been quite rare; so the term “unification,” over time, has come to be synonymous with “formation of a new school district.”

The “minimum threshold” (*EC 35753*) conditions for approval of reorganization proposals are presented in Chapter 6.

Section C, “Process: Expanded Details,” presents a more detailed description of the reorganization process.

Section D, “Environmental Concerns,” provides information on the responsibilities of any public agency undertaking a project that could potentially have an impact on the environment (CEQA requirements).

4. Reorganization Involving Two or More Counties

In any action to reorganize school districts that are located in more than one county, the same procedures are required and shall take place in both counties. Hearings may be conducted in each county or jointly in either county, as it appears most convenient and practical. Any action regarding the reorganization may be taken during or after a joint hearing. If separate hearings are held, action may be taken only after findings of the hearings in each county have been transmitted to the other counties. (*EC* 35520 through 35524)

If county committee plans and recommendations for district reorganization (pursuant to *EC* 35720 et seq.) involve territory under the jurisdiction of the superintendent of an adjacent county, the county committee of the adjacent county is requested to concur with the plans and recommendations. Regardless of concurrence, or after 60 days’ notice of nonconcurrence, the plans and recommendations must be submitted to the State Board of Education for a decision. (*EC* 35723, 35724)

See Appendix C for further details of the procedures that must be followed when two or more counties are involved.

5. State Board of Education Waiver Authority

As noted in Chapter 4, the State Board of Education has authority to waive many provisions of the *Education Code* and accompanying regulations (*EC* 33050 et seq.). Almost all school district organization procedures described in this chapter may be waived if the State Board of Education approves a properly completed local request for waiver. Historically, the most common requests by districts are to waive required elections, effective dates of reorganizations, and the conditions to initiate lapsation. However, legislation approved in 2021 (Section 17 of Assembly Bill 130 [Chapter 44, Statutes of 2021]) provides greater local control over lapsation conditions and requirements and should eliminate much of the local need for State Board of Education waivers related to the lapsation process.

B. Process: Quick-Reference Chart 5.1

TERRITORY TRANSFERS INITIATED BY OWNERS OF INHABITED TERRITORY, A 25 PERCENT PETITION, OR DISTRICT GOVERNING BOARDS (See Flowchart A)

1. Initiation of Proposals for Territory Transfer (*EC 35700*)

- a. Petition signed by the owner(s) of uninhabited territory; or,
- b. Petition signed by at least 25 percent of the registered voters in the inhabited territory proposed to be reorganized (if the territory proposed for reorganization is located within two or more school districts, the signatures of at least 25 percent of the registered voters from that territory in each school district are required); or,
- c. Petition signed by a majority of the members of the governing boards of all affected districts; or,
- d. Petition signed by at least 8 percent of registered voters who cast votes in the last gubernatorial election to reorganize a district with over 200,000 ADA into two or more districts.

2. Determination of Sufficiency and Transmittal of Petition within 30 Days of Receipt (*EC 35704*)

- a. County superintendent must determine the sufficiency of the petition.
- b. The County Superintendent typically works with county elections officials to determine the sufficiency of voter petitions.
- c. The county committee and the State Board of Education must be notified when a valid petition is received.

3. Public Hearings (*EC 35705, 35705.5*)

A public hearing in each affected district must be held by the county committee within 60 days of receipt of a valid petition.

- a. Notice of the public hearing shall be given at least ten days in advance of the hearing.

- b. County committee may add to the petition any of the appropriate provisions specified in *EC* sections 35730 through 35738.

4. Notice to Local Agency Formation Commission (*EC* 35700.5)

Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

5. CEQA Review (*Public Resources Code* sections 21000 through 21177)

The county committee must comply with the requirements of CEQA.

6. County Committee Study of the Territory Transfer (*EC* 35753)

The county committee study must determine the impact of the territory transfer on the conditions listed in *EC* 35753.

7. Approval Process (*EC* 35706, 35709, 35710, 35710.1)

- a. If all the conditions of *EC* 35753 are substantially met, the county committee may approve or disapprove the petition to transfer territory within 120 days of the first public hearing or within 120 days of complying with CEQA if the county committee determines that the territory transfer is a project under CEQA.
- b. If any of the following three conditions exist, the county committee may approve the territory transfer without an election:
 - i. The territory is uninhabited, the majority of the owners of the territory consent to the transfer, and the governing boards of all affected school districts consent to the transfer.
 - ii. The territory is inhabited; the territory constitutes less than 10 percent of the assessed valuation of the original district from which the territory is being transferred, and the governing boards of all affected districts consent to the transfer.
 - iii. The election area for the territory transfer, as determined pursuant to *EC* 35732, is uninhabited territory as described in *Education Code* Section 35517.

- c. For all other territory transfers, if the county committee approves the transfer, the county superintendent must call an election in an area determined by the county committee.

8. Appeals

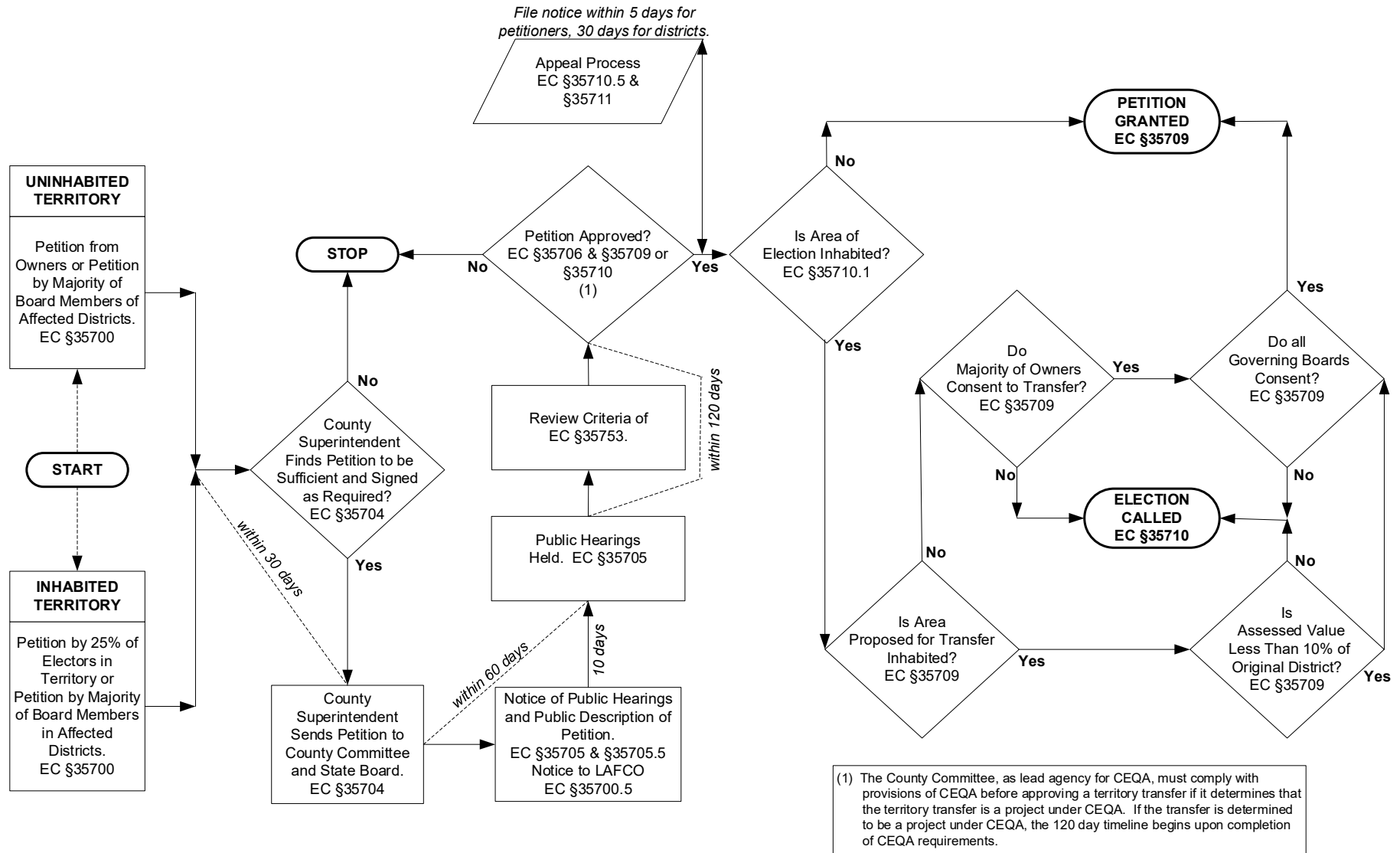
An action by the county committee approving a petition to transfer territory may be appealed to the State Board of Education by the chief petitioners or one or more affected school districts. (*EC 35710.5*)

- a. Appellants, except for affected school districts, shall file with the county committee a notice of appeal within five days after the final action of the county committee.
- b. Affected school districts shall file with the county committee a notice of appeal within 30 days after the final action of the county committee.
- c. Within 15 days after filing the notice of appeal, the appellants shall file with the county committee a statement of reasons and factual evidence.
- d. Within 15 days of receipt of the statement of reasons and factual evidence, the county committee shall send to the State Board of Education the statement and the complete administrative record of the county committee proceedings, including minutes of the oral proceedings.

9. Appeals regarding an adverse effect on racial or ethnic integration

Any person questioning the finding of the county committee that the proposed reorganization will not adversely affect the racial or ethnic integration of the schools of the districts affected may appeal a decision based on that finding to the State Board of Education within 30 days after the final action of the county committee. (*EC 35711*)

TERRITORY TRANSFER INITIATED BY OWNERS, 25% PETITION, OR DISTRICT GOVERNING BOARDS



B. Process: Quick-Reference Chart 5.2

TERRITORY TRANSFER INITIATED BY 10% PETITION OR LOCAL AGENCY (See Flowchart B)

1. Initiation of Proposals for Territory Transfer (*EC 35720, EC 35721*)

- a. Petition signed by at least 10 percent of the registered voters of the entire school district; or,
- b. Petition signed by at least 5 percent of the registered voters to reorganize a district with over 200,000 ADA into two or more districts; or,
- c. Resolution approved by a majority of the members of a city council, county board of supervisors, governing body of a special district, or local agency formation commission.

2. Preliminary Hearing (*EC 35721*)

- a. A preliminary hearing of the petition shall be held at a regular or special meeting. Following the hearing, the county committee must grant or deny the petition.
- b. If the petition is granted, the county committee must adopt a tentative recommendation and may add to the petition any of the appropriate provisions specified in *EC* sections 35730 through 35738.

3. Public Hearing (*EC 35720.5, 35721*)

A public hearing in the area proposed for reorganization must be held by the county committee. The public hearing should be held no later than 60 days after the committee's adoption of a tentative recommendation.

4. Notice of Hearing (*EC 35705, 35705.5, 35720.5*)

The county committee shall send a notice to the governing board of each school district involved and to the chief petitioners as appropriate at least ten days prior to the hearing. The notice must contain information about the time, place, and purpose of the hearing. The notice of the public hearing must be either:

- a. Posted at three public places in the school districts involved and at every school in each school district involved, or
- b. Published in a newspaper of general circulation published within the school district, or, if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district.

5. Notice to Local Agency Formation Commission (EC 35721.5)

Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

6. CEQA Review (*Public Resources Code* sections 21000 through 21177)

The county committee must comply with the requirements of CEQA.

7. County Committee Study of the Territory Transfer (EC 35722, 35709, 35710)

The county committee study must determine the impact of the territory transfer on the conditions listed in *EC* 35753.

8. Approval Process (EC 35709, 35710, 35710.1, 35722)

- a. Within 120 days of the first public hearing or within 120 days of complying with CEQA, if the county committee determines that the territory transfer is a project under CEQA, the county committee should adopt a final recommendation.
- b. If any of the following three conditions exist, the county committee may approve the territory transfer *without* an election:
 - i. The territory is uninhabited, the majority of the owners of the territory consent to the transfer, and the governing boards of all affected school districts consent to the transfer.
 - ii. The territory is inhabited, the territory constitutes less than 10 percent of the assessed valuation of the district from which the territory is being transferred, and the governing boards of all affected districts consent.
 - iii. The election area for the territory transfer, as determined pursuant to *EC* 35732, is uninhabited territory as described in *Education Code* Section 35517.

- c. For all other territory transfers, if the county committee approves the transfer, the county superintendent must call an election in the area determined by the county committee.

9. Appeal

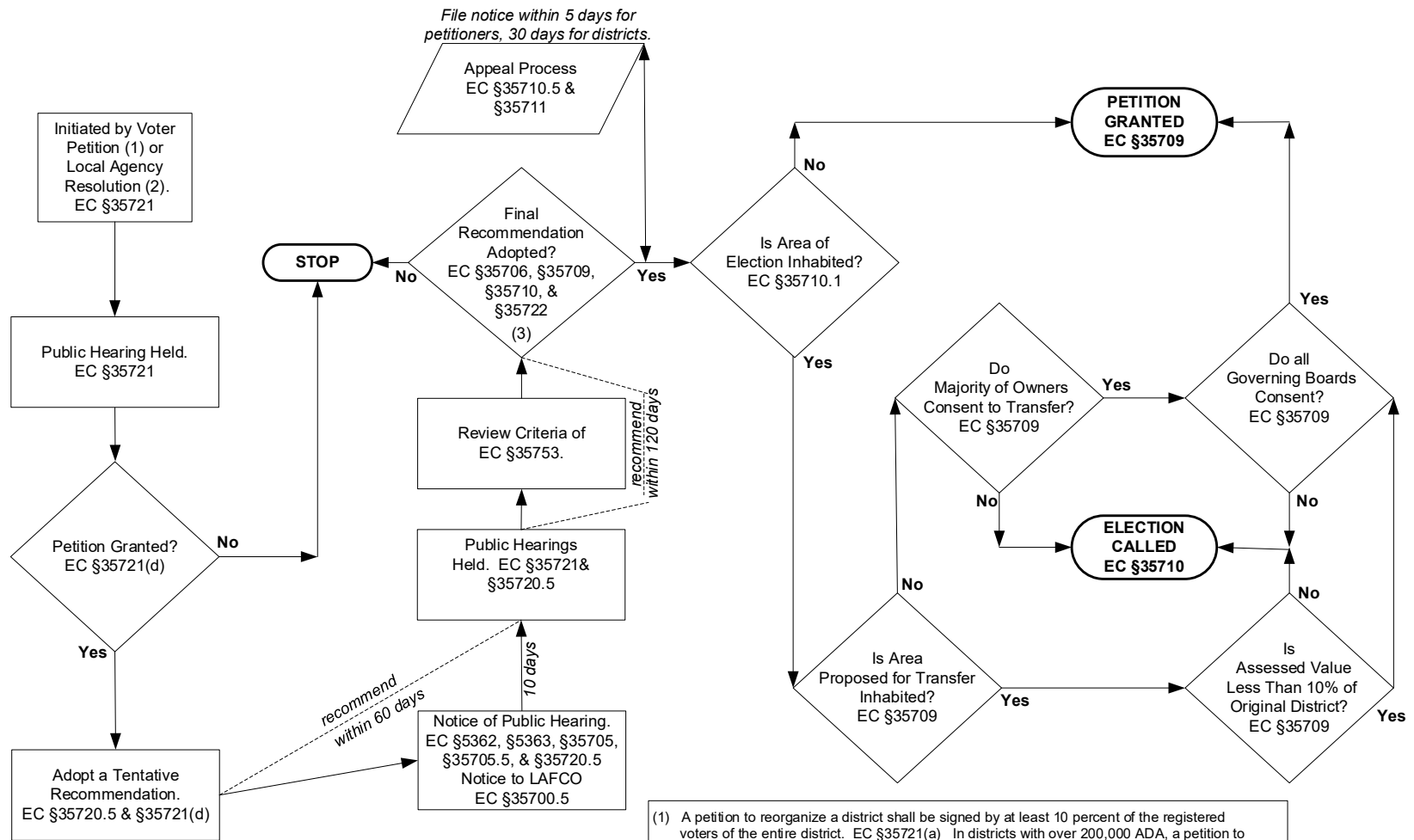
An action by the county committee approving a petition to transfer territory may be appealed to the State Board of Education by the chief petitioners or one or more affected school districts. (*EC 35710.5*)

- a. Appellants, except for affected school districts, shall file with the county committee a notice of appeal within five days after the final action of the county committee.
- b. Affected school districts shall file with the county committee a notice of appeal within 30 days after the final action of the county committee.
- c. Within 15 days after filing the notice of appeal, the appellants shall file with the county committee a statement of reasons and factual evidence.
- d. Within 15 days of receipt of the statement of reasons and factual evidence, the county committee shall send to the State Board of Education the statement and the complete administrative record of the county committee proceedings.

10. Appeals regarding an adverse effect on racial or ethnic integration

Any person questioning the finding of the county committee that the proposed reorganization will not adversely affect the racial or ethnic integration of the schools of the districts affected may appeal a decision based on that finding to the State Board of Education within 30 days after the final action of the county committee. (*EC 35711*)

TERRITORY TRANSFER INITIATED BY 10% PETITION OR LOCAL AGENCY



- (1) A petition to reorganize a district shall be signed by at least 10 percent of the registered voters of the entire district. EC §35721(a) In districts with over 200,000 ADA, a petition to reorganize a district into two or more districts may be signed by 5% of the registered voters. EC §35721(b).
- (2) The city council, county board of supervisors, governing body of a special district, or LAFCO may initiate a proposal to reorganize a district. EC 35721(c)
- (3) The County Committee, as lead agency for CEQA, must comply with provisions of CEQA before approving a territory transfer if it determines that the territory transfer is a project under CEQA. If the transfer is determined to be a project under CEQA, the 120 day timeline begins upon completion of CEQA requirements.

B. Process: Quick-Reference Chart 5.3

UNIFICATIONS INITIATED BY OWNERS OF UNINHABITED TERRITORY, A 25 PERCENT PETITION, OR DISTRICT GOVERNING BOARDS (See Flowchart C)

1. Initiation of Proposals for Unification (*EC 35700*)

- a. Petition signed by the owner(s) of uninhabited territory; or,
- b. Petition signed by at least 25 percent of the registered voters in the inhabited territory proposed to be reorganized (if the territory proposed for reorganization is located within two or more school districts, the signatures of at least 25 percent of the registered voters from that territory in each school district are required); or,
- c. Petition signed by a majority of the members of the governing boards of all affected districts; or,
- d. Petition signed by at least 8 percent of registered voters who cast votes in the last gubernatorial election to reorganize a district with over 200,000 ADA into two or more districts.

2. Determination of Sufficiency and Transmittal of Petition within 30 days of Receipt (*EC 35704*)

- a. County superintendent must determine sufficiency of petition within 30 days.
- b. A 25 percent or 8 percent petition must be verified by the county department of elections.
- c. The county committee and the State Board of Education must be notified when a valid petition is received.

3. Public Hearings (*EC 35705, 35705.5*)

A public hearing in each affected district must be held by the county committee within 60 days of receipt of a valid petition.

- a. Notice of the public hearing shall be given at least ten days in advance of the hearing.

- b. County committee may add to the petition any of the appropriate provisions specified in *Education Code* sections 35730 through 35738.

4. Notice to Local Agency Formation Commission (EC 35700.5)

Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

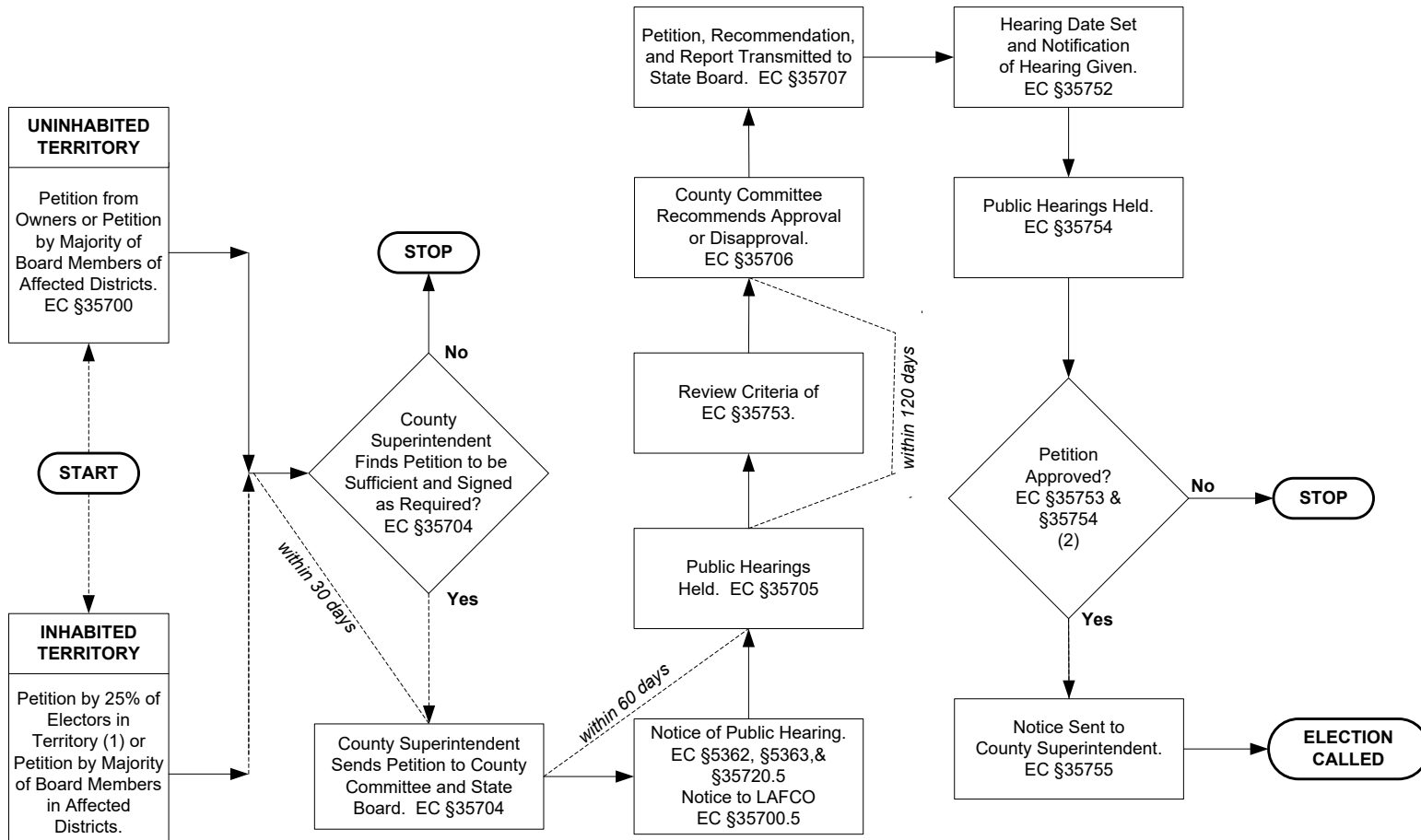
5. County Committee Study of the Unification (EC 35753)

The county committee must determine the impact of the unification on the conditions listed in *Education Code* Section 35753.

6. Approval Process (EC 35706, 35707, 35752 through 35755)

- a. Within 120 days of the first public hearing, the county committee must make a recommendation to approve or disapprove the petition.
- b. The county committee may make a recommendation regarding the area of election.
- c. The county committee transmits the petition, report, and recommendations to the State Board of Education.
- d. The State Board of Education complies with the requirements of CEQA.
- e. The State Board of Education holds required public hearings.
- f. The State Board of Education approves or disapproves the petition.
- g. If approval is given and an election is required, the county superintendent calls an election in an area determined by the State Board of Education.

UNIFICATION INITIATED BY OWNERS, 25% PETITION, OR DISTRICT GOVERNING BOARDS



(1) In districts with over 200,000 ADA, a petition to reorganize a district into two or more districts may be signed by 8% of the registered voters. EC §35700(b).
 (2) The SBE, as lead agency for CEQA, must comply with provisions of CEQA before approving a unification if it determines that the unification is a project under CEQA.

B. Process: Quick-Reference Chart 5.4

UNIFICATION INITIATED BY 10% PETITION OR LOCAL AGENCY (See Flowchart D)

1. Initiation of Proposals for Unification (*EC 35720, EC 35721*)

- a. Petition signed by at least 10 percent of the registered voters of the entire school district; or,
- b. Petition signed by at least 5 percent of the registered voters to reorganize a district with over 200,000 ADA into two or more districts; or,
- c. Resolution approved by a majority of the members of a city council, county board of supervisors, governing body of a special district, or local agency formation commission.

2. Preliminary Hearing (*EC 35721*)

- a. Following the hearing, the county committee must grant or deny the petition.
- b. If the petition is granted, the county committee must adopt tentative plans and recommendations and hold one or more public hearings.

3. Public Hearing (*EC 35720.5, 35721*)

The county committee is required to hold a public hearing in the area proposed for reorganization. The public hearing should be held no later than 60 days after adopting a tentative recommendation.

4. Notice of Hearing (*EC 35705, 35705.5, 35720.5*)

The county committee shall send a notice to the governing board of each school district involved and to the chief petitioners as appropriate at least ten days prior to the hearing. The notice must contain information about the time, place, and purpose of the hearing. The notice of the public hearing must be either:

- a. Posted at three public places in the school districts involved and at every school in each school district involved, or

- b. Published in a newspaper of general circulation published within the school district, or, if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district.

A description of any additions and amendments to the petition be made available to the public and to the governing boards affected by the petition at least ten days before the public hearing. The county committee may add to the petition any of the appropriate provisions specified in *Education Code* sections 35730 through 35738.

5. Notice to Local Agency Formation Commission (EC 35721.5)

Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

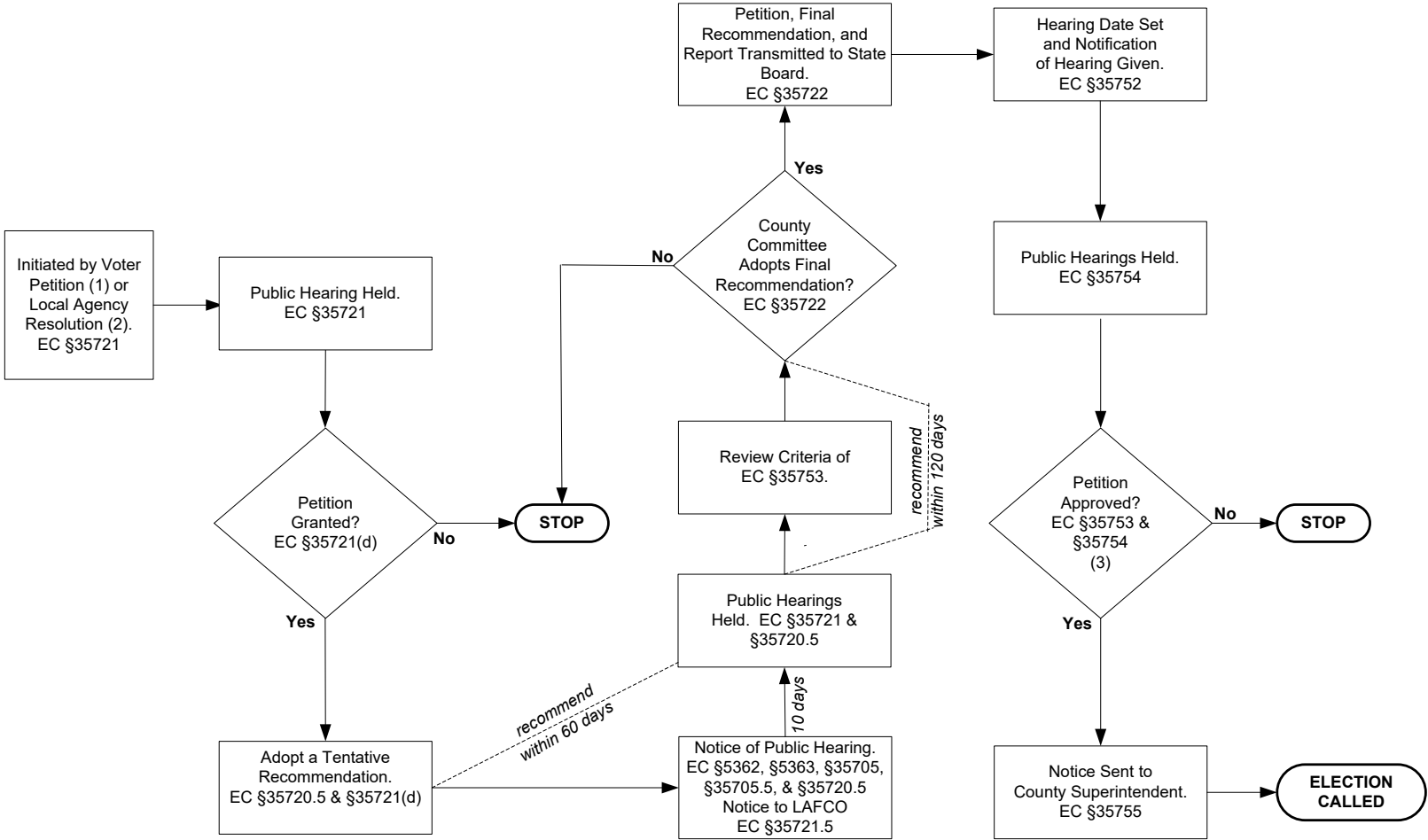
6. County Committee Study of the Unification (EC 35706, 35709, 35710, 35722)

The county committee study must determine the impact of the unification on the conditions listed in *Education Code* Section 35753.

7. Approval Process (EC 35722, 35752 through 35755)

- a. Within 120 days of the first public hearing, the county committee shall make a final recommendation to approve or disapprove the petition.
- b. The county committee may make a recommendation regarding the area of election.
- c. The county committee transmits petition, reports and recommendations to the State Board of Education.
- d. The State Board of Education complies with the requirements of CEQA.
- e. The State Board of Education holds required public hearings.
- f. The State Board of Education approves or disapproves the petition.
- g. If approval is given and an election is required, the county superintendent calls an election in an area determined by the State Board of Education.

UNIFICATION INITIATED BY 10% PETITION OR LOCAL AGENCY



(1) A petition to reorganize a district shall be signed by at least 10 percent of the registered voters of the entire district. EC §35721(a) In districts with over 200,000 ADA, a petition to reorganize a district into two or more districts may be signed by 5% of the registered voters. EC §35721(b).
 (2) The city council, county board of supervisors, governing body of a special district, or LAFCO may initiate a proposal to reorganize a district. EC §35721(c)
 (3) The SBE, as lead agency for CEQA, must comply with provisions of CEQA before approving a unification if it determines that the unification is a project under CEQA.

B. Process: Quick-Reference Chart 5.5

COUNTY COMMITTEE PLANS AND RECOMMENDATIONS FOR REORGANIZATION (See Flowchart E)

1. Proposal formulated under the direction of SBE (*EC* 35720)

2. Public Hearing (*EC* 35720.5, 35721)

The county committee is required to hold a public hearing in the area proposed for reorganization. The public hearing should be held no later than 60 days after adopting a tentative recommendation.

3. Notice of Hearing (*EC* 35705, 35705.5, 35720.5)

The county committee shall send a notice to the governing board of each school district involved and to the chief petitioners as appropriate at least ten days prior to the hearing. The notice must contain information about the time, place, and purpose of the hearing. The notice of the public hearing must be either:

- a. Posted at three public places in the school districts involved and at every school in each school district involved, or
- b. Published in a newspaper of general circulation published within the school district, or, if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district.

A description of any additions and amendments to the petition must be made available to the public and to the governing boards affected by the reorganization at least ten days before the public hearing. The county committee may add to the petition any of the appropriate provisions specified in *Education Code* sections 35730 through 35738.

4. Notice to Local Agency Formation Commission (*EC* 35721.5)

Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

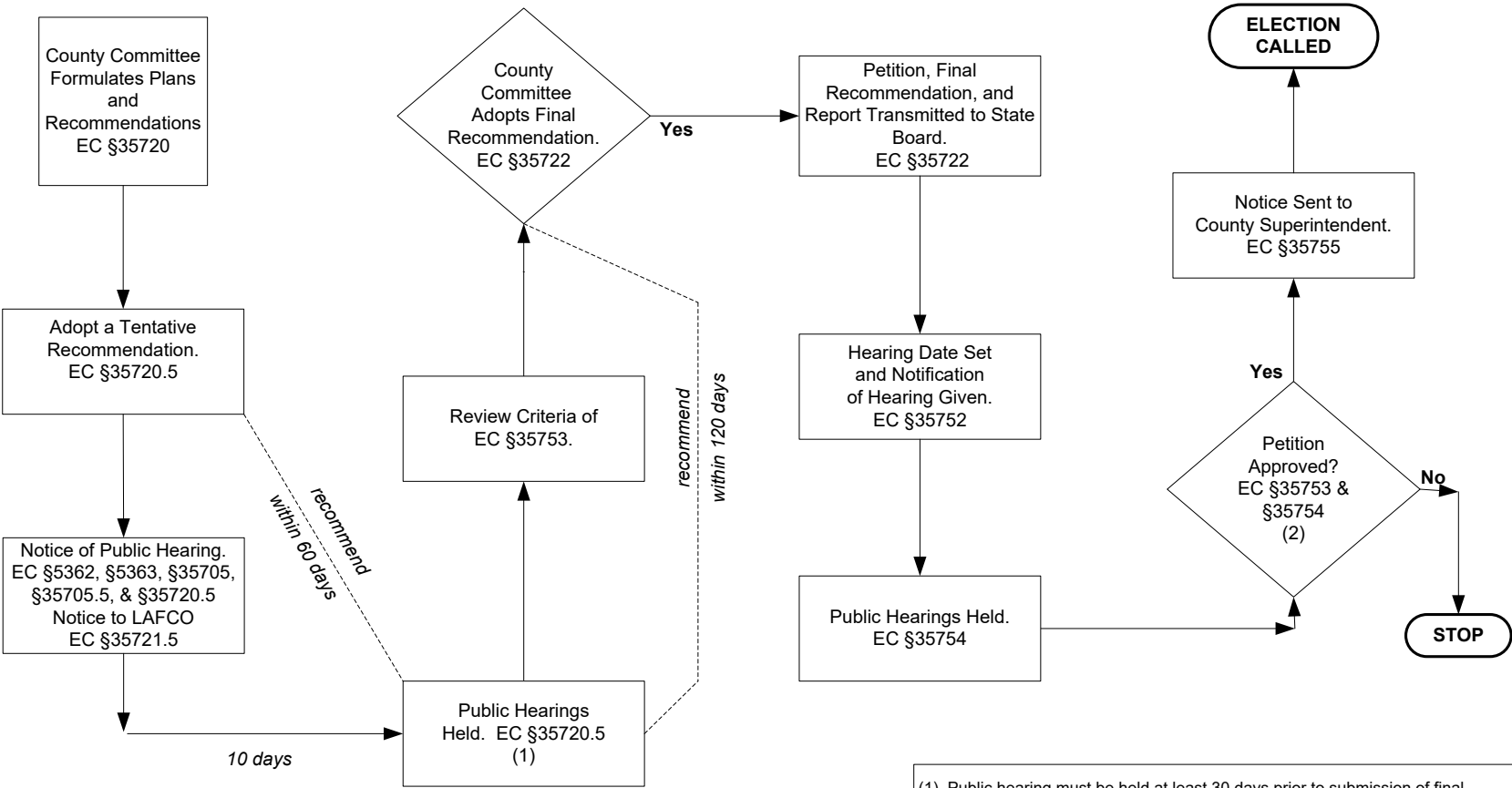
5. County Committee Study of the Reorganization (EC 35706, 35709, 35710, 35722)

The county committee study must determine the impact of the reorganization on the conditions listed in *Education Code* Section 35753.

6. Approval Process (EC 35722, 35752 through 35755)

- a. Within 120 days of the first public hearing, the county committee should make a final recommendation to approve or disapprove the plan or petition.
- b. The county committee may make a recommendation regarding the area of election, if required.
- c. The county committee transmits reports and recommendations to the State Board of Education.
- d. The State Board of Education complies with the requirements of CEQA.
- e. The State Board of Education holds required public hearings.
- f. The State Board of Education approves or disapproves the plan or petition.
- g. If approval is given and an election is required, the county superintendent calls an election in an area determined by the State Board of Education.

COUNTY COMMITTEE PLANS AND RECOMMENDATIONS



(1) Public hearing must be held at least 30 days prior to submission of final recommendation to State Board of Education.
 (2) The SBE, as lead agency for CEQA, must comply with provisions of CEQA before approving a unification if it determines that the unification is a project under CEQA.

B. Process: Quick-Reference Chart 5.6

UNIFICATION APPROVED BY THE COUNTY COMMITTEE (See Flowchart F)

1. Proposals Eligible for Approval by County Committee

- a. Petitions for unification under *EC* 35700 (see Quick Reference Chart 5.3, step 1); or
- b. Tentative recommendation adopted by the county committee pursuant to *EC* 35721 (see Quick Reference Chart 5.4, step 2[b]).

2. Conditions Required for Approval by County Committee (*EC* 35710[b])

- a. County superintendent grants approval authority to the county committee.
- b. The governing board of each affected school district consents to the petition.
- c. The secretary of the county committee enters into an agreement for all affected districts to share costs of complying with the California Environmental Quality Act.

3. Public Hearings (*EC* 35705, 35705.5)

A public hearing in each affected district must be held by the county committee within 60 days of receipt of a valid petition.

- a. Notice of the public hearing shall be given at least ten days in advance of the hearing.
- b. County committee may add to the petition any of the appropriate provisions specified in *EC* sections 35730 through 35738.

4. Notice to Local Agency Formation Commission (*EC* 35700.5, 35721.5)

Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the LAFCO for the affected area.

5. CEQA Review (*Public Resources Code* sections 21000 through 21177)

The county committee must determine the impact that the reorganization may have on the environment prior to approving the unification.

6. County Committee Study of the Unification (*EC 35753*)

The county committee study must determine the impact of the unification on the conditions listed in *Education Code* Section 35753.

7. Approval Process (*EC 35710*)

- a. If the conditions of *Education Code* Section 35710 are met, the county committee may approve or disapprove the unification within 120 days of the first public hearing or within 120 days of CEQA compliance if CEQA is required.
- b. If the county committee disapproves the unification, the petition is transmitted to the State Board of Education pursuant to *Education Code* Section 35707(a) and heard by the State Board of Education pursuant to *Education Code* Section 35708. The approval process then follows steps 6(d) through 6(g) of Quick-Reference Chart 5.3. In such cases, the State Board of Education becomes the lead agency for purposes of CEQA.
- c. If the county committee approves the unification, the county superintendent must call an election in an area determined by the county committee.

8. Appeals

An action by the county committee approving a petition for unification may be appealed to the State Board of Education by the chief petitioners or one or more affected school districts. (*EC 35710.5*)

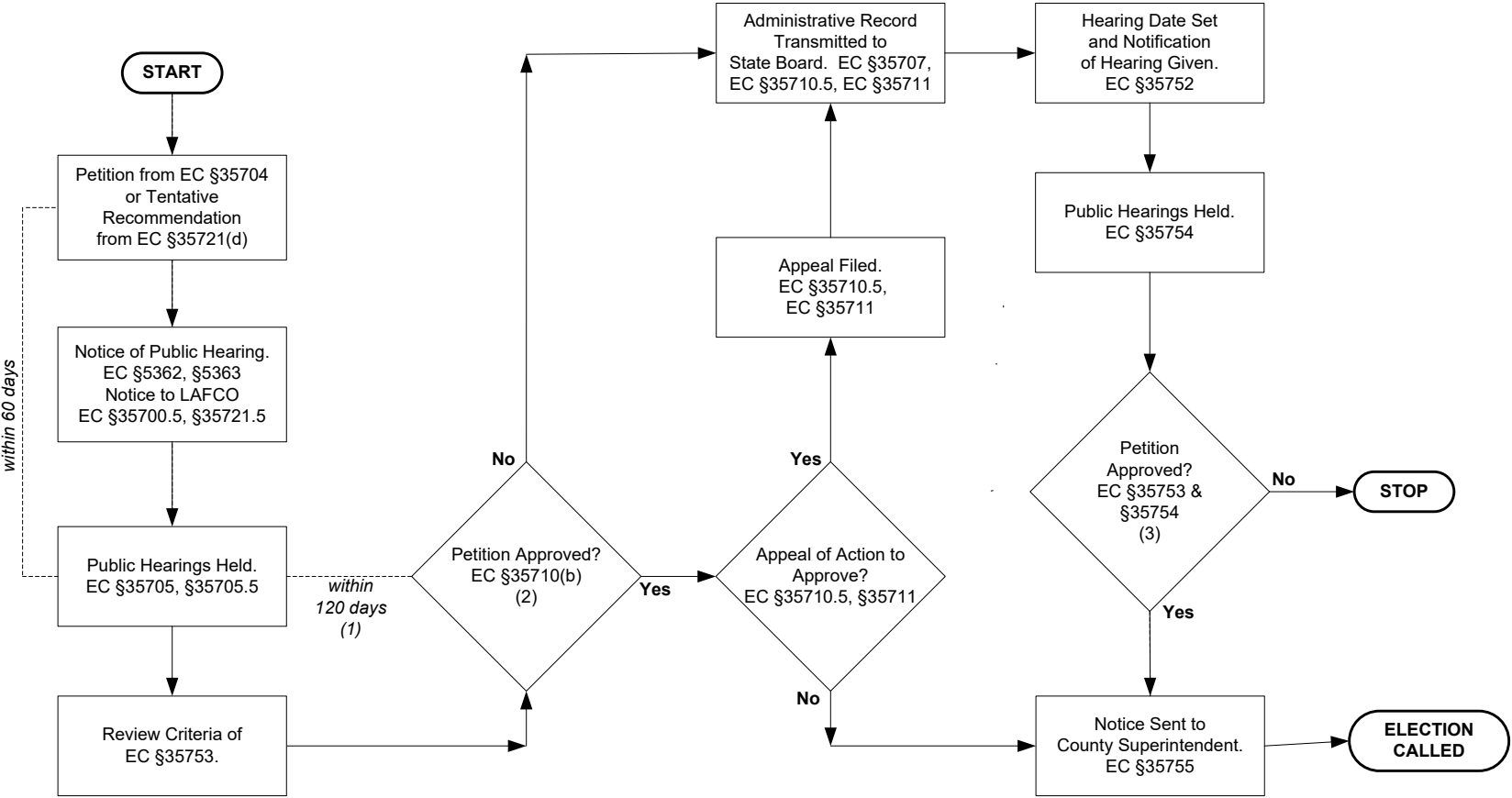
- a. Appellants, except for affected school districts, shall file with the county committee a notice of appeal within five days after the final action of the county committee.
- b. Affected school districts shall file a notice of appeal within 30 days after the final action of the county committee.
- c. Within 15 days after filing the notice of appeal, appellants shall file a statement of reasons and factual evidence.
- d. Within 15 days of receipt of the statement of reasons and factual evidence, the county committee shall send to the State Board of Education the

statement and the complete administrative record of the county committee proceedings.

9. Appeals regarding an adverse effect on racial or ethnic integration

Any person questioning the finding of the county committee that the proposed reorganization will not adversely affect the racial or ethnic integration of the schools of the districts affected may appeal a decision based on that finding to the State Board of Education within 30 days after the final action of the county committee. (*EC 35711*)

UNIFICATION APPROVED BY COUNTY COMMITTEE



(1) If compliance with CEQA is required, the 120 day period commences after CEQA compliance (EC §35706[b]).
 (2) The County Committee must comply with CEQA requirements prior to approval of petition.
 (3) The State Board of Education must comply with CEQA requirements prior to approval of petition when petition was disapproved by the County Committee.

B. Process: Quick-Reference Chart 5.7

LAPSATION OF SCHOOL DISTRICTS

1. Conditions for lapsation of districts (*EC 35780[a]*)

- a. The number of registered electors in the district is below six; or
- b. The average daily attendance of students in the school or schools maintained by the district¹ is less than six² in kindergarten through grade 8; or
- c. The average daily attendance of students in the school or schools maintained by the district¹ is less than 11² in grades 9 to 12.
- d. The county board of education may defer lapsation of any school district for one year upon resolution of the governing board of the school district and written concurrence from the county superintendent of schools. The *Education Code* contains no limitation to the number of times a county board of education may approve a one-year lapsation deferment for any school district—it is the opinion of the California Department of Education that no such limit should be assumed.

2. Other conditions for lapsation of districts (*EC 35780[b], [c], and [d]*)

- a. A newly organized school district that has been unable to provide schools necessary to provide instructional services of the district to all resident students within five years of the effective date of the reorganization (lapsation initiated upon direction of the State Board of Education).
- b. A school district that has no facilities or sites on which to maintain any school in the district may be lapsed.
- c. A school district also may be lapsed upon resolution approved by a majority of the members of the governing board of the district and written concurrence of the county superintendent.

¹ When there are charter schools in the district, the County Committee will need to determine if the charter school is a school “maintained by the district.”

² *EC* Section 46303 addresses fractional units of average daily attendance (i.e., “rounding”).

3. Lapsation process

Any school district meeting one of the conditions in the above sections 1 and 2 shall be lapsed by the county committee as follows:

- a. Within 30 to 45 days prior to the end of the school year, the county committee will conduct a public hearing to consider the conditions related to lapsation.
- b. Following the public hearing, and at least 30 days before the end of the school year, the county committee will order the territory of the lapsed district annexed to one or more adjoining school districts, as determined by the county committee to be in the best interests of the adjoining districts and residents of the lapsed district.
- c. The order of the county committee to lapse the district may contain any of the appropriate provisions specified in *EC* sections 35730 to 35738.
- d. The lapsation and subsequent annexation(s) will be effective on the July 1 following the order of the county committee (the first day of the next school year).

4. Actions following lapsation

The lapsation and subsequent annexation(s) are effective without the required filing of maps and boundary descriptions of the reorganized districts with the California State Board of Equalization (*Government Code* Section 54900). As such, the county office of education will need to work with the county assessor and/or controller during the initial school year to ensure that collected property taxes are assigned to the appropriate school districts. Maps and boundary descriptions must be filed with the Board of Equalization by December 1st following the county committee's lapsation order. Such filing will ensure that property tax rolls are updated for the second school year following lapsation. It also is recommended that the boundary changes be filed with the agencies listed in the following Section C (paragraph 8).

C. Process: Expanded Details

1. Initiation of Reorganization Proposals

a. County Committee Plans and Recommendations

A proposal for reorganization may begin at the county committee level. On its own initiative or under the direction of the State Board of Education, a county committee may formulate plans and recommendations for the reorganization of the districts in the county, or any portion of it, including adjacent areas in other counties. Under *California Code of Regulations*, Title 5, Section 18570, all plans and recommendations formulated by a county committee, including those for transfer of territory, must be submitted to the State Board of Education for approval or disapproval.

b. Reorganizations Initiated by 10 Percent Petition or by Resolution of Certain Local Agencies.

After a public hearing, the county committee must recommend for or against reorganization proposals brought before the committee by a petition of 10 percent of an entire district's voters or by resolution of certain local agencies (e.g., county board of supervisors, city council, local agency formation commission). For purposes of this handbook, a petition of 5 percent of the qualified electors in a school district with over 200,000 ADA in which the petition is to reorganize the district into two or more districts is considered in the same manner as a 10 percent petition. If any of these petitions are granted pursuant to *Education Code* Section 35721(d), the county committee will take on the petition as its own recommendation.

c. Reorganizations Initiated by Petitions, Owners of Uninhabited Territory, or Governing Boards

The county committee on school district organization and the county superintendent of schools may be petitioned to initiate reorganization actions under Section 35700 of the *Education Code*. A petition for reorganization may be signed by (1) the majority of owners of uninhabited territory; (2) 25 percent of the registered voters in the inhabited territory proposed to be reorganized (if the territory proposed for reorganization is located within two or more school districts, the signatures of at least 25 percent of the registered voters from that territory in each school district are required); (3) the majority of board members in *each* of the affected districts for both inhabited and uninhabited territory; or (4) registered voters equaling 8 percent of the number of votes cast in the last gubernatorial election for a petition to reorganize a district with over 200,000 ADA into two or more districts. The petition must first be submitted

to the county superintendent of schools for determination of sufficiency (see item 4 of this section, “*Determination of Sufficiency of Electorate Petitions*”).

- d. Boundary Issues to Be Considered When Initiating a Reorganization
 - i. Boundary Change Reorganization. An action to transfer territory of a school district is an action to reorganize districts; it thus requires the approval of the county committee on school district organization. (*EC 35511*)
 - ii. Relationship of Elementary School District Boundaries to the High School Districts. The boundaries of the component elementary school district must be coextensive with the boundaries of the high school district in which it is included. Changes in any of the districts’ boundaries must not alter this condition. (*EC 35540, 35541*) Whenever the boundaries of an elementary and a high school district become coterminous, the districts are considered merged into one unified district. (*EC 35542*)
 - iii. Elementary School District Exclusions to Unification. The *Education Code* allows an elementary school district completely within the boundaries of a high school district to be excluded from an action to unify the portion of the high school district in which it is contained. The request for the State Board of Education to approve this exclusion may be made prior to local evaluation of proposals or included in the unification proposal submitted to the State Board of Education. Appropriate staff from the California Department of Education should be consulted when this type of unification is considered. (*EC 35542*)
 - iv. Leapfrogging Prohibition. On or after January 1, 1981, no school district may be newly formed or reorganized so that any portion of it is completely separated by territory of another school district. (*EC 35543*)
 - v. Area Adjustments after Reorganization. Prior to the effective date of a reorganized district, the county committee may approve plans to subsequently reorganize any or all of the district. However, during the first five years after a district’s formation, no territory may be removed from it without the consent of its governing board. (*EC 35545*)

2. Contents of Plans, Petitions, and Recommendations

Certain information is required in a petition for reorganization, but very little is required of a county committee plan or recommendation.

- a. Three items of basic information that should be included in both a petition or a county committee plan or recommendation are:

- i. A reasonable description of the territory to be covered by the proposed action. (*EC 35700.3*)
- ii. A list of school districts affected by the proposal.
- iii. The reasons for a proposed reorganization.

Note: It is the opinion of the California Attorney General (80 Ops. Cal. Atty. Gen. 264 [1997]) that legal descriptions and maps of the affected territory are required only after a reorganization has been approved. Obviously, the area to be reorganized must be described in order for a determination to be made that 25 percent of the voters residing in that area have signed the petition. County offices of education in the state have varying policies regarding what constitutes reasonable description of territory. The county committee secretary at the county office of education should be consulted.

- b. The following items must be part of any petition filed under *EC 35700*:
 - i. A designation of no more than three of the petitioners as chief petitioners for the purpose of receiving notification of public hearings and other pertinent information. This applies to any person(s) or entities signing a petition pursuant to *Education Code* Section 35700. (*EC 35701*)
 - ii. An affidavit that all signatures on the petition are genuine signatures and were obtained in the presence of the petition circulator. (*EC 35702*)
- c. The items of information listed below are suggested for inclusion in the county committee's plans and recommendations. Any of these items may come from the petition as submitted or may be included or amended by the county committee. (*EC 35705.5*)
 - i. Whether the district's governing board(s) will be a city board of education controlled by a city charter or a separate board governed by general laws. (If not stated, it will be a general law district.) (*EC 35730*)
 - ii. Whether there shall be a seven-member board. (If not stated, there will be five members.) (*EC 35731*)
 - iii. The territory in which the election to reorganize the school districts will be held. (*EC 35732*)
 - iv. If the recommendation involves splitting an existing district into two or more districts, whether they will be voted on as a single issue. (*EC 35733*)
 - v. Whether the trustee areas are to be designed according to general or specific population and geographic factors. Any such provision must also specify the trustee area boundaries and whether board members will be

elected at large or only by voters from that respective trustee area. (In the absence of any provisions, the proposed district must have members elected at large.) (EC 35734)

- vi. A computation of the LCFF allocation per average daily attendance (ADA) for the proposed new district(s). This must be included in a county committee recommendation. (EC 35735, 35735.1) (EC 35735)
- vii. A proposal for dividing the property (other than real property) and obligations. (EC 35736)
- viii. When a new school district is being formed, whether the first governing board will be elected at the same election as the reorganization proposal and, if so, a method for determining the length of the terms of the initial members. (If not specified, the first governing board will be elected at the first regular election after the passage of the reorganization proposal.) (EC 35737)
- ix. A method of dividing the bonded indebtedness other than the method specified in the *Education Code*. (EC 35576, 35738) The advice of bond counsel is recommended.
- x. Whether each new district created in the reorganization of a school district with more than 500,000 pupils meets the following conditions (EC 35730.1):
 - (a) Socioeconomic diversity
 - (b) Geographical compactness
 - (c) Equity of resource distribution
 - (d) Compliance with *Crawford v. Board of Education* and the terms of the consent decree in *Rodriguez v. Los Angeles Unified School District*.
 - (e) Preservation of the policies used by magnet schools, charter schools, site-based management initiatives, and the LEARN program.
 - (f) Compliance with the Individuals with Disabilities Education Act.
 - (g) Compliance with the federal Voting Rights Act of 1965.
 - (h) The formation of the new school districts does not result in the diminution of minority protections.
 - (i) The maintenance of the conditions of all collective bargaining agreements until their expiration.

- (j) Recognition of the existing retiree health, dental, and vision care benefits.

Note: The nine items in *EC 35705.5(b)* are not required to be in the plan but must be made available to the public and governing boards of affected districts at least ten days before a public hearing.

3. Signing the Petition

The signatures to the petition need not all be appended to one page. If the territory included in the petition is situated in more than one county, the signatures on each page of a petition must be those of residents of only one of the counties. Of the signatures appended to such pages, only the signatures of the voters of the county designated will be valid. In addition to signing the petition, each signer must include his or her printed name and place of residence, giving street address and city. (*Elections Code* Section 104) If no street or number exists, the place of residence must be designated so that the location can be readily ascertained. A space of at least one inch must be left blank after each name for the use of the clerk in verifying the petition. The spaces for signatures must be numbered consecutively. *Elections Code* Section 104(a)(3) contains additional requirements regarding recording of dates of the signatures.

Where the petition is to reorganize territory in two or more school districts, it is recommended that the signatures on each page of a petition be those of residents of only one of the districts. Such organization provides greater efficiency when the petition is submitted to the county department of elections and records for verification of signatures.

Each section of the petition must have a declaration attached to it. The affidavit must state that the person securing the signatures to the petition is a registered voter, that all persons who signed the petition did so in the presence of the circulator, and that each signature is the genuine signature of the person whose name it purports to be. The circulator of the petition must also state the date and place of execution immediately upon signing the petition. (*EC 35702* and *Elections Code* sections 102 and 104)

A sample petition is included in Appendix E. A petition valid in one county may or may not meet the requirements for valid petitions in all counties. The county committee secretary and/or county clerk, recorder, or registrar of voters should be consulted to determine requirements for valid petitions in a particular county.

Petition circulators may register voters as they collect signatures. (*Elections Code* Section 2158) Generally, the following conditions apply to this registration of voters:

- a. If the petition circulator collects the new registrations, he or she must submit them to the county clerk, recorder, or registrar of voters within three days. (*Elections Code* Section 2138)
- b. If the newly registered voters submit their own registrations, the registrations must be received by the county clerk, recorder, or registrar of voters prior to the petition being submitted for validation.
- c. Signatures of newly registered voters should be identified on the petition. The county clerk, recorder, or registrar of voters should be consulted to determine how these conditions and/or others apply in a particular county.

4. Determination of Sufficiency of Electorate Petitions

The county superintendent of schools has 30 days after the petition for reorganization has been filed to examine the petition and determine whether it is sufficient and signed as required by law. (*EC* 35704) The county superintendent of schools transmits any petition signed by registered voters to the county department of elections and records for verification of signatures. The county clerk, recorder, or registrar of voters examines the signatures and, from the records of registration, ascertains whether the petition is signed by the requisite number of valid registered voters. Then the county clerk attaches his or her certificate to it showing the results of the examination. If the number of verified signatures is insufficient, no further action is taken.

If the territory included in the petition is situated in more than one county, each petition must be presented to the county superintendents of schools concurrently in each county. The sufficiency of the petition must be determined jointly by the county superintendents who have jurisdiction over the districts in which any petitioner resides. (*EC* 35521)

Upon determining the sufficiency of the electorate petition, the county superintendent of schools must transmit the petition simultaneously to the county committee and the State Board of Education. (*EC* 35704)

On January 18, 1997, the Shasta County Superior Court issued a Memorandum of Decision on a number of questions concerning a petition from 25 percent of the electorate pursuant to *Education Code* Section 35700(a) (*Shasta Union High School District v. Shasta County Superintendent of Schools, et al.* No. 131103). Although this decision cannot be cited as precedent, the issues raised are novel and the opinion may serve as a guideline with the assistance of the county committee's attorney. These issues are discussed in more detail in the following sections.

a. “Revival” of a Resubmitted Petition

In this instance, the petition for reorganization of the district was originally submitted for sufficiency more than a year earlier. It was found to be lacking in the number of required signatures and was rejected. Additional signatures were obtained, and the same petition, as augmented, was resubmitted. There is no authority that either prohibits a resubmission of a petition or authorizes it. The court is of the view that the petition, once submitted and rejected, was not “extinguished” or “invalidated.” Accordingly, no act to “revive” it was necessary before it could be resubmitted with the added signatures.

b. Staleness of Signatures

Unlike other petition proceedings authorized by the *Education Code* that call for a specific time period within which signatures might be gathered, the procedure for petitioning to reorganize one or more districts set forth within *Education Code* Section 35700 et seq. contains no time limitation. None should be inferred. The absence of such a time limit is justified because the petition procedure itself does not result in an immediate submission to the electorate, but, rather, it triggers an extensive hearing process during which the petition can be carefully scrutinized before it is ever allowed to go to election. Moreover, because the Legislature, in its establishment of other types of petition procedures, specifically set time limits but chose not to do so in connection with petitions for reorganization, no time limit was intended.

c. Date on Which Persons Signing the Petition Were Registered Voters

In considering a petition as submitted for its sufficiency pursuant to *Education Code* Section 35704, the date that the petition is submitted is the date to be used to determine (1) the number of registered voters in the subject territory upon which the 25 percent is calculated; and (2) whether the persons who signed the petition remain registered voters residing in the territory. This conclusion is supported by reason of (1) the absence of a time line for the gathering of signatures concerning petitions for reorganization; and (2) the potential for a distortion, with the passage of time, in the number of registered voters within a district who actually support a reorganization proposal.

d. Sufficiency of the Petition for Reorganization

Education Code Section 35704 states that once the petition is received by the county superintendent of schools, it is to be examined and the superintendent is thereafter to transmit the petition to both the county committee and to the State Board of Education, provided that the petition is found by the superintendent “to be sufficient and signed as required by law.”

One argument may be that a petition to reorganize may not be found to be “sufficient” if it violates substantive law, even though it may otherwise meet the procedural specifications set forth within *Education Code* Section 35700 (pertaining to the percentage of registered voters who must sign the petition), Section 35701 (pertaining to the requirement that no more than three of the petitioners shall be designated as chief petitioners for notice purposes), Section 35702 (requiring an attached affidavit concerning the genuineness of the signatures of those signing the petition), and Section 35703 (allowing certain matters to be included on the petition). The more reasonable interpretation is that it is only these procedural requirements that must be considered by the county superintendent in determining whether such a petition is “sufficient” to be passed on to the county committee and the State Board of Education. Were it otherwise, the extensive process for a review, both at the county and state levels, would be unnecessary in any case in which a dispute arose concerning the lawfulness of the proposed activity.

There are points in the process during which the county committee can recommend against the reorganization petition and the State Board of Education can disapprove it. Within this broad scheme, it does not seem logical that the county superintendents of schools were intended by the Legislature to be placed in the role of being substantive law “gatekeepers.” Rather, it appears that the involvement of the superintendent is established to ensure the existence of support amongst the citizens in the affected territory in the proposed action. The illegality of the proposed reorganization is not an issue that the county superintendent must decide in determining the sufficiency of a petition for school district reorganization.

5. County Committee Review

a. Adoption of Tentative Recommendations by the County Committee

The county committee, on its own volition or under the direction of the State Board of Education, may adopt a tentative recommendation for reorganization of an area. Following adoption of a tentative recommendation, the county committee must hold one or more hearings in the area proposed for reorganization and may adopt a final recommendation for reorganization of the area. If a final recommendation is adopted, it must be transmitted to the State Board of Education pursuant to *California Code of Regulations*, Title 5, Section 18570. The State Board of Education is responsible for the CEQA process for these reorganization proposals. It is suggested that the time lines for the portion of the review process following the adoption of the tentative recommendation correspond with the time lines of the review process for a 25 percent petition as outlined in item 5c of this

section. (*EC 35720.5, 35721, 35722, and Public Resources Code sections 21000 through 21177*)

b. 10 Percent Petition Review Process

If the proposal is a 10 percent petition (pursuant to item 1b of this section), the county committee shall hold a public hearing on the proposal at a regular or special meeting. Following this hearing, the county committee may approve the proposal and adopt it as its own tentative recommendation. If, after the hearing, the county committee does *not* approve the proposal, further action on the proposal is halted.

c. 25 Percent Petition Review Process

After a 25 percent petition (pursuant to item 1c of this section) has been received by the county committee, the committee has a maximum of 60 days within which to hold public hearings in each affected school district and 120 days after the first public hearing to recommend approval or disapproval of a unification petition to the State Board of Education or to disapprove or approve a proposal to transfer territory. The county committee must determine the impact that a territory transfer will have on the environment. (Except for proposals that meet the conditions of *EC 35710[b]*, the State Board of Education is responsible for the CEQA process for unification proposals.) (*EC 35705, 35706, and Public Resources Code sections 21000 through 21177*)

d. Substituting a 10 Percent Petition for 25 Percent Petition

It may be that a petition circulated for signature by 25 percent of the registered voters will fail to reach that percentage but does include signatures of at least 10 percent of the voters. The opinion of the Legal Office of the California Department of Education is that the petition cannot be filed as a 10 percent petition because the voters signed the petition in reliance of what was represented, specifically that it was a 25 percent petition. It cannot be concluded that any one or more of those voters would have signed a 10 percent petition.

e. Public Description of the Petition

Ten days prior to holding public hearings, the county committee must make available a public description of the petition that includes all of the following (*EC 35705.5[b]*):

- i. Notice of the rights of the employees in the affected districts for continued employment.

- ii. The local control funding formula allocation for each affected district and the effect of the petition, if approved, on such allocation.
- iii. Whether the districts involved will be governed in part by provisions of a city charter and, if so, in what way.
- iv. Whether the governing boards of any proposed new district will have five or seven members.
- v. A description of the territory or districts in which the election, if any, will be held.
- vi. Where the proposal is to create two or more districts, whether the proposal will be voted on as a single proposition.
- vii. Whether the governing board of any new district will have trustee areas and, if so, whether the trustees will be elected by only the voters of that trustee area or by the voters of the entire district.
- viii. A description of how the property, obligations, and bonded indebtedness of existing districts will be divided.
- ix. A description of when the first governing board of any new district will be elected and how the terms of office for each new trustee will be determined.

At this time, the county committee need not provide an analysis of other factors relevant to reorganization, such as the ethnic and racial effects, if any, resulting from such a reorganization. The committee may wish to include an analysis of all other conditions for approval of a reorganization proposal by the State Board of Education, including a description of the effects on ethnic and racial integration. (See *Education Code* Section 35753 and *CCR*, Title 5 Section 18573 in Appendix A for a description of the conditions.)

f. Public Hearings

See Section A, "Public Hearings," in Chapter 7.

6. Approval of the Proposal

Within 120 days after holding the first public hearing on the proposed reorganization, the county committee must recommend approval or disapproval of a proposal for unification or approve or disapprove a territory transfer. (*EC* 35706) It is recommended that the county committee, at least ten days before its meeting to recommend approval or disapproval of a proposal for unification or approve or disapprove a territory transfer, make available to the public its analysis of the conditions listed in *EC* 35753.

Notwithstanding the above paragraph, a county committee may approve a unification proposal if the following conditions are met (*EC 35710[b]*):

- County superintendent grants approval authority to the county committee.
- The governing board of each affected school district consents to the petition.
- The secretary of the county committee enters into an agreement for all affected districts to share costs of complying with the California Environmental Quality Act.

For all proposals or petitions that are not petitions to transfer territory or that do not meet the conditions of *EC 35710(b)*, the petition and county committee recommendations must be transmitted by the county committee to the State Board of Education. If the proposal is solely for the purpose of a territory transfer between or among districts or meets the conditions of *EC 35710(b)*, the issue will be settled at the local level.

a. Local Approval Method

In cases of the transfer of uninhabited territory where the majority of owners of the territory agree or inhabited territory that constitutes less than 10 percent of the assessed valuation of the original district, and all the involved governing boards agree, the county committee may approve the petition provided it finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of *Education Code* Section 35753 are substantially met. In such cases there would be no election. (*EC 35709*)

For all other cases involving territory transfer and for unification proposals that meet the conditions of *EC 35710(b)*, if the county committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of *Education Code* Section 35753 are substantially met, the county committee may approve the proposal and, if approved, must notify the county superintendent of schools, who must call an election in the territory of the districts as determined by the county committee. It is recommended that the area of the election be determined at the time the committee approves the petition. (*EC 35710*) Note that no election is required if the area of election is uninhabited territory. (*EC 35710.1*)

Although the county committee has no local approval authority over unification proposals (except for those that meet the conditions of *EC 35710[b]*), it is required to consider all such proposals and make a recommendation to the State Board of Education. In its consideration of the unification proposal, the county committee must consider whether the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a)

of *Education Code* Section 35753 are substantially met. Following this consideration, the county committee must recommend approval or disapproval of the unification proposal (*EC 35706*) and transmit the proposal, its recommendation, and a report of its findings to the State Board of Education. (*EC 35707*) The county committee also may include a recommendation for the area of election in the event the State Board of Education approves the proposal.

Whenever the county committee applies the conditions of *Education Code* Section 35753 to any proposal under review, it is recommended that the county committee take a separate vote on each condition.

b. State Board of Education Review

Upon receiving the plans and recommendations for a proposal from the county committee, the State Board of Education will hold a public hearing on the petition. (*CCR, Title 5 Section 18570*)

The State Board of Education may also review a petition for any reorganization (including a territory transfer) upon an appeal by the chief petitioners or the affected school districts. (*EC 35710.5*) Appeals of decisions by county committees to the State Board of Education are also allowed under the provisions of *Education Code* Section 35711. (*CCR, Title 5 Section 18570*)

The State Board of Education may approve proposals for the reorganization of districts if the board has determined that certain conditions with respect to the proposal and the resulting districts are substantially met. (*EC 35753*) Those conditions, the statutes and regulations governing the conditions, and guidelines to evaluate the conditions are found in Chapter 6, "Legal Criteria Governing Reorganization Proposals."

The State Board of Education may prescribe other criteria by regulation and may also decide that the conditions of *Education Code* Section 35753(a) cannot be applied literally and that circumstances are sufficiently exceptional to justify the proposal on other grounds. (*EC 35753[b]*) (For more detail, see State Board of Education conditions in Appendix A.)

7. Elections

See Chapter 7, Section B, "Elections."

8. Notifications to Local, County, and State Governmental Agencies (*EC 35765*)

The county board of supervisors must file a copy of the order and a map or plat of the reorganized territory conforming to State Board of Equalization

requirements with the appropriate local, county, and state government agencies upon any successful reorganization of school districts (See Appendix D.) Those agencies usually include:

- a. Affected school districts
- b. County superintendent of schools
- c. County board of supervisors
- d. County assessor
- e. County auditor
- f. County registrar of voters
- g. County counsel
- h. County treasurer
- i. State Board of Education
- j. State Board of Equalization Tax Area Services Section (See *Government Code* Section 54903.1 and Appendix D for Schedule of Processing Fees.)

A fee generally is required to be submitted when filing with the State Board of Equalization. The county committee secretary at the local county office of education should be consulted to determine who has fiscal responsibility for this fee.

Current State Board of Equalization procedures require filing to be completed prior to December 1 for a reorganization to be effective for all purposes on the subsequent July 1. This filing deadline may be difficult to meet when a November election is involved. It may be possible to file with the State Board of Equalization prior to final certification of election results. The Tax Area Services Section supervisor should be consulted regarding this possibility and for further details.

- k. State Superintendent of Public Instruction
- l. Office of Public School Construction (if the reorganization affects outstanding bonds and state loans for building purposes)
- m. State Allocation Board
- n. Local Agency Formation Commission

Education Code sections 1043 and 1080 allow the transfer of responsibilities of the county board of supervisors to the county board of education. In those

counties in which such action has resulted in the responsibilities for school district organization being transferred to the county board of education, notification of a school district reorganization to the agencies listed in (a) through (n) above may be the responsibility of the county office of education. Failure to notify the State Board of Equalization by December 1 of the calendar year prior to the year in which the reorganization is scheduled to be effective for all purposes will delay the effective date of the reorganization for a year. (EC 35534)

9. School District Acquisition of Property outside its Boundaries

The *Education Code* allows a school district to acquire property outside of its boundaries under certain conditions. *Education Code* Section 17217 provides that a school district governing board may acquire a site for a school building contiguous to the district's boundaries if the following conditions are met:

- a. A majority of the members of the governing board approve a petition requesting the acquisition.
- b. The petition is filed with the county superintendent of schools who must notify all affected school districts within 10 days.
- c. The county committee approves the petition. If the county committee does not approve the petition, it may be submitted to the State Superintendent of Public Instruction for approval. Both the county committee and the State Superintendent must consider certain conditions listed in *Education Code* Section 17217 prior to approving or disapproving the petition.

Education Code Section 17217 further provides that the site, once acquired, becomes part of the acquiring district. As such, the notification process (as outlined in section E [8] above) should be followed.

Pursuant to *Education Code* Section 35271, a school district also may acquire real property outside its boundaries, but adjacent to a school site within its boundaries, for purposes of constructing school buildings and maintaining classes. However, unlike the site acquisition process described in *Education Code* Section 17217, the code does not specify that a site acquired pursuant to Section 35271 becomes part of the district upon acquisition.

D. Environmental Concerns

This section provides a general overview of the California Environmental Quality Act (CEQA). It is not intended to be comprehensive in describing the CEQA process, or all laws and regulations that may apply. Consultation with legal counsel experienced in CEQA is strongly recommended.

In *Fullerton Joint Union High School District v. State Board of Education* (1982), 32 C. 3d 779, 187 Cal. Rptr. 398, the Supreme Court held that reorganization of school district boundaries is a project within the scope and meaning of CEQA and that the State Board of Education, as the state agency making the ultimate decision prior to the election for the formation of a new school district, is the lead agency. Similarly, the county committee is the lead agency for territory transfers and proposals to form districts pursuant to *Education Code* Section 35710(b). As such, both are required to consider the impact of reorganization on the environment.

There are three basic components for complying with CEQA. (*Public Resources Code* Section 21000 et seq.) First, the lead agency must determine if the reorganization is exempt from CEQA. Second, the lead agency must conduct an initial study to determine whether the proposed project (i.e., reorganization) may have a significant impact on the environment. Third, the lead agency files a negative declaration of environmental impact or completes an environmental impact report (EIR) depending on the findings of the initial study.

If no substantial evidence exists in the initial study to indicate the project would have such a significant effect on the environment, the agency must provide public notice of its intention to prepare a negative declaration. See Appendix F for a sample notice. The notice describing the project, the intention to prepare a draft negative declaration, and a copy of the initial study must be posted for 30 days in the office of the county clerk. Before reaching a final determination, the lead agency must consider any comments submitted during the public review period.

If the lead agency determines that there may be a significant effect on the environment, it must prepare or have prepared an EIR before it considers the proposed project. See also the *CEQA Guidelines* in *California Code of Regulations (CCR)*, Title 14, Section 15000 et seq. The lead agency may approve a project in spite of a significant effect on the environment, but it must consider those implications in making its decision.

When the State Board of Education considers a proposed reorganization, it conducts an initial study to consider the factors listed in the Environmental Checklist Form in Appendix G. When it concludes that those factors will not adversely affect the environment, it adopts a resolution of negative declaration before proceeding to consider the merits of the plan or petition. When the initial study is conducted for proposals on transfers of territory or district formations pursuant to *Education Code* Section 35710(b), an initial study based on the Environmental Checklist Form in Appendix G should be completed.

In 1998, the California Resources Agency amended CCR, Title 14, Section 15378, to remove reorganizations of a school district from the definition of a project. Filing of CEQA documents was not required under this amendment. However, in October 2002, the Third District Court of Appeals invalidated the 1998 regulation amendment. (*Communities for a Better Environment v. California Resources*

Agency 103 CAL.App.4th 98, 125.) In July 2003, the invalidated regulation was repealed. Therefore, filing of CEQA documents is again required on school district reorganization actions.

Internet links to an overview of the CEQA process, including applicable statutes (*Public Resources Code*); guidelines (*California Code of Regulations, Title 14*); and a CEQA process flowchart are in Appendix H.

E. Lists of School District Organization Tasks

The lists on the following pages are provided to help county office of education staff and county committees track the necessary tasks associated with school district organizations. Two lists are included: one for the territory transfer process and one for the unification process.

County office of education staff may turn these lists into checklists, adding columns for timelines and responsible staff, to help ensure that the tasks are completed on time.

List 5.1 Territory Transfers (and unifications pursuant to EC 35710[b])

Petition (Complete all items within 30 days of receipt)

Action	Code Reference
Verify petition—Contains a reasonable description of the territory and a list of districts affected. (maximum of three chief petitioners)	<i>EC 35700.3;</i> <i>EC 35701;</i> <i>EC 35703</i>
Verify—Coextensive boundaries.	<i>EC 35540</i>
Verify—Territory in petition is contiguous	<i>EC 35543</i>
For unifications, check for SBE approval of elementary school district exclusions.	<i>EC 35542</i>
Examine previous reorganization history of territory. During first five years of a district's formation, territory may not be removed without board approval.	<i>EC 35545</i>
Verify signatures on petition (within 30 days of receipt)—typically through county registrar, elections clerk.	<i>EC 35704</i>
Notify—Transmit copy of petition to county committee and SBE; provide written notice of proposed action to LAFCO.	<i>Elections Code</i> <i>105</i>

Public Hearings (Complete all items within 60 days of verification of petition)

Action	Code Reference
Schedule public hearings in affected school districts within 60 days of verification of petition.	<i>EC 35720.5;</i> <i>EC 35721</i>
Calculate LCFF allocation of proposed new district.	<i>EC 35735;</i> <i>EC 35705.5</i>
Provide notice of regular public hearing ten days prior to public hearing. Include description of the petition.	<i>EC 35705.5</i>

Action	Code Reference
Review guidelines for holding public hearings with county committee.	No reference
Hold regular public hearing.	EC 35705

County Committee Action
(Complete all items within 120 days of first public hearing or completion of CEQA if CEQA is required [EC 35706])

Action	Code Reference
Conduct study of reorganization proposal addressing each condition in EC 35753.	EC 35753
Prepare written report of results of study.	EC 35753
Schedule county committee meeting for approval/disapproval of petition.	No reference
Send notification of county committee meeting.	No reference
County committee determines if each of EC 35753 conditions are substantially met.	EC 35709; EC 35710
County committee approves/disapproves petition.	EC 35709; EC 35710
If transfer approved and election is required, determine area of election.	EC 35710
Notify county committee and affected parties of appeal time lines.	EC 35710.5; EC 35711

California Environmental Quality Act (CEQA)
(Must be completed prior to county committee approval of territory transfer). CEQA Guidelines are in *California Code of Regulations*, Title 14, Chapter 3, (CCR 14) Sections 15000-15387.

Action	Code Reference
Complete CEQA Initial Study.	CCR 14 15063-15065

Action	Code Reference
If intent is to adopt a negative declaration, follow Negative Declaration Process in <i>CCR 14</i> .	<i>CCR 14 15070-15075</i>
If intent is to conduct an Environmental Impact Report (EIR), follow EIR Process in <i>CCR 14</i> .	<i>CCR 14 15080-15097</i>
File for appropriate public review period.	<i>CCR 14 15105</i>
Hold CEQA public hearings—may be held in conjunction with county committee approval meeting.	<i>CCR 14 15202</i>
Adopt appropriate CEQA documentation—may be held in conjunction with county committee approval meeting.	<i>CCR 14 15074, 15090</i>
File Notice of Determination.	No reference

Election (if required)

Action	Code Reference
Determine if election is required.	<i>EC 35709, EC 35710.1</i>
Notify Office of Public School Construction and State Allocation Board of election.	No reference
County superintendent calls election.	<i>EC 35710</i>
Maintain contact with registrar of voters.	No reference
Prepare statement of official information and statistics relating to proposed reorganization.	<i>EC 35757</i>
Prepare/distribute arguments for/against ballot measure.	<i>EC 35758</i>
Affected districts and petitioners and other interested parties are made aware of their rights and the process to file arguments for and against the measure.	<i>EC 35758; Elections Code 9501</i>
Notification of election results.	<i>EC 35763</i>

Actions Following Approval (*EC* and *Government Code* [GovC])

Action	Code Reference
File proof of county committee approval, map, and description of reorganized area with State Board of Equalization (include required fees)	<i>GovC</i> 54900
File copy with affected school districts	No reference
File copy with county superintendent	No reference
File copy with board of supervisors	No reference
File copy with county assessor	<i>GovC</i> 54900
File copy with county auditor	<i>GovC</i> 54900
File copy with county elections officer	No reference
File copy with county treasurer	<i>GovC</i> 54900
File copy with State Board of Education	No reference
File copy with county counsel	No reference
File copy with State Superintendent	<i>GovC</i> 54903.1
File copy with State Allocation Board	No reference
File copy with Office of Public School Construction	No reference
File copy with Local Agency Formation Commission	No reference
When a basic aid district is involved, districts determine exchange of property tax revenue. If districts don't agree, the county board of education determines amount.	<i>EC</i> 35566; <i>Revenue & Taxation Code</i> 99(i)

List 5.2

Unification (conditions of *EC 35710[b]* are not met)

Petition (Complete all items within 30 days of receipt)

Action	Code Reference
Verify petition—Contains a reasonable description of the territory and a list of districts affected. (3 chief petitioners)	<i>EC 35700.3;</i> <i>EC 35701;</i> <i>EC 35703</i>
Verify—Coextensive boundaries.	<i>EC 35540</i>
Verify—Territory in petition is contiguous	<i>EC 35543</i>
Check for SBE approval of elementary school district exclusions.	<i>EC 35542(b)</i>
Examine previous reorganization history of territory. During first five years of a district's formation, territory may not be removed without board approval.	<i>EC 35545</i>
Verify signatures on petition (within 30 days of receipt)—typically through county registrar, elections clerk.	<i>EC 35704</i>
Notify—Send copy of petition to county committee and SBE; provide written notice of proposed action to LAFCO.	<i>Elections Code</i> 105

Public Hearings (Complete all items within 60 days of verification of petition)

Action	Code Reference
Schedule—Public hearings in affected school districts within 60 days of verification of petition.	<i>EC 35720.5;</i> <i>EC 35721</i>
Calculate LCFF allocation of proposed new district.	<i>EC 35735;</i> <i>EC 35705.5</i>
Provide notice of regular public hearing ten days prior to public hearing. Include description of the petition.	<i>EC 35705.5</i>
Review guidelines for holding public hearings with county committee.	No reference
Hold regular public hearing.	<i>EC 35705</i>

County Committee Action (Complete all items within 120 days of first public hearing)

Action	Code Reference
Conduct study of reorganization proposal addressing each condition in <i>EC 35753</i> .	<i>EC 35753</i>
Prepare written report of results of study.	<i>EC 35753</i>
Schedule county committee meeting for approval/disapproval of petition.	No reference
Send notification of county committee meeting.	No reference
County committee determines if each of <i>EC 35753</i> conditions are substantially met.	<i>EC 35709</i> ; <i>EC 35710</i>
County committee recommends approval/disapproval of petition.	<i>EC 35706</i>
Submit report of county committee action with all documentation (administrative record) to SBE.	<i>EC 35707</i>

Election (upon notification by State Board of Education)

Action	Code Reference
County superintendent calls election.	<i>EC 35756</i>
Notify Office of Public School Construction and State Allocation Board of election.	No reference
Maintain contact with registrar of voters.	No reference
Prepare statement of official information and statistics relating to proposed reorganization.	<i>EC 35757</i>
Prepare/distribute arguments for/against ballot measure.	<i>EC 35758</i>
Affected districts and petitioners and other interested parties are made aware of their rights and the process to file arguments for and against the measure.	<i>EC 35758</i> ; <i>Elections Code 9501</i>
Notification of election results.	<i>EC 35763</i>

Actions Following Approval (*EC* and *Government Code* [GovC])

Action	Code Reference
File proof of county committee approval, map, and description of reorganized area with State Board of Equalization (include required fees)	<i>GovC</i> 54900
File copy with affected school districts	No reference
File copy with county superintendent	No reference
File copy with board of supervisors	No reference
File copy with county assessor	<i>GovC</i> 54900
File copy with county auditor	<i>GovC</i> 54900
File copy with county elections officer	No reference
File copy with county treasurer	<i>GovC</i> 54900
File copy with State Board of Education	No reference
File copy with county counsel	No reference
File copy with State Superintendent	<i>GovC</i> 54903.1
File copy with State Allocation Board	No reference
File copy with Office of Public School Construction	No reference
File copy with Local Agency Formation Commission	No reference
When a basic aid district is involved, districts determine exchange of property tax revenue. If districts don't agree, the county board of education determines amount.	<i>EC</i> 35566; <i>Revenue & Taxation Code</i> 99(i)

CHAPTER 6

LEGAL CRITERIA GOVERNING REORGANIZATION PROPOSALS

This chapter discusses the requirements of *Education Code (EC)* Section 35753 in detail and how the State Board of Education would apply the conditions of Section 35753. Both the State Board of Education and county committees on school district organization are required to evaluate a reorganization proposal and make determinations that the conditions are substantially met. The chapter will be of particular value to members of county committees to assist them in understanding the legal conditions governing reorganization proposals.

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see *EC* Section 33308.5).

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A. Statutory Conditions in *Education Code Section 35753*

The State Board of Education may approve proposals for the reorganization of districts, if the board has determined, with respect to the proposal and the resulting districts, that all of the following conditions are substantially met:

- (a) The reorganized districts will be adequate in terms of number of pupils enrolled.
- (b) The districts are each organized on the basis of a substantial community identity.
- (c) The proposal will result in an equitable division of property and facilities of the original district or districts.
- (d) The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.
- (e) Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.
- (f) The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.
- (g) Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.
- (h) The proposed reorganization is primarily designed for purposes other than to significantly increase property values.
- (i) The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.
- (j) Any other criteria as the board may, by regulation, prescribe.

The State Board of Education may approve a proposal for the reorganization of school districts if the board determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

B. Regulations and Recommendations to Implement the Statutory Conditions

In considering proposals for district reorganization, county committees and the State Board of Education must determine whether the nine conditions in *Education Code (EC) Section 35753(a)* are substantially met. Those conditions are further clarified by *California Code of Regulations (CCR), Title 5, Section 18573*. By its own terms, *EC Section 35753* provides that, if the conditions set forth in subdivisions (a)(1) through (10) are met, the State Board of Education (and the county committee) "may" approve a proposal for the reorganization of a district.

The term "may" denotes discretion. Thus, the conditions in *EC Section 35753* constitute a minimum threshold, which must be met before the State Board of Education or county committee is even vested with discretion to act. There is no requirement of approval when the conditions have been met.

Similarly, for the State Board of Education, there is no requirement of disapproval when the conditions have not been met. (*Hamilton v. State Board of Education (1981) 117 Cal. App. 3d 132; Burch v. State Board of Education (1998) Los Angeles Superior Court Case No. B5034463*). Subdivision (b) of *EC Section 35753* gives the State Board of Education authority to depart from the conditions when it determines that exceptional circumstances exist. Statute does not provide a county committee with this authority. *EC sections 35709 and 35710* specify only that subdivision (a) of *EC Section 35753* applies to a county committee's actions.

1. Number of Pupils

The reorganized districts will be adequate in terms of number of pupils enrolled.

Regulations: This condition is governed by *CCR, Title 5, Section 18573(a)*, which states that each affected school district shall have the following projected enrollment on the date that the proposal becomes effective:

Elementary District.....	901
High School District.....	301
Unified District.....	1,501

2. Substantial Community Identity

The districts are each organized on the basis of a substantial community identity.

Regulations: This condition is addressed by *CCR, Title 5, Section 18573(a)(2)*, which should be reviewed together with the following guidelines.

No single factor is likely to determine that community identity exists. The county committee probably will need to examine several attributes of the population and the makeup of the territory in question to make a judgment on this condition. Some indicators that the committee might study include types of housing, parks and recreation facilities and programs, sports activities, transportation patterns, geopolitical factors, and shopping patterns.

- a. Similarity of architecture, size, and style of homes can create a sense of community identity.
- b. The usage patterns of parks and school facilities for recreation programs and sports activities for youth can be indicators of a school district's community identity.
- c. Traffic patterns and public transportation systems and routes may have an impact on community identity.
- d. Geopolitical factors such as topography and city council, county supervisor, and special district electoral districts might also create community identity in a school district. Post office names and zip code areas also could contribute.
- e. Neighborhood and regional shopping patterns are often well defined and play a part in the community identity of a school district.
- f. There is no legal necessity that school district boundaries match city boundaries.

3. Division of Property

The proposal will result in an equitable division of property and facilities of the original district or districts.

Statutes and Regulations: This condition is addressed by State Board of Education regulations in *CCR*, Title 5, Section 18573(a)(3).

In reviewing the aspects of proposals dealing with school facilities, county committees may request long-range facilities plans from the affected school districts.

Those plans could include:

- a. Demographic studies showing both current and projected student population data;
- b. Development of "study area" maps showing census tracts, boundaries, current and proposed zoning, and current and projected residential and commercial/industrial development;

- c. An evaluation and report of the utilization, capacity, and condition of existing school facilities; and
- d. Development of a “comparison analysis” considering both existing and proposed divisions.

There are additional related *Education Code* provisions for the division of funds, property, and obligations. In particular, refer to *EC* sections 35560, 35564, and 35570 through 35579. If a dispute arises concerning the division of funds, property, or obligations, *EC* Section 35565 provides for binding arbitration of the dispute.

4. Discrimination or Segregation

The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.

Pursuant to state law, local educational agencies have a constitutional obligation to prevent racial and ethnic segregation and to alleviate the harmful effects of segregation. (*CCR* Title 5 18573[a][4]) To determine whether the new districts will promote racial or ethnic discrimination or segregation, the effects of the following factors will be considered:

- a. The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.
- b. The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the entire district, and in each school of the affected districts.
- c. The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or alleviate racial or ethnic discrimination or segregation.
- d. The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.

- e. The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.

The following types of data are examples of relevant information that may be submitted in support of a petition: the district(s) enrollment statistics that specify the percentages of various ethnic groups; the district(s) enrollment statistics that specify the percentages of the various ethnic groups in each individual school; the district(s) enrollment statistics that specify the grade and ethnic groups of students; the type of attendance area served by a school (rural, suburban, or urban); and the trends in the district(s) total population and percent distribution by race.

5. Cost to State

Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

Regulations: There are no current regulations on this subject; however, some guidelines are presented that may assist the county committee in its review of proposals.

The following factors should be considered in evaluating this condition:

- a. Whether implementation of the proposal would change one or more of the affected districts' basic aid status.

A change in basic aid could increase the amount of state apportionment funds required for either the proposed new district or one or more of the remaining districts.

- b. Additional state costs for school facilities.
- c. Other state special or categorical aid programs and any increased state costs if students transferring would qualify in the gaining district and not in the losing district.
- d. The additional costs to the state if costs per student for special or categorical programs are higher in the gaining district.
- e. The effect on the districts' home-to-school and special education transportation costs and state reimbursements.
- f. Increased costs resulting from additional schools becoming eligible for "necessary small school" funding pursuant to *EC* sections 42280 through 42289.

Note that any increase in state funding due to recalculation of the Local Control Funding Formula entitlements as required by *EC* sections 35735 and 35735.1 does not apply to the analysis of this condition.

6. Educational Programs of Existing and Proposed Districts

The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.

Regulations: Please review *CCR*, Title 5, Section 18573(a)(5) and the following guidelines.

Although it is difficult to accurately predict the changes that would occur in the educational program as a result of district reorganization, there are indicators that would be helpful to consider in making a decision on reorganizations.

- a. Many schools take part in a program quality review on a regular basis.
- b. Many schools participate in an accreditation review conducted by the Western Association of Schools and Colleges. These reviews culminate in a comprehensive report that compiles information on student achievement and on school-wide concerns such as planning, school climate and culture, and governance. Although these are peer reviews that provide primarily qualitative data, they are especially effective in judging program quality when viewed in concert with quantitative data. Such data include the School Accountability Report Card (required as a result of the passage of Proposition 98), which is produced by the school district, and the California School Dashboard produced by the California Department of Education.
- c. In making a determination about program quality, a committee would do well to consider a wide array of data. For high schools these indicators range from the number of Advanced Placement courses offered by the district to the dropout rate.
- d. Although past performance does not always predict future achievements, the academic track record of a district should certainly be considered when making a decision about reorganization. If a district has failed to perform over a significant period of time, it would be questionable to give a district responsibility for educating more students. However, if reorganization provides for a richer curriculum, more course offerings, and greater resources, the likelihood that educational performance will increase is enhanced.

7. School Housing Costs

Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

Regulations: No regulations have been adopted on this subject; however, a good plan should provide a concise analysis of the availability of school facilities to house the pupils in the portion of the district being reorganized.

If the reorganization is creating a new school district, the school facilities must be adequate to serve all grade levels. If an elementary school district is unifying, there should be a plan for secondary school facilities. Formerly, plans have been approved in which the newly unified school districts phase in secondary school programs. When the reorganization is a territory transfer, the plan should address whether the school district receiving the new students has adequate facilities to house them. If new facilities are required in either of the above cases, the plan should address how the facilities will be funded.

The following areas should also be addressed:

- a. Local bonding capacity. It should be determined whether the territory transfer reduces the assessed valuation of a district to a point where the bonding capacity might be impaired.
- b. Developer fees. An analysis should be made of how income from developer fees might be affected. Whether developer fees have already been paid, whether they have increased or decreased because of the district losing or gaining the territory, and the impacts of the territory transfer should be determined.
- c. School property. If there is school property in the area to be transferred, the impact on each district should be determined. If a school is to be transferred, it should be determined how the district losing the school will compensate for the loss of facilities. If school sites are involved, it should be determined how each district's facility plan will be affected.
- d. School capacity. The analysis should take into consideration whether the schools are operating on traditional, single track, or multi-track schedules.
- e. Condition of existing facilities. The analysis should distinguish between permanent and portable buildings, the age of the facilities, whether or not they have been well or poorly maintained or modernized, whether they have had technological upgrades, and the conditions of the mechanical systems on the school site (e.g., HVAC).
- f. State School Facilities Program. It should be determined how the loss and gain of pupils will affect school districts' eligibility for state building funding.

8. Property Values

The proposed reorganization is primarily designed for purposes other than to significantly increase property values.

Regulations: There are no regulations on this subject; however, the rationale given in the petition for the territory transfer should be analyzed. If the petitioners' rationale for the transfer appears questionable or not compelling, the county committee should at least consider whether increased property values might be the primary reason for the petition. The county tax assessor's office or local real estate firms could be consulted for advice on whether territory transfers might have an impact on property values.

9. Fiscal Management or Fiscal Status

The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

Regulations: There are no regulations on this subject; however, the criteria and standards adopted by the State Board of Education pursuant to *EC* Section 33127 (Chapter 1462, Statutes of 1988) and published in *CCR*, Title 5, sections 15440–15466, are recommended for evaluation of the financial condition of school districts affected by any proposed reorganization.

The criteria and standards review process is designed to evaluate how the reorganization will affect the school district's fiscal status for the current and succeeding years. The county committee should review and consider any potential revenue gains or losses resulting from community redevelopment agency agreements or other pass-through agreements, loss of incremental taxes, Mello-Roos Community Facility District funds, parcel taxes, certificates of participation, basic aid, tax overrides, mitigation agreements with developers, and any other categorical or specialized funds (e.g., federal impact aid (Public Laws 81-815 and 81-874) and federal revenue from timber harvests).

The best way to determine the fiscal management of the school district is to use the criteria and standards review process used by county superintendents. This process employs state-adopted standards and criteria to evaluate the fiscal health of a district. It is recommended that the county committee work closely with the staff of the county superintendent responsible for reviewing district budgets.

- a. School districts and county superintendents use the California Department of Education's Criteria and Standards Review Form to review the district's budget for conformance with *Education Code* and *CCR*, Title 5, "*Criteria and Standards*," for developing and managing their budgets. This review is repeated annually; therefore, relatively current data would be available to

assist in analyzing whether the district reorganization fiscal management condition would be met if a reorganization proposal were approved.

- b. Other sources of information include the affected school districts' annual audit reports completed by independent auditors.

C. Exceptional Situations

In considering proposals for unification, the State Board of Education must determine whether the conditions in *EC* Section 35753(a) are substantially met. However, subdivision (b) of that section of the law also gives the State Board of Education the authority to depart from the conditions under certain conditions. Specifically, the board may determine that it is not practical to apply the conditions literally and that an exceptional situation exists that warrants approval of the proposal.

The most common instance of a determination that it is impracticable to apply a condition is in regards to the adequate size of a district. *CCR*, Title 5, Section 18573, states that the minimum size for a unified school district is supposed to be 1,501 students. In sparsely populated areas, however, it is often difficult to reach that number of students. The State Board of Education has considered such factors as distance, weather conditions, geography, and topography in deciding whether to waive the size condition.

It is important to note that neither statute nor regulation gives any authority to the county committee to determine that (1) it is not practical to apply any *EC* Section 35753(a) condition literally or (2) an exceptional situation exists to waive a condition.

D. Comparison of Statutory and Regulatory Requirements Criteria Used by the State Board of Education to Consider Matters Relating to School District Organization

As stated previously, in considering proposals for district reorganization, county committees and the State Board of Education must determine whether the nine conditions in *EC* Section 35753(a) are substantially met. Those conditions are further clarified by *CCR*, Title 5, Section 18573. By its own terms, *EC* Section 35753 provides that, if the conditions set forth in subdivisions (a)(1) through (10) are met, the State Board of Education (and the county committee) "may" approve a proposal for the reorganization of a district.

Following is the list of all nine conditions of *EC* Section 35753(a), followed by any implementing regulations of *CCR*, Title 5.

1. Reorganized Districts are of Adequate Size

EC Section 35753(a)(1): The reorganized districts will be adequate in terms of number of pupils enrolled.

CCR, Title 5, Section 18573(a)(1): Regulation: The analysis of the proposal or petition by the California Department of Education shall state findings of fact and recommendations as to whether each district affected by the proposed reorganization substantially meets the following criteria and standards:

It is the intent of the State Board of Education that direct service districts not be created that will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that:

- Each such district should have the following projected enrollment on the date that the proposal becomes effective or any new district becomes effective for all purposes:

Elementary District 901

High School District 301

Unified District 1,501

- The analysis shall state whether the projected enrollment of each affected district will increase or decline and the extent thereof.

2. Districts are Organized on the Basis of Community Identity

EC Section 35753(a)(2): The districts are each organized on the basis of a substantial community identity.

CCR Regulation: To determine whether the new district is organized on the basis of substantial community identity, the State Board of Education will consider the following criteria:

- Isolation
- Geography
- Distance between social centers
- Distance between school centers
- Topography

- Weather
- Community, school, and social ties, and other circumstances distinctive about the area.

3. Equitable Division of Property and Facilities Exists

EC Section 35753(a)(3): The proposal will result in an equitable division of property and facilities of the original district or districts.

CCR Regulation: To determine whether an equitable division of property and facilities will occur, the California Department of Education will determine which of the criteria authorized in *Education Code* Section 35736 shall be applied. It shall also ascertain whether the affected school districts and the county office of education are prepared to appoint the committee described in *Education Code* Section 35565 to settle disputes arising from such division of property.

4. Reorganization does not Promote Discrimination or Segregation

EC Section 35753(a)(4): The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.

CCR Regulation: To determine whether the new districts will promote racial or ethnic discrimination or segregation, the State Board of Education will consider the effects of the following factors:

- The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.
- The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the entire school district, and in each school of the affected districts.
- The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or to alleviate racial or ethnic discrimination or segregation.
- The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to

pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.

- The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.

5. Reorganization does not Significantly Increase State Costs

EC Section 35753(a)(5): Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

CCR Regulation: (No implementing regulations)

6. Reorganization does not Disrupt Education Programs

EC Section 35753(a)(6): The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.

CCR Regulation: The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition. In analyzing the proposal or petition, the California Department of Education shall describe the districtwide programs and the school site programs in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition.

7. Reorganization does not Significantly Increase Facility Costs

EC Section 35753(a)(7): Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

CCR Regulation: (No implementing regulations)

8. Reorganization is not Designed to Increase Property Values

EC Section 35753(a)(8): The proposed reorganization is primarily designed for purposes other than to significantly increase property values.

CCR Regulation: (No implementing regulations)

9. Reorganization does not Cause Negative Effect on Fiscal Status

EC Section 35753(a)(9): The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

CCR Regulation: (No implementing regulations)

10. Other Criteria

EC Section 35753(a)(10): Any other criteria as the board may, by regulation, prescribe.

CCR Regulation: (The State Board of Education has not prescribed any other criteria through regulation)

11. Exceptional Circumstances

Subdivision (b) of *EC* Section 35753 states: The State Board of Education may approve a proposal for the reorganization of school districts if the board determines that it is not practical or possible to apply the criteria of this section literally and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

Subdivision (b) of Section 18573 of *CCR*, Title 5, states: The board may waive the criteria specified in subsections (a) (1) through (a) (5) of this section and may approve a proposal, petition, or decide an appeal under *EC* sections 35710.5 or 35711 if the board determines that circumstances with respect to the proposal, petition, or appeal provide a sufficient exceptional situation.

CHAPTER 7

PUBLIC HEARINGS AND ELECTION PROCEDURES

This chapter lists the requirements for elections and public hearings as they pertain to school district organization, presents the calendar for elections, and discusses setting the area in which to conduct the elections. The area of election has been the subject of several significant court decisions, making this chapter of particular value to legal counsel involved in school district organization proposals. County committee members and petitioners for school district organization change will also find the information useful.

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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A. Public Hearings

1. Required Public Hearings

Public hearings are required by the *Education Code* at various stages of the reorganization process. Public hearings shall be called and conducted by the county committee on the following occasions:

a. Reorganization by County Committee's Recommendation

When the county committee, on its own initiative, proposes a plan for reorganization of any area, a public hearing must be held within the affected area. One or more public hearings must be held in the area proposed for reorganization between the time of adoption of a tentative recommendation and the time of adoption of a final recommendation. (*EC 35720.5*)

b. Reorganization by Petition of 10 Percent of District Voters or by Resolution of Certain Local Agencies

A preliminary public hearing must be held at a regular or a special meeting of the county committee. Following this hearing, the committee must grant or deny the petition. If the petition is granted, a tentative recommendation must be adopted, following which the county committee must hold one or more public hearings in the area proposed for the reorganization. (*EC 35721*)

c. Reorganization by Petition of 25 Percent of Voters or by Resolution of Governing Boards of all Affected Districts

At least one public hearing in each of the affected school districts is required to be held by the county committee within 60 days of receipt of the petition from the county superintendent. (*EC 35705*)

d. Change in Trustee Areas

When any proposal is made to establish trustee areas, rearrange the boundaries of trustee areas, or increase to seven or decrease to five the number of members of a governing board, the county committee must call and conduct at least one public hearing in the district on the matter. (*EC 5019*)

e. California Environmental Quality Act (CEQA) Hearing

When a county committee considers a proposal to transfer territory or the formation of a district pursuant to *Education Code* Section 35710(b), it becomes, for purposes of CEQA, the lead agency. As such, it must conduct

an initial study and hold a hearing. See Chapter 5, Section D, “Environmental Concerns.”

2. Other Public Hearings

At its own option, the county committee may call and conduct additional public hearings over and above what is required by the *Education Code* and may hold a public hearing regarding any matter pending before it. The committee may also designate any member to hold and conduct any public hearing after giving notice in the manner described below.

3. Notice of Hearings

The public hearings required by the *Education Code* must be called:

- a. In the case of a hearing on a “25 percent voter” petition, by sending a notice to the governing board of each school district involved and to the persons (no more than three) designated as the “chief petitioners” and to all persons who have requested notice of the hearing at least 10 days prior to the hearing. (*EC 35705*)
- b. In the case of a county committee proposal (or after a “10 percent voter” petition), by sending a notice to the governing board of each school district involved and to the chief petitioners as appropriate at least 10 days prior to the hearing. (*EC 35705, 35720, 35721*) This notice of a public hearing must be either:
 - i. Posted at three public places in the school districts involved and at every school in each district involved (*EC 35720.5*);
 - or*
 - ii. Published in a newspaper of general circulation published within the school district, or, if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. (*EC 35720.5*)

The notice must contain information about the time, place, and purpose of the hearing. (*EC 35720.5*)

Before initiating proceedings to consider any proposal for school district organization, county committees on school district organization must provide written notice to the local agency formation commission (*LAFCO*) for the affected area. (*EC 35700.5, 35721.5*) It is recommended that *LAFCO* also be provided notice of any public hearings.

4. Public Hearing Procedures

There are no *Education Code* requirements for the procedures relating to public hearings; therefore, it is suggested that the county committee conducting such hearings adopt a set of rules under which public hearings are conducted. The following outline of procedures was adopted by the Santa Clara County Committee on School District Organization. These steps are only suggestions and may be changed as the individual agency sees fit.

- a. At or before the hearing at which oral comments from the public are to be received, the county committee may determine the total amount of time that will be devoted to hearing such oral comments and may determine the time to be allotted to each person or to each side of an issue.
- b. The notice of the hearing may include encouragement to persons wishing to address the committee to preregister their intentions with the committee.
- c. At the hearing, members of the public may be recognized by the chair to speak. All remarks made must be germane to the business at hand and must be addressed to the chair. No person other than the person having the floor and members of the county committee will be permitted to enter the discussion.
- d. Public speakers must not directly question individual members of the county committee without the express permission of the chair, nor will individual committee members address questions directly to the speaker without the permission of the chair. Public speakers must not relinquish their time to others without the approval of the chair.
- e. Demonstrations, banners, and distribution of literature will not be permitted before or during the public hearing, nor will solicitation of signatures for petitions be permitted.
- f. At the start of the hearing, the chair should announce the rules of order for the hearing. Documents useful for conducting a public hearing are provided in Appendix J and Appendix K.

B. Elections

Elections for reorganization proposals are conducted in the same manner as elections for governing board members. (*EC* 35710, 35756 et seq., 5000 et seq.) Elections for reorganization proposals may be conducted wholly by mail pursuant to *Elections Code* Section 4000 et seq. *Elections Code* Section 12115 also contains provisions governing elections and posting of notices for elections.

1. Transfer without Elections

An election is *not* necessary to transfer territory from one district to another if the transfer approved by the county committee:

- a. Involves uninhabited territory *and*
 - i. The owner (or majority of owners) has consented to the transfer
and
 - ii. The governing boards of all affected districts have consented to the transfer

or
- b. Involves inhabited territory *and*
 - i. The territory constitutes less than 10 percent of the assessed valuation of the district losing the territory
and
 - ii. All the governing boards have consented to the transfer.
(EC 35709)

or
- c. Has an area of election that is uninhabited territory. (EC 35710.1)

2. Transfer with Elections

An election is necessary to transfer territory from one school district to another if, with respect to the approval by the county committee:

- a. The sole owner or a majority of the owners of uninhabited territory objects to the transfer (EC 35709)
or
- b. One or more of the governing boards of a school district affected by the transfer objects to the transfer (EC 35709)
or
- c. The petition involves inhabited territory that constitutes 10 percent or more of the assessed valuation of the district losing the territory.
(EC 35710)

3. State Board of Education Elections

The State Board of Education must call an election whenever it approves a petition or plan for reorganization. It does so by notifying the county superintendent of schools having jurisdiction over the districts affected, who, within 35 days, must call an election to be conducted at the next election of any kind. (*EC 35755, 35756*)

4. Elections Following Appeals of Committee Actions

The State Board of Education, upon either affirming or reversing the action of the county committee, shall notify the county committee of its decision. (*EC 35710.5[d]*) The county committee shall then notify the county superintendent having jurisdiction over the districts affected. [*EC 35710.5(d)*] If an election is required, the county superintendent, within 35 days, must call an election to be conducted in the area determined by the State Board of Education. (*EC 35710, 35710.51*)

Table 7.1 provides a sample time line of events surrounding the election process.

Table 7.1: Sample Time Line for Reorganization Election

<i>Date</i>	<i>Event</i>	<i>Code Reference</i>
May 21	County superintendent receives notification of approval from State Board of Education	<i>Ed. Code 35755</i>
June 25	County superintendent calls election; County superintendent prepares statements; County superintendent causes pro, con, and rebuttal arguments to be filed; County counsel submits impartial analysis; Rebuttal arguments submitted	<i>Ed. Code 35756; 35757; 35758 El. Code 9500; 9504</i>
July 12	First day to file for board election	<i>El. Code 10603</i>
August 6	Last day to file for board election	<i>El. Code 10603</i>
November 2	Election day	

<i>Date</i>	<i>Event</i>	<i>Code Reference</i>
November 4	County clerk begins official count of results	<i>El. Code</i> 15301
November 22	County clerk certifies election results	<i>El. Code</i> 15372
November 22	County superintendent certifies election and calls first meeting of governing board	<i>Ed. Code</i> 35102
December 1	Board of supervisors files boundary changes with State Board of Equalization	<i>Gov. Code</i> 54900, 54901, 54902, 54903.1
December 27	County superintendent notifies appropriate agencies	<i>Ed. Code</i> 35763
December 27	Board of supervisors enters order to create and/or change boundaries	<i>Ed. Code</i> 35765

Notes: *Ed. Code* = Education Code; *El. Code* = Elections Code; *Gov. Code* = Government Code. The State Board of Equalization requires filing by December 1 even if the board of supervisors has not taken final action.

5. Supporting Actions

a. Calling Elections

Subsequent to the approval of any reorganization proposals, the State Board of Education or the county committee must provide notice to the county superintendent of schools having jurisdiction over the affected school districts. (*EC* 35710, 35755) Within 35 days after receiving the notification from the State Board of Education or from the county committee, the county superintendent of schools must call an election, to be conducted at the next election of any kind, in the territory of districts as determined by the State Board of Education or as determined by the county committee. (*EC* 35710, 35756) When a district of 900 average daily attendance (ADA) or less opposes a transfer, the area of election shall include that district—and the measure must pass in that district as well as in the entire election area. (*EC* 35756.5)

b. Statement of Official Information and Statistics

The county superintendent of schools must prepare a statement of official information and statistics relating to the proposed reorganization that must include, but is not limited to, the plans and recommendations, the per pupil funding allocation, the rate of growth, the expected enrollment, and the support from the state that can be expected if such area maintains an adequate school program. Such information must be based upon the school year last completed before the date of the election. (*EC 35757*)

c. Arguments For and Against the Measure

The county superintendent of schools is responsible for having the arguments for and against the ballot measure prepared and distributed. The argument shall not exceed 500 words.

The argument in favor of the recommendation must be prepared by the president of the county board (county committee) or by a proponent of the recommendations designated by the president.

The argument against the recommendations must be prepared by a member of the county board (county committee) who voted against the recommendations or, if no member is opposed, by an elector designated by the county superintendent of schools who has appeared before the board or at a public hearing in opposition to the recommendation. (*EC 35758*)

Arguments must be submitted to the county clerk (registrar/recorder) within a time frame as specified by the county clerk that provides for a time reasonably necessary to prepare and print the arguments and to permit 10-calendar-day public examination. (*Elections Code 9502*)

d. Rebuttals to Arguments

The county clerk must send copies of the argument in favor of the measure to the author of the argument against, and copies of the argument against to the author of the argument in favor. Rebuttal arguments must not exceed 250 words.

The rebuttal arguments must be filed with the county clerk not more than 10 days after the final date for filing direct arguments. (*Elections Code 9504*)

e. Cost of Election

The cost of preparation and distribution of the arguments, the recommendations of the county board (county committee), and the cost of any election held pursuant to Article 4 of the *Education Code* must be a charge against the general fund of the county. If the reorganization involves

a district situated in more than one county, the cost of the election must be prorated against each county in the same proportion as the assessed valuation of the territory of the proposed new district residing in such county bears to the total assessed valuation of the proposed new school districts. (EC 35759)

An exception to election costs as charges against the general fund of the county exists when a district of 900 ADA or less opposes a territory transfer. Under this circumstance, the area of election shall include that entire district and that district shall bear the additional cost of holding the election in the portion of its territory not otherwise included in the election. (EC 35756.5)

Assessment of election costs may be different in fiscally independent counties. In such cases, the documents authorizing fiscal independence would be controlling.

f. Campaign Literature; Reorganization Measure

Any written material or other campaign literature that is designed to promote either the passage or defeat of a ballot measure relative to the reorganization of school districts must bear on its face, in a conspicuous place, either of the following:

- i. The names and residence addresses of the chair and secretary or the names and residence addresses of at least two officers of the organization issuing it, if issued by an organization,

or

- ii. The name and residence address, with the street and number, if any, of any individual responsible for it, if issued by an individual or individuals.

If any person believes that campaign literature contains false and misleading statements, he or she may bring an action in the superior court for injunctive relief against further circulation of the literature, and if the court finds that the literature does, in fact, contain false and misleading statements, it may enjoin any further circulation of the literature. (EC 35760)

g. Election: Wording of Ballot Measure

The words to appear on the ballot for a reorganization measure shall be:

- i. Reorganization of school districts—Yes
- ii. Reorganization of school districts—No

Similar words may be used. If the reorganization plans include a proposal for trustee areas, then such proposal must be considered a part of the

reorganization proposition to be voted upon, and the ballot shall include wording to that effect. (EC 35762)

h. Notice of Election Results

The county superintendent of schools, upon the completion of the canvass of the election returns, must notify the State Superintendent of Public Instruction, the county board of supervisors, and the governing board of each affected school district of the number of votes cast for, and the number of votes cast against, the reorganization of school districts in each school district and also the total number of votes cast for, and the total number of votes cast against, the reorganization of school districts. (EC 35763)

i. Majority Vote Requirement

For a reorganization proposal to be successful, a majority of the votes cast must be in favor of the measure. (EC 35764) When a district of 900 ADA or less opposes a territory transfer, a majority of the votes cast in the opposing district must be in favor of the measure, in addition to majority of votes cast in the entire election area.

j. Order by County Board of Supervisors to Create Reorganization Plan

The county board of supervisors, upon receiving a certificate of election results indicating approval of the reorganization proposal, must make an order to create, change, or terminate the boundaries of school districts. The board of supervisors must cause to be filed with the appropriate governmental agencies a copy of the order and a map or plat indicating the boundaries. (EC 35765) The county board of education may have responsibility to make an order to create, change, or terminate the boundaries of school districts in fiscally independent counties. The documents authorizing fiscal independence would be controlling. (EC 1043, 1080)

k. Legal Change of Boundaries

After one year has expired from the date of the order by the board of supervisors, the reorganization is considered to be legally reorganized, and no suit may be made against the legality of the reorganization. (EC 35766)

l. Consolidation of Election to Form New District with New Governing Board Member Election

The county superintendent of schools may consolidate the election for the purpose of electing the governing board of a unified school district with the election for the formation of a new district. The measure regarding the

formation of a unified school district and any other proposition to be voted upon must appear on the ballot before the list of candidates for election to the governing board of the proposed unified school district. (EC 35767)

The county committee on school district organization may amend a petition to require consolidation of elections. (EC 35705.5, 35737) The State Board of Education has the same authority. (EC 35754)

6. Process: Conduct of Elections

- a. Within 35 days after receiving the notice of the approval of a unification proposal from the State Board of Education, the county superintendent of schools must call an order of election to be conducted at the next election of any kind in the territory as determined by the board. (EC 35755, 35756)

If a transfer of territory is approved by the county committee, the county committee must notify the county superintendent of schools, who shall call an election in the territory as determined by the county committee. The county superintendent of schools must call the election within 35 days following the receipt of the notification. (EC 35710, 35710.51)

In addition, if the reorganization plans call for a proposal for trustee areas, the proposal must be considered part of the reorganization measure and the wording on the ballot must include such. (EC 35734)

- b. The election must be conducted on the next election date of any kind in the territory as determined by the State Board of Education or the county committee. (EC 35756)
- c. The county superintendent of schools must prepare the statement of official information and statistics (usually submitted to the registrar, recorder, or county clerk 88 days prior to the election date). (EC 35757)
- d. The county superintendent of schools is responsible for having the arguments for and against prepared. The arguments must be submitted to the registrar/recorder/county clerk within a time frame as specified by the registrar/recorder. (EC 35758 and *Elections Code* Section 9502)
- e. Rebuttal arguments are prepared by the authors of the arguments for and against. The rebuttal arguments must be filed with the registrar/recorder not more than ten days after the final date for filing direct arguments. (*Elections Code* Section 9504)

C. Area of Election

1. Background

When a county committee on school district organization approves a transfer of territory or a unification proposal pursuant to *Education Code* Section 35710, the matter goes to an election “in the territory of the districts as determined by the county committee” Similarly, when the State Board of Education approves a reorganization proposal, *Education Code* Section 35756 requires that the election be held “in the territory of districts as determined by the state board.”

In December 1982, the California Supreme Court in *Fullerton Joint Union High School District v. State Board of Education* (1982), 32 Cal.3d 779, invalidated a State Board of Education decision that denied the vote to the electors in the Fullerton Joint Union High School District. There, the board had approved a plan to create a new unified kindergarten through grade twelve school district by removing a portion of the Fullerton Joint Union High School District and unifying it with the kindergarten through grade eight Yorba Linda Elementary School District. In approving the plan, the State Board of Education limited the election to the area proposed for removal and unification (i.e., to the Yorba Linda territory) and not to the entire Fullerton Joint Union High School District. The Supreme Court applied the strict scrutiny rule and concluded that this limitation of the electoral franchise was an unconstitutional denial of equal protection. As a result, the electors in the entire Fullerton Joint Union High School District were allowed to vote because they had a substantial interest in various aspects of the unification proposal.

On the basis of the rationale in *Fullerton*, the California Department of Education’s Legal Office issued an opinion, dated November 6, 1989, to the State Board of Education and State Superintendent of Public Instruction. The opinion recommended a three-step process in determining the area of election in school district reorganization proposals. Step 1 identifies all the affected school districts, which would include districts that lose territory as well as districts that gain territory.

Under *Fullerton*, all the electors in the identified districts have a presumptive right to vote. Step 2 determines whether there is a compelling interest on the part of the government to reduce the area of election to an area that is less than the entirety of the affected districts and whether such a reduction is necessary to further the purpose of the proposed reorganization. Step 3 determines whether the compelling interest is outweighed by substantial interests of the voters who are denied the vote. The area of election should be expanded to include those voters with substantial interests (as opposed to incidental or no interest). The State Board of Education used this process with success until 1992, when two court decisions caused the law regarding

determinations on school district reorganization area of election to be extremely unsettled.

2. Pasadena Unified School District v. State Board of Education

In February 1992 the California Second District Court of Appeal invalidated a State Board of Education transfer of territory decision in which the board limited the area of election exclusively to the residents of the territory proposed to be transferred. (*Pasadena Unified School District v. State Board of Education* (1992), 9 Cal.App.4th 767) Applying the strict scrutiny rule, the court found that the State Board of Education did not separate interested and uninterested voters but rather two groups, each with a substantial although different interest in the outcome of the election. In that case, the transfer of territory would cause neither a significant financial impact nor a substantial effect upon the curriculum or facilities of either affected school district. However, a few white students would be transferred from the Pasadena Unified School District. In concluding that the reduction in area of election was unconstitutional, the court stated that:

Nevertheless, the racial impact upon the whole would be significant; immediately upon morale, and in the future when this reorganization would serve as a model and precedent for other neighborhoods hoping to erect a barrier against the acute social problems of its predominantly minority district. Today segregation is more apt to occur in nibbles than gulps. (*Pasadena, supra*, at page 778)

Even though the transfer of white students from the Pasadena Unified School District to the San Marino Unified School District would arguably have “no detectable statistical impact on the total racial/ethnic composition of either school district” (*Pasadena, supra*, at pages 774, 775):

The fact that Pasadena Unified School District’s [interest] includes a desire to retain a declining white student base is not a reason to disenfranchise its citizenry. (*Pasadena, supra*, at page 778)

The *Pasadena* decision apparently includes morale as an interest to be measured for substantiality and suggests that, even though the racial impact of a proposed transfer of territory is statistically undetectable, the losing district’s desire to retain its white pupil population is a substantial interest of the voters.

Although the rationale in *Pasadena* goes beyond that in the *Fullerton* decision, the *Pasadena* decision may not be cited as precedent. Pursuant to the rules of court, the *Pasadena* appellate court decision was republished upon grant of review by the Supreme Court. The Supreme Court dismissed the review and remanded the case to the Court of Appeals as improvidently granted; however, the Supreme Court did not order the *Pasadena* decision and opinion to be

published. Therefore, it has no precedential effect. The opinion was omitted from 9 Cal.App.4th 767 but noted in that volume that the review was dismissed and cause remanded.

Although county committees are free to use the principles expressed in the *Pasadena* decision, caution should be exercised because that decision provides no citable legal support.

3. Board of Supervisors v. LAFCO

a. Background

In November 1992 the California Supreme Court decided *Board of Supervisors of Sacramento County, et al., v. Local Agency Formation Commission (LAFCO)* (3 Cal. 4th 903). Although this case involves a petition to incorporate a portion of a county rather than reorganize a school district, the decision is significant in that it seems to confuse the importance, if not the validity, of the *Fullerton* decision. Also discredited is *Citizens Against Forced Annexation v. Local Agency Formation Com.* (1982), 32 Cal.3d 816, a companion case to *Fullerton*, dealing with municipal annexation elections.

In the 1992 *LAFCO* case, a petition was filed with the Sacramento Local Agency Formation Commission to incorporate the Citrus Heights region of Sacramento County. The county opposed the petition, contending that incorporation would result in a severe adverse financial impact on the county. The proposal contained no racial issues. The legal issue was whether *Government Code* Section 57118 (formerly Section 57103) violates the equal protection clause of the federal and California constitutions.

As relevant to the case, *Government Code* Section 57118 provides that:

In any resolution ordering a change of organization or reorganization subject to the confirmation of the voters, the commission shall determine that an election will be held: (a) Within the territory of each city or district ordered to be incorporated, formed, disincorporated, dissolved, or consolidated.

In short, this statute requires a reduced area of election without any need to show a compelling state reason for the reduction. The Supreme Court held that this provision is constitutional. The court said that:

When a law impinges on certain fundamental rights—and the right to vote may be the most fundamental of all . . . a discriminatory law will not be given effect unless its classification bears a close relation to the . . . [promotion] of a compelling state interest, the classification is necessary to achieve the government's goal, and

the classification is narrowly drawn to achieve the goal by the least restrictive means possible. This is called the strict scrutiny test for constitutionality.

For most legislation, however, a court will apply the rational basis test. [T]he classification must bear some fair relationship to a legitimate public purpose.

b. Implications of LAFCO

We agree that [*Government Code*] Section 57103 touches on the right to vote. The mere fact, however, that a state law touches on the right to vote does not necessarily require the application of strict scrutiny . . . [unless the] classification has a real and appreciable impact upon the equality, fairness and integrity of the electoral process . . . Section 57103's impact . . . falls well short of the real and appreciable. . . . (*LAFCO, supra*, at pages 913, 914)

Therefore, in the *LAFCO* case, the court applied the rational basis test on the grounds that:

The residents of the area to be incorporated and the remaining residents of Sacramento County possess, on the face of the law, genuinely different relevant interests. Thus, though the right to vote is perforce implicated whenever the state specifies that certain people may vote and others may not, we conclude that the essence of the case is not the fundamental right to vote, but the state's plenary power to set the conditions under which its political subdivisions are created. For that reason, the impairment of the right to vote is insufficiently implicated to demand the application of strict scrutiny. (*LAFCO, supra*, at page 917)

In addition, the court found that the county residents were sufficiently accommodated with respect to demography and the financial impact was small. (*LAFCO, supra*, at page 923) In applying the rational basis test, the *LAFCO* court cited *Lockport v. Citizens for Community Action* (1977), 430 U.S. 299:

If there "is a genuine difference in the relevant interests of the groups that the state electoral classification has created," then an "enhancement of minority voting strength" is permissible unless it "nonetheless amounts to invidious discrimination in violation of the Equal Protection Clause." (*LAFCO, supra*, at page 916)

The fair relationship to a legitimate public purpose that is required by the rational basis test was found in *Government Code* Section 56001, which expressed the legislative intent "to encourage orderly growth and development"; that "the logical formation and determination of local agency

boundaries is an important factor in promoting orderly development.” Thus, “if large relatively disinterested majorities could veto incorporations, . . . the result might well hinder orderly growth and development.” To deny the incorporating voters the final say in their own desire for self-government would lessen political participation, not increase it. (*LAFCO, supra*, at pages 923, 924)

The court in *LAFCO* held that the *Fullerton* case lacks authority as precedent because the reasoning in that case was embodied in a plurality opinion of only three justices. In addition, the racial impact found in *Fullerton* was not present in the *LAFCO* case. (*LAFCO, supra*, at page 918) Nevertheless, the court in *LAFCO* recognized federal case law reasoning that, even though state government has a wide latitude in creating various types of political subdivisions, that latitude must necessarily be qualified by a state’s fundamental constitutional obligation to avoid racial or other invidious discrimination. (*LAFCO, supra*, at pages 915, 916)

The court in *LAFCO* also found faulty the holding in the *Citizens* case, *supra*. The court stated that:

[W]e also find constitutionally infirm the reliance of Citizens on the goal of orderly development and provision of municipal services . . . to justify the city voters’ exclusion from the election. . . . Citizens reasoned that the exclusion was justifiable because the city dwellers might veto the annexation, thereby interfering with those goals. But if the city residents have a fundamental right to vote, then the state’s putative interest in excluding them from voting because they might veto the annexation is constitutionally impermissible. As correctly stated in *Fullerton*, “It is, of course, clear that the state cannot claim a compelling interest in excluding voters because of how they may vote.” (*LAFCO, supra*, at page 920)

4. Alhambra City School Districts v. State Board of Education

With regard to *LAFCO*, local counsel should take note of an unpublished 1994 opinion by the Second Appellate District Court in *Alhambra City and High School Districts v. California State Board of Education*, Appellate Court No. BS023586. Although lacking precedential value, this decision marks the first time any state court has applied the California Supreme Court’s *LAFCO* holding to a school district reorganization dispute.

In *Alhambra City*, a Los Angeles area school district filed a post-election challenge to the State Board of Education’s approval of a petition to form the San Gabriel Unified School District and its decision setting the area of election. The measure had been approved by the local electorate designated by the

State Board of Education. Among other contentions, the school districts alleged that the State Board had improperly limited the area of election, on the reorganization petition, to voters within the proposed new school district. Applying the strict scrutiny analysis established in *Fullerton*, the trial court agreed with the school districts and ruled that the area of election as specified by the State Board of Education was unconstitutional.

On appeal, the Second Appellate District Court overruled the trial court and validated the State Board of Education's decision regarding the area of election. The appellate court held that strict judicial scrutiny need only be applied when a fundamental interest is involved. In *Alhambra City*, no such interest was involved. The state's plenary power to set the conditions under which its political subdivisions are created was involved rather than the fundamental right to vote. The right to vote had only been touched upon because the excluded voters did not have a substantial interest in the outcome of the election. Their interest, as identified by the appellate court, was simply financial. The court thus held that strict scrutiny was not warranted, and the board's decision passed constitutional muster because it was rationally related to a legitimate governmental purpose.

5. Laguna v. State Board of Education

In 1999, another decision applied the *LAFCO* case principles to school district organizations. In *Laguna v. State Board of Education*, Fourth District Court of Court of Appeal, DO 32295 (not to be published), the State Board of Education approved a proposal to unify two elementary school districts from a portion of Escondido Union High School District. The board limited the area of election to the territory of the two elementary districts, excluding electors in the remainder of the high school district. Plaintiff Laguna sued the board, arguing that the strict scrutiny rule in *Fullerton* must be applied in determining the area of election. The court disagreed and upheld the board's decision. The court concluded that the holding and reasoning in *LAFCO* apply directly to school district reorganization cases. "(T) he creation of a new school district, like the incorporation of a new city, is based upon the state's plenary power and does not sufficiently implicate the right to vote to require strict scrutiny." (*Laguna*, at pages 12 and 13)

6. Post-Election Challenges

Although *Education Code* Section 35766 provides for a full year after the final order is entered by the board of supervisors to challenge a district reorganization, there are at least two cases in which state courts have barred opponents from proceeding with post-election legal challenges. Those complainants were barred under the legal doctrine of laches.

In a 1993 case, *Grant Joint Union High School District v. State Board of Education*, Third District Appellate Court No. CO14532, petitioner school district

challenged the proposed reorganization approximately *three* months after the final order from the Sacramento County Board of Supervisors and 13 months after the measure had been approved by the voters. The court held that laches applied because both the county committee and the Natomas Union Elementary School District would be unduly prejudiced by complainant school district's delay. Both entities had expended significant funds subsequent to approval of the reorganization petition by the State Board of Education. Also, the complainant school district could not provide a reasonable basis for its delay in filing legal claim. Although significant, this case is not published and therefore lacks precedential value.

A more current example is *City Council of the City of Folsom v. California State Board of Education et al.*, Third District Appellate Court No. CO24384 (1998, not to be published). This case involved a split of the Folsom Cordova Unified School District into two districts. In October 1995 the State Board of Education approved the petition and defined the area of election as the entire area. The reorganization proposal appeared on the March 1996 ballot and failed to pass. The measure passed in Folsom by 62 percent, but failed in Rancho Cordova by 89 percent. Two weeks after the election, the Folsom City Council filed suit to compel the State Board of Education to issue a new resolution allowing only the Folsom electors to vote. The appellate court decided against Folsom, finding that, in spite of the one-year statute of limitations in *Education Code* Section 35766, Folsom was guilty of laches. No one asked the State Board of Education to reconsider its decision, although the election did not take place until five months after the board's decision. Therefore, it could reasonably be concluded that the City Council acquiesced to the State Board of Education's decision defining the area of election. The court also found that the City Council lacked standing to challenge the State Board of Education decision.

7. Conclusion

The court's reasoning and comments in the *LAFCO* decision bring considerable doubt about the efficacy, if not the validity, of the prior decisions in *Fullerton* and *Citizens*. As noted above, one appellate court, in an unpublished opinion, has already applied the ruling in that case to a school district reorganization. The *LAFCO* court appears to support the view that, in school district reorganization matters, a determination of the area of election is not subject to strict scrutiny but rather may be tested only on its rational basis even though the proposed reorganization may create a racial impact that may be of great concern to excluded voters.

Under the *LAFCO* decision, the rational basis test would apply to a determination to reduce the voting area in district reorganizations unless the declared public interest underlying that determination has a real and appreciable impact upon the equality, fairness, and integrity of the electoral process, in which case the strict scrutiny test would apply.

However, even under the rational basis test, a determination to reduce the area of election would be held invalid, according to *LAFCO*, if the determination constituted invidious discrimination in violation of the constitutional equal protection clause (e.g., involving a racial impact of some degree).

When basing a reduced election area on a rational state interest, the court in *LAFCO* would suggest that the legislative intent in promoting orderly school district reorganization statewide would be a legitimate public purpose to which a reduced voting area must have a fair relationship. (EC 35500)

It is recommended that, with considerable caution, the principles in the *LAFCO* decision be followed in determining the area of school district reorganization elections. The principles in the *Pasadena* case may also be followed but are not legally compelling.

This discussion of area of election determination constitutes an update of the legal opinion dated November 6, 1989, from the California Department of Education's Legal Office to the State Board of Education and the State Superintendent of Public Instruction.

D. Election of a New Governing Board

1. New Governing Boards

The term "governing board" means any board of trustees, community college board of trustees, and city, and city and county board of education. (EC 78)

The plans and recommendations for a school district organization may include a provision that will provide for the election of the first governing board of a newly unified school district to be held at the same time as the election on the reorganization proposal. If the provision is included, the plans shall also specify the method to be utilized to stagger board members' terms. If such a provision is not provided, the election of the first governing board will take place on the first regular election following the passage of the reorganization proposal. (EC 35101, 35737, 35767)

In the case of the formation of a new elementary or high school district, the county superintendent of schools will appoint the members of an interim governing board. The terms of these appointed board members will expire following the election of the first governing board of the district. (EC 35100)

The question of formation of a unified school district and any other proposition to be voted upon must appear on the ballot before the list of candidates for election to the governing board of the proposed unified school district. (EC 35767)

2. Roles and Responsibilities

Every school district is under the control of a governing board.

(EC 35010) The governing board of a school district may initiate and carry on any program, activity, or otherwise may act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which school districts are established. (EC 35160) The governing board of each district must prescribe and enforce rules not inconsistent with law, or with rules prescribed by the State Board of Education, for its own government. (EC 35010)

3. Composition

- a. Except as otherwise provided, the governing board of a school district must consist of five members elected at large by the qualified voters of the district. The terms of the members must, except as otherwise provided, be for four years and staggered so that as nearly as practicable one-half of the members must be elected in each odd-numbered year. (EC 35012)
- b. A unified school district may have a governing board of seven members in the event that the proposal for unification has specified a governing board of seven members. The members of the board must be elected at large or by trustee areas as designated in the proposal for unification and must serve four-year terms of office. (EC 35012)
- c. Notwithstanding item *a* above, *any* elementary school district having a governing board of three members *may*, and any elementary school district whose ADA during the preceding fiscal year was 300 or more and having a governing board of three members *shall* do either of the following (EC 5018, EC 35012):
 - i. By its own action determine that the number of members of the governing board shall be increased to five, in which case two additional members shall be elected at an upcoming regular election date, as specified in Section 1000 of the *Elections Code*, determined by the board.
 - ii. Request the county superintendent of schools having jurisdiction to submit the question of whether the number of members of the governing board shall be increased to five to the voters of the elementary school district at an upcoming regular election date, as specified in Section 1000 of the *Elections Code*, determined by the county superintendent of schools. At the same election, two additional members shall be elected to take office if the number of governing board members is increased.
- d. Whenever the boundaries of a county high school district are coterminous with the boundaries of a county, the board must consist of one member from

each supervisorial district in the county elected at large from the district. (EC 5027)

- e. For community college districts that were divided into five wards on or before September 7, 1955, one member of the board must be elected from each ward by the registered voters of the ward. On or before January 1 of a fiscal year, the governing board of the district may rearrange the boundaries of the wards to provide for representation in accordance with population and geographic factors or may abolish the wards. (EC 5028)
- f. One or more nonvoting members may serve on governing boards in school districts maintaining one or more high schools. Such pupil members may be less than eighteen years of age and must be chosen by the pupils enrolled in the high school or high schools of the district in accordance with procedures prescribed by the governing board. The term of a pupil member must be one year commencing on July 1 of each year. (EC 35012)

4. Eligibility of Board Members

Any person, regardless of sex, who is eighteen years of age or older, a citizen of the state, a resident of the school district, and a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office, is eligible to be elected or appointed a member of a governing board of a school district without further qualifications. (EC 35107[a])

An employee of a school district may not be sworn into office as an elected or appointed member of that school district governing board unless and until he or she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office. (EC 35107[b])

5. Terms of Office

The majority of the members of the first elected board of any newly formed school district who received the highest number of votes must serve until the first Friday in December of the second succeeding odd-numbered year. The other members' terms must expire on the first Friday in December of the first succeeding odd-numbered year. (EC 35105, 5017)

For those districts formed in even-numbered years where in connection with the formation of which the first governing board was elected in such even-numbered year, all of the members of the first elected governing board must serve until the first Friday in December of the second succeeding odd-numbered year. Their successors must be elected at an election conducted on the first Tuesday after the first Monday in November of such second succeeding odd-numbered year. The majority of such successors receiving the highest number of votes must serve until the first Friday in December of the

second odd-numbered year. The other members' terms must expire on the first Friday in December of the first odd-numbered year. (*EC 35558*)

The governing board of a unified school district formed in an even-numbered year may adopt a resolution that will provide that the majority of the members of the governing board who received the highest number of votes in the first election of governing board members for the district must serve until the first Friday in December of the third odd-numbered year succeeding that first election, and the other members' terms must expire on the first Friday in December of the second odd-numbered year succeeding that first election. The resolution must be adopted on or before March 15 of the second odd-numbered year succeeding the first election of the governing board. (*EC 35558[b]*)

6. No Election in Component Districts Pending Reorganization

Whenever a school district has been wholly absorbed into one or more other districts and continues in existence as a district until the reorganization in which it has been included is effective for all purposes and a governing board member election is otherwise required to be held prior to such effective date of the reorganization, no such election shall be held. Instead, the county superintendent of schools must appoint successors to the members whose terms expire on the first Friday in December following the date upon which the election would otherwise have been held. Such appointees must hold office until the reorganization becomes effective. (*EC 35557*)

7. Concurrent Service of Board Members

When a member of the governing board of a school district that is being reorganized and that will cease to exist takes office as a member of the initial or interim governing board of a newly formed district, he or she must cease to be a member of the governing board of the district being reorganized unless he or she elects to remain a member of that board. (*EC 35106*)

8. First Meeting of the New Board to Be Called by the County Superintendent of Schools

Within 20 days after the appointment or election of the interim or initial governing board of any newly formed school district, the county superintendent of schools must call the first meeting of the board. The meeting must be properly noticed in accordance with the Ralph M. Brown Act (*Government Code 54950 et seq.*), and, in addition, each member of the board must be given at least 10 days' notice of such meeting by registered mail. (*EC 35102*)

At the first meeting, board members are to be sworn in and must elect officers. At the first meeting, or as soon as practicable thereafter, the board must also

name the district and shall select one of its members as its representative, who shall have one vote for each member to be elected to the county committee on school district organization. (*EC 35000, 35023*) Other actions should include setting the date, time, and place of regular meetings. Other items may be placed on the agenda as needed, including a closed session to discuss personnel matters. See Appendix L, "Sample Initial Agenda for the Governing Board of a New School District."

9. Consolidation of Governing Board Elections

After the initial election of governing board members in any school district, the governing board election may be consolidated with the statewide direct primary election, the statewide general election, or the general municipal election. (*Elections Code 1302, 10404.5*)

CHAPTER 8

SCHOOL DISTRICT FORMATION GUIDELINES

This chapter provides information for newly elected governing boards, district staff, and constituents. A management plan encompassing the interim and operational periods should be prepared as a foundation for the formation of a school district.

Section A, “The Interim Period,” provides guidelines on tasks to be accomplished between the date of the successful election and the date the new district becomes fully operational. During this interim period the new district is organized administratively, and significant policy and planning decisions must be made. Major components are defined and included in a formal written management plan.

Section B, “The Design Period,” uses the management plan to define how the district will operate day to day.

Section C, “The Implementation Period,” outlines a systems implementation master plan to identify all systems supporting the school district. This plan is a blueprint for the incoming operations team and a reference for the board, providing accountability to the community.

All issues outlined in this chapter will not necessarily apply to every new district; nor should the included lists be considered exhaustive. Each board should address issues relevant to the district. As with most school district organization matters, guidance from experts (including legal counsel) familiar with local issues should be sought.

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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A. The Interim Period

1. Establish New Governing Board

a. Board Member Orientation

Even though every member of the new board may have served previously on a school board, all board members, as representatives of the new organization, should participate in a series of seminars designed to orient the board to the specific responsibilities of a board member of a new school district and the procedures unique to such a district. These seminars might be conducted by the local school boards association, the county office of education, or the California Department of Education.

b. The First Meeting of the New Governing Board

Within 20 days after the appointment or election of the interim or initial governing board of any newly formed district, the county superintendent of schools having jurisdiction over the district shall call a meeting of the board by giving each member of the board at least 10 days' notice of such meeting by registered mail. (*EC 35102*)

At the initial meeting of the governing board for the new district, the board shall be sworn in. It shall conduct or transact any other business relating to the affairs of the district that can properly be conducted or transacted at a regular meeting of the board. (*EC 35102*)

The first governing board of any new district shall, at the first meeting of the board or as soon as practicable thereafter, name the district and select one of its members as its representative, who shall have one vote for each member to be elected to the county committee on school district organization. See Appendix L for a sample agenda of the first organizational meeting of the new board. (*EC 35000, 35023, 35102*)

c. Board Appointments

At the initial meeting of the governing board for the new district, the board shall appoint such officers as boards of its class are required to appoint at annual meetings. (*EC 35102*)

i. Executive Committee Appointment

The governing board of any school district may appoint an executive committee. In the case of a governing board that has appointed a clerk; the committee shall consist of the president, the clerk, and one other member of the board. In the case of a governing board that has not

appointed a clerk, the committee shall consist of the president and two members of the board. The committee shall attend to the routine business of the board. Its action shall be reported to the board for ratification at its first meeting. (EC 35024)

ii. Tasks to Be Completed by the New Governing Board

(a) Adopt Selection Criteria for Superintendent

The board should seek assistance in defining the qualifications the board desires for the superintendent of the district and request assistance in the screening and selection process of locating candidates for the position. This process should take priority over all but legally required items on the board's agenda.

(b) Hire Superintendent

The hiring of the district superintendent should be completed as soon as possible because the superintendent, as a full-time dedicated employee of the district, will enable the governing board to broaden the scope of activities required to bring the district to operational capacity. The hiring of a district superintendent should be conducted in strict adherence to the selection criteria developed by the board. (It is recommended that a superintendent search consultant be contacted for information or assistance.) The district superintendent must be able to work with the board and the community in consolidating the most desirable aspects of each of the component districts to provide students of the new district with the finest possible educational program.

(c) Establish Philosophy and Goals

An important task of governing the school district is to establish a sound philosophy and set of goals that the board and district administrators can use to develop administrative, educational, and business-related policies and practices. A clearly defined philosophy and set of goals will mitigate the ambiguity associated with creation of the new district and expedite the development of policies and practices for the district.

(1) Develop Mission Statement

In the mission statement, the school district should clearly establish its purpose to the students and the communities it serves. A mission statement will help to define the district throughout the community while communicating the main objective of the board and administration.

(2) **Review/Amend Board Bylaws, Policies, and Administrative Regulations**

Inasmuch as the new school district will use, to some extent, guiding documents from the prior district(s), it will be necessary to amend those bylaws, policies, and administrative regulations. The California School Boards Association maintains current, updated samples of board bylaws, policies, and administrative regulations. Because its attorneys follow legislation closely and continually prepare new samples, a new district would be well advised to investigate these at the outset.

(The California School Boards Association provides a fee service for assisting school districts in the development and maintenance of policies, regulations, and board bylaws.)

(d) Develop Policies and Procedures

The process of developing policies and procedures should begin at the first meeting of the new board, with first priority being the hiring of the superintendent. If there is to be a span of time between the board's election and the selection of the superintendent, a statement of personnel philosophy should be developed.

(e) Define Administrative Organization

The development of an organizational framework and the assignment of personnel to positions within that framework are priority tasks of the district superintendent and the board. Initially, an executive team should be identified and charged with the responsibilities of developing specific aspects of the school system. Personnel will continue to be anxious until staff members see their place within the total system.

(f) Develop Communications Program

For a period of time, the people who voted to create the unified school district will wonder about the effectiveness of their creation. Communicating with the public, as well as with the staff, is a shared and important responsibility of all. An effective communications program, including internal communications as well as public information, must be developed and implemented.

(g) Determine Grade-Level Organization and Educational Program Extension

The varying grade-level organizations of the component districts

should be standardized as early as possible. In addition, the most desirable facets of each component district's educational program must be identified, and measures should be taken to extend those programs to all schools of the new district wherever applicable. The number of such programs that can be implemented in the first year of operation must be determined; and, basic to such decisions, an inventory should be developed of all specialized programs along with a thorough analysis of the costs of each program.

(h) Develop Facility Master Plan

A district wide master plan should be developed to fulfill multiple planning needs of the new district. The facility master plan should include population and assessed value projections, site locations, space adequacy surveys of existing buildings, and projections of needed facilities.

The School Facilities and Transportation Services Division of the California Department of Education may be able to assist the new district.

(i) Establish Interim Budget

The interim budget should be established to plan revenues, commitments, and expenses during the period in which the district is initially forming but not yet operational. The interim budget should include sources and uses of cash for the period between the seating of the governing board and the first full fiscal year of operations.

(1) Anticipated Expenses

Anticipated expenses during the interim period should provide for, but not be limited to, securing facilities and equipment, acquiring staff and necessary consultants, travel, purchasing supplies and materials, including textbooks, insurance, and contract fees (i.e., food services, transportation, special education, and so forth). The anticipated expenses shall be defined in the initial operating budget, allowing for reserves for economic uncertainties.

(2) Available Resources

All available resources should be considered during the formation of a new school district. Resources, whether in the form of in-kind, direct revenue, loans, and/or grants, will be required to bring a school district from concept to reality.

Issues to be considered:

- Grant availability
- Loan availability
- Community partnerships
- Direct revenues
- General obligation bonds
- Special taxes
- Special district tax revenues

(j) Acquire Interim Funding

Under the provisions of *Education Code* Section 41360, loans may be made to newly formed school districts to accommodate certain expenses associated with the formation of the district. The loan may be requested by application from funds in the Public School District Organization Revolving Fund upon certification by the county superintendent of schools and approved by the State Superintendent of Public Instruction.

Upon the request of the county board of education and order of the board of supervisors, the auditor/treasurer of a county will make a temporary transfer from county funds to the general fund of a newly organized school district for the purpose of meeting the expenses of the district until the district receives its first apportionment from the state (*EC 42623*).

(k) Establish District Identity

Reorganization of an existing school district or creation of a new district typically involves, at minimum, a change of name, district accounts, contracts, and other identifiers used by various agencies, including the California Department of Education. Regardless of the status of the change, the new identity of the district should be established and confirmed by each of the district's contacts at the earliest possible time. Additionally, the new district should actively work to:

- (1) Establish Relations with City, County, and Other Local Government Agencies

(2) Develop System or Method for Promoting Community Relations and Contacts

- File Nonprofit Corporation Documents

A new district may need to file new articles of incorporation or changes to them with the appropriate state official or adopt or change articles of an association if there is to be such a corporation and/or unincorporated organization under the auspices of the district (e.g., private operating foundations, organization providing scholarship benefits, or student aid to individuals). In addition, the nonprofit corporation/organization may be required to file various Internal Revenue Service (IRS) forms to be tax exempt. Refer to IRS Publication 557, *Tax-Exempt Status for Your Organization*, and Package 1023, *Application for Recognition of Exemption*, for further information. These may be obtained by calling the IRS at 1-800-829-3676 or by downloading the form from the IRS Internet site at <http://www.irs.gov>. Assistance from legal counsel in this area may be especially prudent.

- Amend City Charter

In those cities and school districts governed by a city charter, a change in the status, name, and organization of the school district should be reflected in the city charter.

- Make Name Changes on All Documents

The California Department of Education, in cooperation with the California Department of Finance, has developed a common county-district-school (CDS) coding system. The Data Management Division of the California Department of Education is responsible for the CDS coding system. Application for CDS codes for the new district and all schools within the district should be sent to the CDS coordinator of this division.

(I) Acquire or Modify Central Office Facilities

Central office staff will need to be accommodated as they are hired. For this reason, new central office facilities may be required or existing facilities may need modification.

The district superintendent should initiate a study to determine the

facility requirements for work to be conducted by central office staff. The study should be developed to ensure that facility needs will be met within financial and schedule constraints.

(m) Hire Management Staff

In conjunction with an approved organizational framework, the management staff for all functional entities of the school district shall be hired and assigned their positions and responsibilities to bring the district up to operational capability. In addition to regular staff, the following should be retained:

(1) Legal Counsel

The governing board should retain legal counsel to perform the necessary procedural review and provide consulting services required by school districts. Newly formed districts should consider retaining legal counsel experienced in collective bargaining.

(2) Accounting and Auditing

The governing board should retain an accounting and auditing firm to provide the necessary procedural review and consulting services required of school districts. The office of the county superintendent of schools must be contacted to identify county- and state-level accounting requirements.

(3) Consultants

In the absence of permanent staff, the governing board may wish to retain consultant services for personnel processing and initiation/development of systems for the business, administration, personnel, and educational functions of the district.

(n) Develop Management Plan

As the above requirements are defined, they should be incorporated into a formalized, written management plan. The purpose of the management plan is to develop the functions of each component of the district. The management plan should be developed with a high level of interaction between the governing board, superintendent, staff, county superintendent, expert consultants, and community members.

B. The Design Period

With the major components defined in the management plan, the school system can be designed so as to ensure that the adopted requirements are valid and can be met. During the design of the school system, three groups work together to define how the district will operate on a day-to-day basis: the governing board, administration, and community volunteers. Formally adopted board policies, government statutes, and constituent preferences should be used, and district procedures, capabilities, functions, and systems should be developed and documented as a school systems implementation master plan. This plan will serve to provide direction and guidance to staff and constituents who will further develop the school district.

1. Establish Administrative Policies and Procedures

The process of developing policies and procedures should begin at the first meeting of the new governing board. The governing board, with the assistance of the district superintendent, should develop rules or guidelines governing district operations. These policies should be published and made available at the earliest possible date.

a. Establish Board Bylaws, Policies, and Administrative Regulations

The new governing board should establish board bylaws, which are the rules governing the internal operations of the governing board. The bylaws should address rules of governance (e.g., policy manual, meetings, agenda, minutes), rules on organization (e.g., terms of office, officers, committees), and rules on membership (e.g., authority limits, filing vacancies, conflict of interest) of the board. The new governing board policies should reflect the board's expectations of administration. The policies should include such areas as administrative staff organization (e.g., the organizational chart and lines of responsibility).

The superintendent shall develop administrative regulations that specify required actions and design detailed arrangements under which the schools will be operated. Administrative regulations are approved by the board and are included in the district's policy manual.

b. Establish Public Relations Policy

Public relations policies need to address such issues as communicating with the public; participation by the public; and activities involving the public, staff, students, and use of facilities. These policies also need to consider

relations with other governmental agencies, associations, educational organizations, and private industry.

c. Change Bylaws for Participant Organizations

Frequently school districts have legal ties to agencies (through a joint powers agreement) and other associations. Because of these ties, the bylaws should be reviewed for necessary changes.

d. Initiate Negotiations with Old Districts

It will be necessary to negotiate the acquisition and release of certain assets, records, and other items from the old district. Negotiators for the new district should be aware of those items necessary for future student needs and the district's ability to compensate for items above and beyond an equitable distribution.

Issues to be considered:

- i. Assets
- ii. Records retention (all districts)
- iii. Memorabilia
- iv. Existing waivers
- v. Existing contracts

e. Define Administration and Confidential Staffing Requirements

The executive management team, in concert with the organizational plan for the new district should develop staffing requirements and identify priorities for hiring of personnel as soon as possible to assist in expanding and developing the new district. A master-staffing schedule should be developed.

f. Conduct Policy Review and Adoption

In accordance with adopted governing board bylaws, the board should conduct the required review process (e.g., request staff and community opinions) on the proposed administration policies prior to adoption. Following the completion of the review process (responses received/changes initiated), the policies should be placed on the agenda for adoption.

2. Business Operations Policies and Procedures

The business operations system is responsible for a significant portion of the operational planning and conduct of the district, including budgetary preparation and control, purchases, payments, audits, and reports.

Additionally, this system may address personnel, maintenance, operations, transportation, cafeteria, furniture, equipment, and facilities.

a. Define Management System

The management system for each entity of the business operations division should be adequately defined so that the system is well understood by the district board, staff, and community members.

b. Define Fiscal Services Functions

The fiscal services function typically incorporates all financial and reporting entities. The function should be designed so that state, county, and district reporting requirements are met.

- i. County office interface - Issues to be considered:
 - (a) Perform audits of dissolving districts
 - (b) Review county office accounting and data-processing requirements
- ii. Finance - Issues to be considered:
 - (a) Identify required funds/accounts with governmental, proprietary, and fiduciary entities
 - (b) Perform calculation of the new funding formula
- iii. Payroll - Employee payroll, timekeeping, and deductions
- iv. Accounting - Issues to be considered:
 - (a) Conformance to state-adopted standards
 - (b) Records storage
 - (c) Accounts receivable - district
 - (d) Student body accounting
- v. Budget development

c. Define Purchasing Function

The purchasing function typically incorporates all components of the procurement process, from acquisition to distribution. This function should be designed so that it is well integrated with financial operations functions; central office and site locations can order and obtain materials, supplies, furnishings, and equipment; and vendors can be paid in a timely manner.

Issues to be considered:

- i. Contracts
- ii. Purchase orders
- iii. Travel authorization
- iv. Inventory
- v. Warehousing
- vi. Distribution

d. Define Maintenance and Operations Functions

The maintenance and operations functions typically encompass all tasks related to facilities and transportation. Effort will be required to analyze, define, and standardize operating policies and procedures, staffing and job classifications, and work programs for the buildings, equipment, and transportation of the district.

Issues to be considered:

- i. Facilities maintenance, including:
 - (a) Deferred maintenance
 - (b) Maintenance
 - (c) Repair
 - (d) Use of school property
 - (e) Equipment
 - (f) Vehicles
- ii. Transportation plans, including:
 - (a) Routing

- (b) Scheduling
- (c) Ride sharing
- (d) Fees for transportation

e. Define Information Systems

Information systems are used to store, manage, analyze, and report data that are needed for a variety of district functions. In addition, communication functions are generally included as part of a district's information system. Because many of the functions of an information system require specific expertise and/or expensive dedicated equipment, they are often handled regionally by county offices of education or through joint powers agreements among several districts. Typical functions include:

i. Finance

The financial system offers a mechanism to track financial records and to maintain accurate account balances. The reports generated can also be used to provide audit and control services and to reconcile cash accounts.

ii. Accounting

The accounting system should be designed to create and maintain vendor warrant requests, purchase orders, encumbrances, and a unique vendor information file; create financial transaction records for budgetary encumbrances and financial expenditures; track and record data necessary for sales and income tax reporting to governmental agencies; maintain on-line history of warrant/purchase order transactions; create invoices and dunning letters according to district specifications; post receipt of invoice and non-invoice payments and issue affidavit of deposit documents; interface with the financial system to detail and summarize payment and receipt transactions; maintain customer and payment histories; and generate necessary reports required to monitor/audit the accounting system functions and identify delinquent accounts, sales activities, and operational needs.

iii. Payroll

The major functions of a payroll system would include creating monthly payroll warrants and processing annual W-2 forms, tracking applicable retirement contributions, meeting federal and state reporting requirements (including taxes and unemployment insurance), calculating applicable statutory and health and welfare benefits, and posting payroll expenditures to the proper accounts for financial reporting.

iv. Personnel

The personnel system contains databases related to affirmative action (if legally required or permissible); position control, employee attendance, professional credentials, and positions held. A salary projection system should be created that calculates the projected cost of salaries and benefits for use in the budget development process.

v. Student information system

The major components of a K-12 administrative student information system include scheduling, daily and period attendance accounting, grade reporting, and proficiency assessment scoring. Pertinent data should be maintained in a history file from which California guidance transcripts are generated. The student systems should include a variety of preformatted and ad hoc reporting capabilities, locker assignments, and summer school records.

vi. Stores (Warehouse Inventory)

The stores inventory system should be designed to maintain warehouse inventory, receipts, and returns; provide on-line entry for warehouse customer orders and automatically issue invoices to customers; and create reports for a warehouse catalog, stock status, stock shortage, long-range commodity sale trends, vendor performance, and shipment backorder history.

vii. Fixed assets

The fixed assets system can be designed to maintain an asset inventory and create an asset history file, track transferred and retired assets, calculate depreciation, and accommodate unique district reporting needs.

viii. Telephone system (voice-mail)

ix. Computer system, including:

- (a) E-mail
- (b) Network support
- (c) Hardware/software purchases
- (d) Internet

f. Design Food Services Program

The board and administration should decide whether to establish or continue cafeteria operations and should design the kind of program desired and the level of service offered. Decisions should be made regarding staffing requirements, participation, and cost. Operational policies should be defined in all respects.

Issues to be considered:

- i. Requirements
- ii. Operations
- iii. Procurement and inventory process

g. Define Business Operations Staffing Needs

Staffing needs for all business operations functions should be consolidated for review and evaluation against projected resources. Changes in specific staffing requirements should be considered with the design of any given function to ensure that the system design is compatible with the available human resources. A master staffing schedule should be developed.

h. Conduct Policy Review and Adoption

All business operations policies should be reviewed to ensure compatibility with systems and with the district's philosophy, mission, and goals.

3. Educational Services Policies and Procedures

a. Establish Goals and Objectives - Instruction

The new governing board should work with the community to establish educational goals and objectives relevant to the lives and futures of the students of the district. The goals and objectives should include, but not be limited to, the overall district philosophy and goals, a process for planning and evaluating the instructional program, and a method for keeping abreast of educational trends and changing student needs. These goals and objectives should include the specific role of the board and the superintendent.

b. Establish Goals and Objectives - Students (Pupil Personnel)

The new governing board should establish goals and objectives that focus on the students' welfare, both physical and educational. To establish these goals and objectives, the board should work closely with parents or

guardians and the community to best understand the needs and interests of all involved. These goals and objectives should include the role and relationship of each party involved (e.g., board, superintendent, parents).

c. Analyze Existing Programs

The new governing board should analyze the existing programs of the original districts (kindergarten through grade eight and grades nine through twelve) to determine which, if any, conform to the goals and objectives of the new school district and which require new policies and procedures to be instituted.

d. Develop Curriculum and Instruction Requirements

The development of curriculum and instruction requirements must reflect the district's established goals and objectives, with emphasis on student needs and legal requirements. Community needs and desires also should be considered. The items listed below should be addressed. These items are not all inclusive; the governing board may require that additional items be considered.

- i. Adult education
- ii. Advanced placement
- iii. Alternative schools
- iv. Articulation (i.e., curriculum strands/framework alignment)

e. Define Student Services Policies and Procedures

Policies and procedures should be considered for the following items in student services if appropriate/applicable to the new district; many are required by law. These items are not all inclusive. The law may require additional items and/or the governing board may desire considering additional items.

i. Attendance/Admission

- ii. Child welfare and attendance
- iii. Child care
- iv. Discipline - suspension/expulsion
- v. Dropout prevention
- vi. Grades/evaluation of achievement

- vii. Grants
- viii. Guidance/counseling services
- ix. Health services (e.g., nurses, health aides)
- x. Married/pregnant/parenting students
- xi. Nonpublic school contracts
- xii. Promotion/acceleration/retention
- xiii. Psychological services
- xiv. School Attendance Review Board (SARB)
- xv. Transportation: Home-to-school, activity, special education
- xvi. Student assessment (testing)
- xvii. Student meals
- xviii. Student records (cum folders)
- xix. Parent information handbook
- xx. Student handbook

f. Conduct Policy Review and Adoption

In accordance with adopted governing board bylaws, the board should conduct the required review process (e.g., request staff and community opinions) on the proposed instruction/student policies prior to adoption. Following the completion of the review process (when responses are received and changes initiated), the policies should be placed on the agenda for adoption.

Issues to be considered:

- i. Instruction
- ii. Students (Pupil Personnel)

g. Define Educational Services Staffing Requirements

To ensure that the interests of the students and the educational program are served, the staffing requirements must be defined following the development of the curriculum/instruction requirements.

The governing board must be cognizant of staffing in accordance with law (i.e., certification). A master-staffing schedule should be developed.

4. Design Personnel Function Policies and Procedures

The policies/procedures should identify the relationship between the people who operate the district and those who provide the educational leadership for programs and services. The policies and procedures should provide employees with an understanding of their position and their relationship to other staff. It is important that the policies address employee rights, privileges, and responsibilities that include, but are not limited to, such areas as representation, leaves, fringe benefits, assignments, evaluations, and promotions. To this extent, district personnel should be involved in the development process.

a. Establish Goals and Objectives

In establishing goals and objectives, the governing board should consider how it will obtain and keep the qualified personnel it desires for the district. The goals and objectives should be developed in conjunction with employee organizations and administrative staff and should comply with all requirements of law and regulations (e.g., equal employment opportunity [if legally required or permissible]).

b. Define and Establish Personnel Function

The governing board should define and establish the personnel function as outlined in the policies and procedures and the goals and objectives. The personnel function should also include the development of job descriptions and a study of salary schedules with an analysis of the salary placement of each staff member. This analysis will require the establishment of a standard form for personnel data collection.

Issues to be considered:

- i. Develop hiring plan and staff formulas
 - (a) Initial personnel requirements
 - (b) Priority personnel requirements
 - (c) Final personnel requirements
 - (d) Determine credential and waiver requirements
- ii. Review obligations to employees
- iii. Review *Education Code* for obligations mandated by unification

- (a) Conduct staff survey to determine district choice
 - (b) Establish transferring staff salary placement and fringe benefit
- iv. Review existing labor contracts with unions and the Public Employment Relations Board (PERB)
- v. Determine need for reclassification studies
- vi. Review and update personnel forms
- vii. Develop evaluation and process/instruments
- viii. Develop work stoppage plan
- ix. Develop integration plan for existing and new employees
 - (a) Develop new employee orientation program
 - (b) Develop process to maintain personnel records
 - (c) Develop employee handbooks
 - (d) Develop Medicare payment policy
- x. Contact PERB as resource
- xi. Negotiate, recertify, or decertify labor contracts with unions (PERB)
- xii. Develop salary schedules
- xiii. Develop fringe benefits package
- xiv. Determine reemployment rights and affected staff
- xv. Analyze new job requirements and write job descriptions
- xvi. Priority personnel processing
 - (a) Assign classified staff
 - (1) Volunteers
 - (2) Substitutes
 - (b) Assign certificated staff
 - (1) Volunteers
 - (2) Substitutes

(3) Mentors

- (c) Ensure transfer of employee records
- xvii. Study benefits of early retirement programs
- xviii. Determine retiree obligations and liabilities (AB 528)
- xix. Conduct policy review and adoption

Upon completion of all personnel services policies/procedures, a review should be conducted to ensure compatibility with the district's philosophy, mission, and goals. The review process should be conducted in accordance with adopted governing board bylaws. Following completion of the review process, the policies should be placed on the agenda for adoption.

5. Develop School Systems Implementation Master Plan

The purpose of the school systems implementation master plan is to specifically identify the operating plans of all systems supporting the school district and the resources required to establish them. Additionally, the plan should include issues and specific actions to mitigate or resolve them. When developed, this plan will provide direction to the incoming operations team, serve as a reference tool for the governing board, and provide accountability to the community.

C. The Implementation Period

The school systems implementation master plan contains all components needed to effectively operate the district. This implementation plan, including operational policies and resource plans to be used as the blueprint of the district, and its initial operations should be approved by the board and well understood by those carrying out specific tasks.

1. Administration Program Operations

In accordance with board-approved policies, administrative personnel will begin their function of providing leadership to the district and the at-large educational community, ensuring that the district is in compliance with all relevant educational laws, policies, and regulations. The superintendent serves as the chief administrative officer to the district and the ex-officio secretary to the district governing board.

a. Publish Board/District Directory

A directory of all district personnel and board members should be developed soon after staffing decisions have been completed. Additionally, a schedule of pertinent district events and board meetings should be published.

b. Report Cards and Calendars

School-year calendars need to be finalized and made public. Also, the process and the assignment of responsibility for developing the individual School Accountability Report Cards should be finalized.

c. Adopt First-Year Budget

Administrative personnel need to take the necessary steps to obtain board adoption of the first-year budget. Steps will include, but not be limited to, arranging a public hearing and necessary notification of the public hearing and preparing a budget presentation to the board.

2. Business Services Program Operations

The business services program provides business and support services to the district, including financial accounting and reporting; payroll processing, budget preparation, monitoring, and revision; financial auditing; attendance accounting; unemployment insurance management; and risk management.

a. Establish Insurance Contracts

Existing insurance documents should be examined to ensure that name changes, increases/decreases in facilities and other property, staffing changes, and so forth are reflected. The process should be coordinated with a review of property inventories.

Issues to be considered:

- i. Property and liability
- ii. Fire coverage
- iii. Parent-Teacher Association (P.T.A.) and volunteer coverage

b. Establish Food Services Program

Once a decision has been made to establish or continue a food service program, the staff should take into account the needs of students and their families to help determine and design the type of program and level of service. Then staffing levels, participation criteria (and projected participation), and costs for the service will need to be determined.

Issues to be considered:

- i. Purchasing
- ii. State free and reduced price contracts
- iii. Surplus commodities
- iv. Bookkeeping
- v. Vendors
- vi. Supplies
- vii. Extra services
- viii. Breakfast programs
- ix. Accounts payable

c. Establish Transportation Functions

The need for both regular and special education transportation should be determined, and then a transportation program should be put in place that meets those needs. Options for providing a complete transportation

program (i.e., contracting with a private server, county office of education, or another school district) should be examined when making these decisions.

Issues to be considered:

- i. Reregister vehicles
- ii. Publish bus routes and schedules
- iii. Schedule bus inspections with California Highway Patrol

d. Establish Maintenance and Operations Functions

A program to establish maintenance and operations services for the district office and school sites should be established. The transportation function may include repair and modifications of existing structures; electrical support of workstation relocations; service for heating, ventilation, and air conditioning systems; lighting; plumbing; emergency power systems; painting; furniture repair and general maintenance as necessary; landscaping; custodial cleaning and maintenance; security and fire systems; monitoring and scheduling of private security patrols; and issuance of building access cards and/or keys.

Issues to be considered:

- i. Department reorganization
- ii. Vendor contracts
- iii. County contracts/city contracts (e.g., grounds, etc.)
- iv. Leases, sale of property/transfer property
- v. Deferred maintenance plan/determine infrastructure needs at facilities
- vi. Coordination of purchasing with new contracts
- vii. Custodial/Ground workload - with personnel
- viii. Grounds workload - athletic facilities and equipment
- ix. District inventories - property appraisal
- x. Copy machine contracts
- xi. Asbestos plan
- xii. Surplus properties

- xiii. Facility architect plan - gas, electric, water
- xiv. Interface telephone systems
- xv. Bids for new contracts
- xvi. Security - keys, alarm systems
- xvii. Mail service
- xviii. Moving and/or receiving

e. Provide Furniture and Equipment

A property inventory should be completed and compared with property needs of the new district. New furniture and equipment needs should be identified. A study of surplus property should be undertaken.

f. Establish School Site Administration

Issues to be considered:

- i. Bank accounts
- ii. Disaster preparedness plans
- iii. Safety committee
- iv. Organizational memberships
- v. Staff
- vi. Operating procedures

g. Develop First-Year Budget

The budget for the first year of the new district's operation should be set up in the financial system. Budget instructions and schedule should be prepared, and the salary projection system should be coordinated with the personnel, information system, payroll, and program managers. Revenue estimates should be made in consultation with program managers. Budget preparation may be an appropriate time to provide in-service training on the budget development system.

3. Articulation Program Operations

The primary components of Articulation Program Operations are (1) *Select and Document Curriculum Strands/Frameworks*; (2) *Form Staff Curriculum Articulation Committees*; and (3) *Conduct Staff Development*.

Another component of this operation is to *Evaluate/Select Educational Materials*. Issues to be considered regarding this component are:

- Textbooks

Issues to be considered

- Adoption cycle
- Review component/former districts' selection/use
- Framework alignment

- Other educational materials and equipment

Issues to be considered

- Audiovisual components
- Inventories
- Contracts

- Standardized tests

A final component of this operation is to *Establish Library Services*.

4. Personnel Program Operations

To implement the plan, operational procedures (functions) for personnel services should be established and adopted by the board. They should give clear direction to those carrying out specific tasks. The items listed below should be addressed. These are not all inclusive; many other functions may be established as the plan is further developed.

- a. Develop volunteer pool
- b. Develop substitute pool
- c. Review existing/pending personnel judgments
- d. Review/divide workers' compensation cases

- e. Determine status of leave rights of transferring staff
- f. Determine seniority lists
- g. Determine layoff status due to reduction in force (RIF) including rehire rights
- h. Provide panel hearings as requested
- i. Handle final personnel processing and assignment
 - i. Assign classified staff
 - (a) Volunteers
 - (b) Substitutes
 - ii. Assign certificated staff
 - (a) Volunteers
 - (b) Substitutes
 - (c) Mentors

CHAPTER 9

THE EFFECTS OF SCHOOL DISTRICT ORGANIZATION

This chapter lists the various effects of a school district reorganization on a school district and its employees, property, funds, obligations, bonded indebtedness, and state funding. This information is valuable to diverse groups during the processing of a school district organization proposal. An understanding of the legal requirements will be useful to petitioners, electors, and county committees when considering whether a school district organization proposal should be recommended for approval. New governing board members also will find this chapter useful because these requirements must be implemented once the school district organization proposal has been approved and a majority of the voters in the district have voted in favor of the proposal.

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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A. Employees under Reorganization

1. Classified Employees

Any reorganization of a school district shall not affect the rights of persons employed in positions not requiring certification to retain the salary, leaves, and other benefits that they would have enjoyed, had the reorganization not occurred. (EC 35556, 45121) In a reorganization, the following general rules apply:

- a. An employee of an original district that is included in a new district shall become an employee of the new district. (EC 35556[a])
- b. Employees of a district regularly assigned to the territory being lost to another district shall become employees of the new district. Those whose assignments pertain to that territory, but who are not actually sited there, may elect to either remain with the original district or become employees of the new district. (EC 35556[b])
- c. If a district's territory is completely absorbed into two or more districts, regular employees will become employees of the district acquiring the respective territory. Employees not assigned to specific territory within the original district will join the district of their choice. (EC 35556[d])
- d. Employees regularly assigned to a particular school shall be employees of the district in which the school is located unless the employee elects to remain with the original district. (EC 35556[e]) Certain conditions apply to the employee's ability to remain with the original district. (EC 35556[c]), 44035]
- e. In a new unified district, non-certificated employees shall continue in employment for not less than two years. (EC 45121)
- f. As used in this section and in the subsequent section on certificated employees, "the school or other place in which any such employee is employed" and all references thereto, includes but is not limited to, the school services or school program that as a result of any reorganization of a school district will be provided by another district, regardless of whether any particular building or buildings in which such schoolwork or school program was conducted is physically located in the new district, and regardless of whether any new district resulting from such reorganization elects to provide for the education of its pupils by contracting with another school district until such time as the new district constructs its own facilities.
- g. Except as stipulated earlier, nothing in the above section shall deprive the governing board of the acquiring district from making reasonable assignments of duties.

2. Certificated Employees

The reorganization of school districts shall not affect the classification of certificated employees already employed by any affected school district. (EC 35555) The new district shall offer employment as follows:

- a. Permanent employees assigned to a building located within the new district shall remain at the school or facility to which they had been previously assigned, unless they elect to remain with the original district. (EC 35555, 44035)
- b. Probationary employees assigned to a building located within the new district shall be employed by the new district unless the probationary employee is terminated by such a district prior to May 15. If employment continues, the probationary status shall remain unchanged. (EC 44803, 44949, 44955)
- c. Permanent employees must select the district in which they choose to work before February 1 of the year in which the reorganization becomes effective for all purposes. The request may be made to either the board of the new district or the board of the original district. (EC 35555)
- d. If permanent employees elect to stay with the remainder of the original district in such numbers that the district does not have sufficient positions to accommodate all the employees, then the surplus employees may be dismissed in reverse order of their seniority. (EC 44955)

Should the anticipated attrition of staff in the original district be approximately offset by the decline in enrollment in that district, including the loss of transferred students, this aspect may be used to diminish the number of offers of employment extended by the receiving district. (EC 44955)

3. Superintendent's Contract or a New School District's Legal Obligation to Former Superintendent

One issue not fully addressed has been whether a superintendent's contract with an old school district involved in a unification becomes a legal obligation of the newly unified school district. Although there has not been a current definitive ruling on this issue, it appears likely that a unified district is not legally obligated to honor contract(s) with a former superintendent(s).

In *Milsap v. San Pasqual Union School District* (1965), 232 Cal. App. 2d 333, the appellate court examined then existing law to determine that a newly unified district was not obligated to honor a contract with a superintendent of one of the old school districts absorbed in the unification. The court reviewed various pertinent sections of the *Education Code* and determined that although there were general provisions requiring a newly unified school district to comply with

the obligations of a former district(s), such as contracts with classified employees, there was no specific provision requiring the new district to honor a contract with a former superintendent(s). The appellate court therefore concluded it was the Legislature's intent not to impose the obligation of employment of a district superintendent on a newly unified school district. *Milsap v. San Pasqual Union School District (supra)*, 232 Cal. App.2d at 335-36.

Similarly under current laws the *Education Code* specifically provides for continuance of employment contracts with classified and certificated employees but does not extend such contracts for district superintendents. It could thus be concluded that a new district has no obligation to honor an employment contract with any former superintendent.

4. Salaries after Reorganization

The power to determine employees' salaries resides with the governing board of a school district. A new governing board must determine the salary policy of a newly created district. (*EC* 45022, 45160)

a. Non-unified District

The new board may or may not adopt a salary schedule equal to or better than the best salary schedule of the original districts. All employees are entitled to transfer to the new district the benefits they accrued prior to reorganization. (*EC* 44976, 44984)

b. Unified District

The board of a new unified district may or may not adopt a salary schedule equal to or better than the best salary schedule of the original districts. The board has the power to increase or decrease salaries, and the new board could establish a lower salary schedule for teachers, thus decreasing their salaries. However, all non-certificated personnel must receive, for a period of two years, salaries, and benefits equal to those existing at the time of the election. (*EC* 45022, 45121, 45160) In summary, a new unified school board may reduce certificated employees' salaries but may not reduce non-certificated employees' salaries.

5. Adoption of Merit System

For reorganizations other than unifications, the governing board of the acquiring or new district must—if a majority of the classified employees voting on the adoption of a merit system approves it—adopt the merit system that had been adopted in the school district territory it acquired. For unifications, the governing board must employ classified employees in accordance with the system specified in Chapter 5, Article 6 (commencing with *EC* Section 45240) if

an affected district had a merit system and a majority of the classified employees voting approve. In both cases, governing boards must adopt a merit system if the reorganized district contains all or part of the territory of two or more districts that had merit systems. Governing boards also have the option of adopting a merit system if the classified employees do not request an election and the number of classified employees from a former merit system district exceeds the number of employees from the acquiring non-merit system district. (EC 45119, 45120)

6. Role of Public Employment Relations Board (PERB)

The PERB has jurisdiction over employer-employee relations matters affecting all school districts. School districts and exclusive bargaining representatives for employees should be advised to contact PERB to determine whether employee unions in the former district(s) may continue to represent the new district's employees and to determine the future validity of existing collective bargaining agreements.

Statutory provisions relating to the PERB's formation, its powers and duties, and procedures for handling charges of unfair labor practices are found in *Government Code* sections 3541–3541.5.

7. Exemption from FICA for Pre-1986 Employee Wages

Wages of public employees hired prior to April 1, 1986, are not subject to the *Federal Insurance Contributions Act* (FICA) as long as the employee is continuously employed by the public agency. There is no definitive answer to the question of whether or not a school district unification results in a change of employer, thus breaking the continuous employment requirement for FICA exemption and causing employee wages to be subject to FICA. On one hand, a number of employees could have a new employer after a successful unification. On the other hand, the *Education Code* guarantees employees that there will be no change in their rights, status, or classification.

In the past, districts have received private letter rulings from the Internal Revenue Service (IRS) stating that unification of the districts does not violate the continuous employment requirement for FICA. It is recommended that districts, after unification, consult with legal counsel or IRS for a similar determination.

B. Disposition of Property, Funds, Records, and Obligations

1. Property

The allocation of various properties, funds, and obligations (other than real property) is often made part of the transfer agreement, having been specified either by the petitioners or the county committee. Real property and the personal property and fixtures normally situated at the site shall belong to the district in which the real property is located. All the other property, funds, and obligations (except bonded indebtedness) shall be divided pro rata among the districts in proportion to the assessed value of the transferred territory within each district unless otherwise stipulated in the plans and recommendations of the county committee. Other bases for distributing properties that may be used are Local Control Funding Formula (LCFF) entitlement, average daily attendance, value and location of property, or any other equitable means. (EC 35560, 35736)

2. Funds from the Sale of Bonds

Funds from the sale of previously issued school bonds may be used for the acquisition, construction, or improvement of only the school property that was a part of the original district or for such use in that same district. However, if the new or acquiring district accepts and assumes the original district's bonded indebtedness, the funds may be used anywhere in the new or acquiring district and for the same voted purpose. (EC 35561)

3. Records

In the case of a district that has been completely absorbed by two or more districts on the same effective date, the required records shall be deposited with the district within which the office lies. Thereafter, employee records will be sent to the employees' respective employers, or last employers. Pupil records are sent to the school district of the respective student's last enrollment. (EC 35562)

In this same case, the county superintendent of schools who has jurisdiction over the original district shall assume all responsibility for the following (EC 35563):

- a. Completing all records and reports.
- b. Paying all outstanding obligations, except those resulting from contracts to be assumed by the new districts.
- c. Preparing for proper filing of all records required to be kept permanently.

- d. Distributing records of employees, students, and others, as required by law.
- e. Employing an auditor as required by *Education Code* Section 41020.
- f. Discharging such other functions as shall be deemed necessary.

In fulfilling the above responsibilities, the county superintendent may request help from the districts involved, and they shall release such employees to the county superintendent as are needed to carry out these responsibilities. Salaries and expenses of these employees shall be paid from accumulated funds of the dissolved district. (*EC 35563*).

4. Student Body Property, Funds, and Obligations

If a reorganization occurs so that a portion of the students are no longer residing in the original district, then the property, funds, and obligations of the former student body shall be divided among school districts by the county committee, providing that no share will exceed the proportion of students leaving to those enrolled. Such assets/liabilities shall be transferred to the school where the respective students are enrolled. Funds from devises, bequests, or gifts shall not be divided and will remain with the school where originally received. (*EC 35564*)

5. Dispute over Disposition of Funds

A board of arbitrators may be appointed to resolve any dispute over disposition of funds or property. The board shall consist of one member appointed by each district and one appointed by the county superintendent of schools having jurisdiction. By mutual accord, the county member may act as sole arbitrator; otherwise, arbitration will be the responsibility of the entire board. Expenses will be divided equally between the districts. The written finding and determination of the majority of the board of arbitrators is final, binding, and non-appealable. (*EC 35565*)

6. Property Tax Revenue

Section 99 of the *Revenue Taxation Code* provides for the reallocation of the property tax revenue when jurisdictional changes occur in the taxing agencies. Subdivision (b) of that section requires that the county assessor provide to the county auditor, within 30 days of receiving notification of the change of jurisdictions, a report that identifies the assessed valuations for the territory. The county auditor then estimates the amount of property tax revenue that is generated in the territory whose jurisdiction is changed. The auditor notifies the governing boards involved of the property tax revenue generated by the reorganized territory.

Subdivision (i) provides that, for any reorganization when one or more of the affected districts receives only basic aid apportionments, the affected governing boards shall negotiate the exchange in tax revenue between the districts, and, if they are unable to do so within 60 days after the effective date of the reorganization, the county board of education shall determine the amount of property tax revenue to be exchanged. If the affected districts are in more than one county, the State Board of Education decides the property tax revenue exchange.

In most cases, all of the tax revenue from the territory being reorganized would be transferred to the district receiving that territory. However, it is clear from Section 99 that the tax revenues to be transferred are subject to negotiation if one or more of the affected districts receives only basic aid apportionments. This exchange of tax revenue could also be set forth in the petition to reorganize districts.

7. Property Distribution Process

While the *Education Code* specifies the details of the division of property, it does not specifically address the method under which this distribution shall take place. Where a sizable amount of property is involved, the county committee may want to ensure that an equitable process for distribution, agreed upon by all districts involved, will be established before the proposal is submitted to the State Board of Education or the electorate. (EC 35705.5, 35736)

The following illustrates methods that may be utilized by the county committee to ensure equitable distribution of personal property. They are suggestions only, and each committee should evaluate the process and make appropriate adjustments to fit their local conditions.

- a. Personal property may be appraised for all purposes at current market value as of June 30 of the school year prior to the date that the new district becomes effective. This may be done by a certified appraisal firm selected by the county superintendent from a list submitted by each of the involved districts.
- b. All personal property shall be listed on an inventory by category, specifying the current market value.
- c. The total value of the personal property shall be distributed equitably. Methods for such division may include the ratio that the assessed valuation of each proposed district bears to the total assessed valuation of the area, the LCFF entitlement per student in each district, the number of school-age children residing in each portion of the district, the value and location of property, or any other method as may be deemed pertinent and equitable. (EC 35560, 35736)

- d. The districts shall draw lots to determine which shall have first choice and which shall have second choice. The order shall be rotated after each list of ten items is selected.
- e. Items shall be made available in lots of ten. The person whose turn it is to select first may purchase his or her share (ratio) of the ten items or may elect to decline to purchase any of the items in that lot of ten items. This process shall continue until all property has been distributed and all money credits expended.
- f. Should one district decline to select a sufficient number of times so that items are remaining at the time when the other district(s) has expended its credit, the remaining district shall receive all items remaining and the distribution shall be deemed completed.
- g. The necessary expenses and compensation of the appraisal shall be prorated and paid by each district on the basis of the ratio of assessed valuation. Other bases for prorating may be utilized.
(*EC 35736*)

C. Bonded Indebtedness

1. Limitation on Reorganization

No territory shall be taken from any school district having any outstanding bonded indebtedness and made a part of another district where the action, if taken, would so reduce the last equalized assessed valuation of a district from which the territory was taken so that the outstanding bonded indebtedness of the district would exceed 5 percent of the assessed valuation remaining in the district for each level maintained, on the date the reorganization is effective.
(*EC 35572*)

2. Merger

In case of a merger, the single resulting school district becomes liable for all outstanding bonded indebtedness of those districts merged.
(*EC 35573*)

3. Annexing Territory with No Property or Buildings

Annexed territory with no school property or buildings drops all liability to the former district, but shall automatically assume a proportionate share of the new school district's bonded indebtedness. (*EC 35575*)

4. Annexing Territory with School Property and/or Buildings

The receiving school district takes possession of property and/or buildings on the day of annexation. The transferred territory drops all liability to the district of which it was formerly a part and assumes a proportionate share of the bonded indebtedness of the district of which it becomes a part. (EC 35576)

5. Liability for Loss of Assessed Value

When territory containing real property is transferred, the district acquiring the territory shall take possession of the real property and provide compensation as specified by the county committee or the *greater* of the following:

- a. That ratio of the losing original district's bonded indebtedness that equates to the transferring territory's proportion of the losing original district's assessed value;

or

- b. That portion of the original district's assessed value that was incurred for property acquisition and/or improvement within the transferring territory. (EC 35576[b], 35738)

6. Computation of Annual Tax Rate

The county board of supervisors shall compute the appropriate annual tax rate for bond interest and redemption. The county board of supervisors shall also compute tax rates for both the annual charge and the use charge for county school service fund programs. (EC 35576)

7. Authorized but Unsold Bonds

In the case of a school district that is completely divided into two or more other districts, the county board of supervisors shall certify that prior authorization to issue bonds be divided in the same proportion as the transferred territory's assessed valuation was to the former district's assessed valuation. Such bonds, if issued, are the new or acquiring school district's liability (when applying Chapter 8 of *State School Building Aid Law of 1952*). (EC 35577)

When one district is annexed as a whole into another, its unsold bonds may be issued by the board of supervisors on behalf of the new or acquiring district, providing that such funds be expended only for the purpose(s) for which the bonds were originally authorized. (EC 35578)

If the board of supervisors chooses to issue the bonds in the names of the former school districts, the bonds still remain the liability of the new or acquiring districts when the new or acquiring district's bonding capacity is computed and/or when aid is applied for under the *State School Building Aid Law of 1952*, Chapter 8 (commencing with Section 16000) of Part 10. (EC 35579)

8. Mello-Roos Community Facility Districts

Mello-Roos Community Facility Districts (CFDs) are voter-created public districts operated under the control of a board of directors. Often the CFD is created to provide infrastructure to a school district. Special taxes are levied on real property in the CFD to pay for school facilities. The school board is then designated as the board of directors of the CFD. This can become a problem in the event of a reorganization of territory that includes the CFD. For example, a high school district board may operate as the board of directors of a CFD within its boundaries. When a unified school district is formed along these same boundaries, legal steps must be taken to change the board of directors of the CFD from the high school district board to a newly formed unified school district board. Although it is clearly better to anticipate this possibility and provide for a board of directors that can be changed in the CFD's organizational and bond documents, it must be kept in mind that there is a covenant between the board of directors of the CFD and bond holders regarding the governance of the CFD, which must be honored. Bond counsel must be consulted to make any necessary changes to the conditions prescribed in the CFD's organization and bond documents. In some cases, legislation may be necessary.

9. School Facilities Fees

Statutes governing the collection and expenditure of school facilities fees require that those fees be expended for the purpose for which they were collected: providing the school facilities needed and having students come from the development on which the fees were assessed. Thus, it is recommended that unexpended school facilities fees be allocated and distributed on the bases of their sources.

D. Suitable School Facilities

As a result of certain reorganizations, a new district or a district acquiring additional students may not have suitable facilities in which employees of the district can educate all students who are residents of the district. Typically, these circumstances involve a new unified school district that has been formed without an existing high school within its boundaries.

Clearly, a new district without suitable facilities for all its students must make some arrangement to serve its unhoused students. The new district likely would contract with another district (or districts) for the education of its unhoused students and

such interdistrict average daily attendance must be claimed by the district of attendance for apportionment purposes (*EC* 46304).

If, after five years from the date of reorganization, the district is still unable to provide school facilities to educate all of its own students, the State Superintendent of Schools (Superintendent) shall annually report and recommend to the State Board of Education whether the district should be lapsed. If lapsation is recommended by the Superintendent, the State Board of Education may direct the County Committee on School District Organization to revert the reorganized district to its former status or to have it annexed to one or more neighboring districts (*EC* 35780).

E. Funding for Reorganized Districts

Chapter 47, Statutes of 2013 (Assembly Bill [AB] 97)—enacted as part of the 2013–14 budget package—made major changes to the way the state funds school districts. The goal of this new school finance system, known as the Local Control Funding Formula (LCFF), is to simplify how state funding is provided to school districts. Upon enactment of LCFF, revenue limits and most state categorical programs were eliminated. School districts now receive funding based on the demographic profile of the students they serve and gain greater flexibility to use these funds. The LCFF funding targets consist of grade span-specific base grants plus supplemental and concentration grants that reflect student demographic factors.

Similarly, this new school finance system made major changes to the funding calculation for school districts after an action to reorganize pursuant to *EC* Section 35511. Implementation of the LCFF began in the 2013–14 fiscal year. Because LCFF required additional resources and the State could not afford to fully implement it all at once, it was expected that it would take several years to be fully funded. Beginning with the 2019–20 fiscal year, LCFF funding targets enacted as a part of AB 97 have been reached and LCFF was fully implemented.

1. Overview of Funding Impact for Reorganized Districts Prior to LCFF

Prior to LCFF, when districts reorganized, the revenue limit for the reorganized district was calculated in two steps: (1) the blending of base revenue limits of the affected districts and (2) the calculation of an adjustment for salary and benefit differentials. The blending of the base revenue limits of the original affected districts used a weighted average approach that was largely revenue neutral to the districts and the State, and did not yield any increased funding to the reorganized district.

However, in many cases the adjustment for salary and benefit differentials yielded an increase to the reorganized district's base revenue limit of up to 10

percent of the blended revenue limit. The calculation of this adjustment started with the determination of the average cost of certificated salaries and benefits per full-time equivalent employee (FTE) in the affected districts, and then identified the cost of increasing the certificated employees in the component districts with low average costs up to the level of the district with the highest average costs. A second, parallel calculation was performed for classified employees. The sum of these changes for both certificated and classified employees, divided by the total ADA for the reorganized district, was added to the reorganized district's base revenue limit (up to the 10 percent of the blended revenue limit).

2. Overview of LCFF Funding Calculations

As noted previously, LCFF eliminated revenue limits—so they are no longer the most significant factor in the calculation of a reorganized district's funding (although they are still one of the factors used). The LCFF allocation has the following components:

- A base rate for each student in each of the following grade spans: K-3, 4-6, 7-8, and 9-12. In-lieu of the base grant, some students in qualifying school districts receive funding for small schools that meet geographical distance requirements.
- A base rate adjustment of 10.4 percent for each student in the K-3 grade span: K-3 (to cover costs associated with reducing and maintaining an average class enrollment of 24 students), and a base rate adjustment of 2.9 percent for each student in the 9-12 grade span).
- Supplemental funding for each targeted student (i.e. English Learner, low-income, or foster) (unduplicated count).
- Concentration funding for each target student in the district above a threshold of 55 percent of enrollment.
- Categorical funding from three existing programs—the Targeted Instructional Improvement Block Grant, the Home-to-School (HTS) Transportation program, and the Small School District Bus Replacement program—as an add-on to the LCFF. Districts that received funding from these programs in 2012–13 continue to receive that same amount of funding in addition to what the LCFF provides each year.
- Economic Recovery Target add-on to districts for which the previous funding system would have generated greater levels of funding than LCFF.

3. LCFF Allocations for Reorganized Districts

Beginning in 2019–20, all school districts are funded based on their LCFF targets as implemented by AB 97. While this greatly simplifies the calculations that are needed to blend funding rates in a school district reorganization, there still are several funding elements that must be determined. In addition, because the Education Protection Account provides funding based on the historical revenue limit of all school districts, calculations are needed to establish a proxy revenue limit for reorganized school districts.

Below is a general explanation of each component that will be blended to determine the new funding rates for the reorganized district¹.

a. 2012–13 Adjusted Revenue Limit Per ADA, Rates 1, 2, 3

The rates for each of the affected districts are weighted based on the amount of average daily attendance (ADA) from each former district that will be served by the reorganized district, and averaged to come up with new LCFF funding rates.

- i. Rate 1: 2012–13 Deficit Base Revenue Limit Rate
- ii. Rate 2: 2012–13 Other Revenue Limit Rate
- iii. Rate 3: 2012–13 Adjusted Revenue Limit Rate for Minimum State Aid

b. Necessary Small School Funding

Similarly, the Necessary Small School (NSS) Add-ons will be weighted to determine the new Add-on amounts for the reorganized district (if applicable).

- i. NSS Add-on for the NSS Allowance for the Target
- ii. NSS Add-on for the NSS Allowance for the Floor

In addition, the 2012–13 NSS allowance for minimum state aid may be added depending on the type of reorganization.

¹ If a new or acquiring district contains territory from districts that continue to exist, the new or acquiring district will not retain any categorical funding received by those districts that continue to exist (see *EC* Section 35735.2).

c. 2012–13 Categorical Program Entitlements Subsumed into LCFF

Depending on the type of reorganization, categorical program entitlements may be added together.

d. Economic Recovery Target

Depending on the type of reorganization, the economic recovery target entitlements may be added together (if applicable).

4. Resources

The California Department of Education (CDE) has created an Excel Workbook to assist county offices of education and school districts with calculating LCFF funding rates for affected school districts, which can then be used to estimate LCFF funding for the reorganized district. For additional information or to request a copy of the instructions and Excel file please send an email to PASE@cde.ca.gov.

Additionally, the Fiscal and Crisis Management Team (FCMAT) maintains an LCFF calculator to assist with the calculation of LCFF funding rates. The FCMAT calculator is available on the Internet at <http://fcmat.org/local-control-funding-formula-resources/>.

F. Other Funding Issues

1. No State Board Waivers Available

The calculation of the new base LCFF entitlement for a reorganized school district is not subject to waiver either by the State Board of Education or by the Superintendent of Public Instruction (*EC* Section 33050).

2. Declining Enrollment Adjustment

Under current law, a school district is funded for the greater of current or prior-year ADA (ref. *EC* Section 42238.05). Prior to a school district reorganization involving the merger of two or more districts, if some of the component districts are declining while the others are growing, those that are declining still benefit from the declining enrollment adjustment. But after the reorganization, any growth in ADA in one district would offset the decline in ADA in another district, resulting in a reduction in declining enrollment protection. Of course, there would be no loss in declining enrollment protection if all component districts were growing, or all declining.

3. Special Education

Under current law, special education funding for each Special Education Local Plan Area (SELPA) is based on that SELPA's total ADA. As a result, a SELPA's total funding would not be affected by a school district reorganization, except in the case where a reorganization changed a SELPA's boundaries. Each district now receives a share of a SELPA's total funding based on the SELPA's local allocation formula. As a result, there is no change in funding to a SELPA (except in the rare instance where the district reorganization affects a SELPA's boundaries). Rather, the SELPA whose member districts are affected by a reorganization—not the state—will need to adjust the distribution of special education revenues to reflect the reorganization.

G. Completion and Effective Dates

1. Completion of Reorganization Action

A reorganization action is complete when the board of supervisors, upon receiving proper evidence that such action was approved as provided by law, makes an order to create, change, or terminate the appropriate school boundaries. (*EC 35530, 35765*) *Education Code* sections 1043 and 1080 allow the transfer of responsibilities of the county board of supervisors to the county board of education. In those counties where such action has resulted in the responsibilities for school district organization being transferred to the county board of education, making the order to create, change, or terminate the appropriate school boundaries may be the responsibility of the county board of education or the county superintendent of schools.

2. Effective Date of Change

Changes to school district organization shall be effective upon the date when all the following are completed (*EC 35532*):

- a. Determination of the assessed valuation of any district(s) affected by the action.
- b. Appointment or election of members of the governing board.
- c. Preparation and submission of the school district budgets.
- d. Election or appointment of an executive officer and other employees required to service the immediate needs of the district.
- e. Election or appointment of employees for the ensuing school year.

- f. Calling and conducting of any elections authorized by law relative to the financing of the district, including bonded indebtedness tax rates and State School Building Fund.
- g. Expenditure of funds available to the district.
- h. Exercise by the governing board of the school district of other powers and duties vested in governing boards of the districts of the same type of class and not inconsistent with other provisions of this code.
- i. Receipt and expenditure of funds transferred pursuant to *EC* Section 42623.
- j. Issuing and selling of bonds.

The reorganization shall be effective for all purposes on July 1 of the calendar year following the calendar year in which the board of supervisors ordered the action, if the matter has been filed with the State Board of Equalization by December 1 of the year in which the board of supervisors creates the order. (*EC* 35534, 35765, *Government Code* 54900, 54901)

3. Continuation of Existing Governing Board

In a district that has been wholly absorbed, the governing board will continue to function and have all powers and duties until the action is effective for all purposes. (*EC* 35533)

4. Powers of a New Governing Board to Secure Options

A new governing board may secure options to purchase land and issue bonds as soon as it has been appointed or elected and the respective districts have been named. (*EC* 35536)

5. Authority for County Superintendent to Monitor Fiscal Operations

Effective upon certification of election results for any reorganized district, the county superintendent of schools may exercise any of the powers and duties of *EC* 42127.6 regarding the reorganized district until the reorganized district becomes effective for all purposes. Moreover, the county superintendent of schools and school districts affected by a reorganization are subject to requirements pursuant to *EC* 35740 whenever an affected district considers taking action “on any matter that could have a material fiscal impact on, or impose a debt or liability on, the original, proposed, or reorganized school district.”

CHAPTER 10 OTHER FUNCTIONS OF THE COUNTY COMMITTEE

County committees on school district organization have additional responsibilities in processing proposals regarding the structure, membership, and areas of representation of members of school district governing boards. These requirements are unique to county committees and constitute a major portion of their workload. This chapter is particularly important for committee members.

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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A. Introduction

A county committee on school district organization serves as central initiator, coordinator, facilitator, and arbitrator for the reorganization of school districts. Most of its activities deal with the reorganization of school district boundaries.

Nevertheless, the county committee has other responsibilities empowered by the *Education Code* relating to trustee areas, membership, and methods of electing governing boards. This chapter identifies and addresses those other functions.

Section B of this chapter is organized as a quick-reference guide similar to that found in Chapter 5. It provides a succinct reference in the form of a one-page chart and accompanying flowchart, which depict the sequence of steps to be followed in each of these seven processes:

- Creating or abolishing trustee areas
- Increasing or decreasing the number of governing board members
- Rearranging trustee areas
- Petition process—after a county committee approves a rearrangement of trustee areas
- Alternative methods of electing governing board members
- Establishing or abolishing common governing boards
- Rearranging trustee areas based on federal decennial census

Section C, “Legal Provisions: Supporting Actions,” provides more detailed information about the steps identified in Section B and addresses several topics related to trustees and trustee areas. It also includes matters pertaining to county board of education trustees and trustee areas.

B. Process: Quick-Reference Chart 10.1

CREATION OR ABOLISHMENT OF TRUSTEE AREAS (Refer to Flowchart 10.1)

Method 1

1. County committee receives request/initiates action to create or abolish trustee areas. (EC 5019)
2. County committee calls and conducts at least one public hearing in the district on the matter. (EC 5019)
3. At the conclusion of the hearing, the county committee approves/disapproves the proposal. The county committee may include a declaration that the change in the method of electing members of the governing body is being made in furtherance of the purposes of the California Voting Rights Act (CVRA) in its resolution approving the proposal. The resolution shall take effect upon adoption and shall govern all elections for governing board members occurring at least 125 days after the adoption of the resolution. (EC 5020[a][2])
4. If the county committee resolution to approve the proposal does **not** include a declaration that the change in the method of electing members of the governing body is being made in furtherance of the purposes of the CVRA, approval of the proposal constitutes an order of election. (EC 5020)
5. If an election is ordered, the proposal is placed on the ballot not later than the next succeeding election for members of the governing board. (EC 5020[a])
6. If a majority of those voting approve the establishment or abolishment of trustee areas, any affected board member serves out his or her term, and succeeding board members are elected according to the selected method. (EC 5021)

Method 2

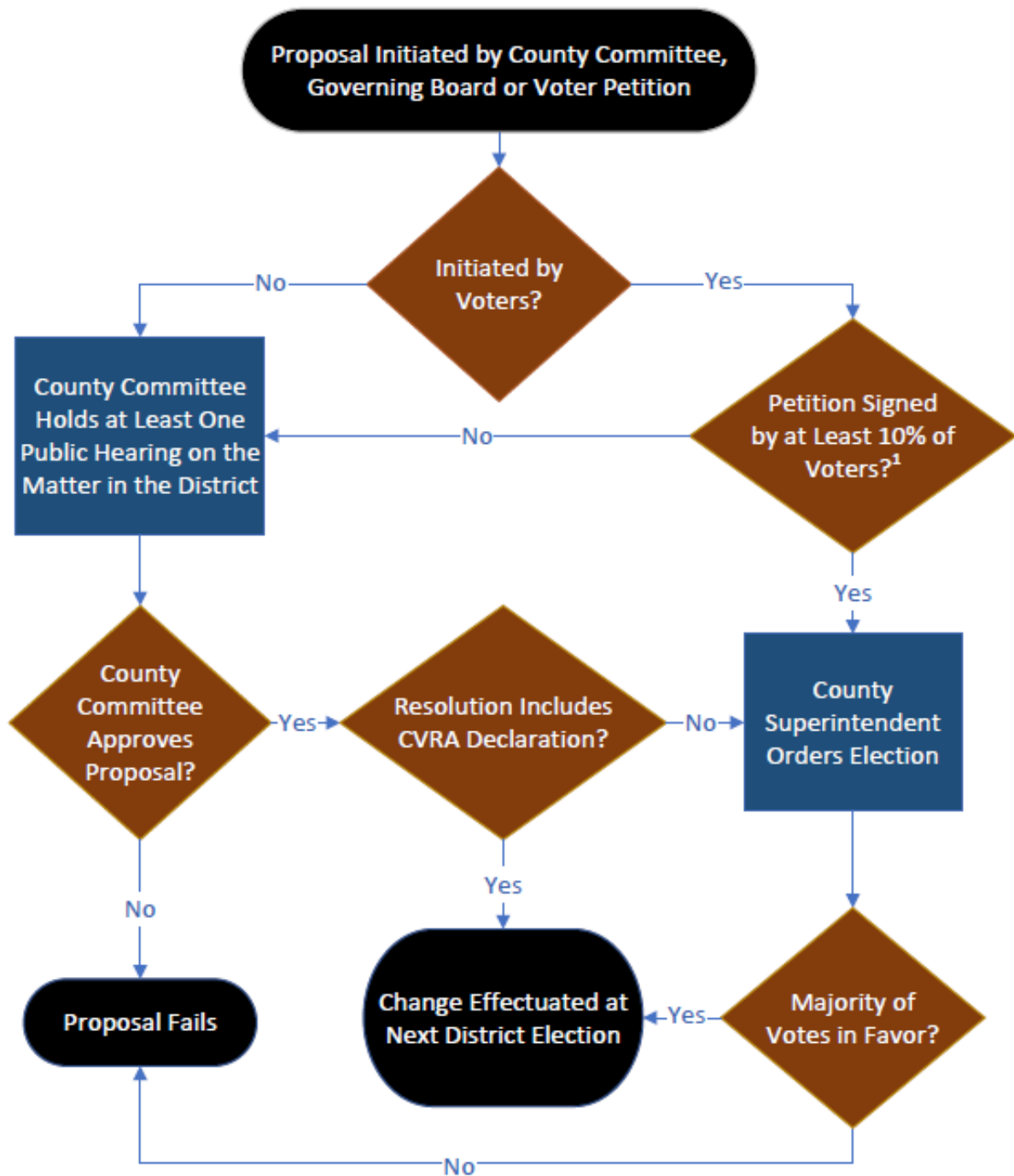
1. Petition is filed containing at least 10 percent of the signatures of the district's registered voters proposing to create or abolish trustee areas. (EC 5020[c])
2. Prior to placing the issue on the ballot, the county committee may call and conduct one or more public hearings on the matter. (EC 5020[c])
3. Proposal is placed on the ballot at the next succeeding regularly scheduled election, the next succeeding statewide primary or general election, or the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. (EC 5020[c])

4. If a majority of those voting approve the establishment/abolishment of trustee areas, any affected board member serves out his/her term and succeeding board members are elected according to the selected method. (*EC 5021*)

Note 1: Whenever trustee areas are established in a district, provision must be made for one of the alternative methods of electing governing board members. (*EC 5030*)

Note 3: The required election in Method 1 to establish trustee areas may be waived by the State Board of Education. A county board of education or a school district governing board seeking to waive this election should contact the Waiver Office of the California Department of Education for information regarding submittal of a waiver request.

Flowchart 10.1. Create or Abolish Governing Board Trustee Areas



¹County Committee may hold one or more public hearings.

B. Process: Quick-Reference Chart 10.2

INCREASE OR DECREASE IN NUMBER OF GOVERNING BOARD MEMBERS

(Refer to Flowchart 10.2)

Method 1

1. County committee receives request/initiates action to increase or decrease the number of members of the governing board. (EC 5019) A request to decrease the size of the governing board from five to three members may be made only by a district whose average daily attendance during the preceding year was less than 300. (EC 5019[a][2])
2. County committee calls and conducts at least one public hearing in the district on the matter. (EC 5019)
3. At the conclusion of the hearing, the county committee approves or disapproves the proposal. The approval of the proposal constitutes an order of election. (EC 5020)
4. Proposal is placed on the ballot not later than the next succeeding election for members of the governing board. (EC 5020)
5. If a majority of those voting approve a proposal to increase the number of members of the governing board, the two additional members of the board must be appointed by the governing board of the district. (EC 5022)
6. If a majority of those voting approve a proposal to decrease the number of members of the governing board, the members would continue to serve out their terms. Seats would be eliminated as terms expire, but terms must be staggered. (EC 5021)

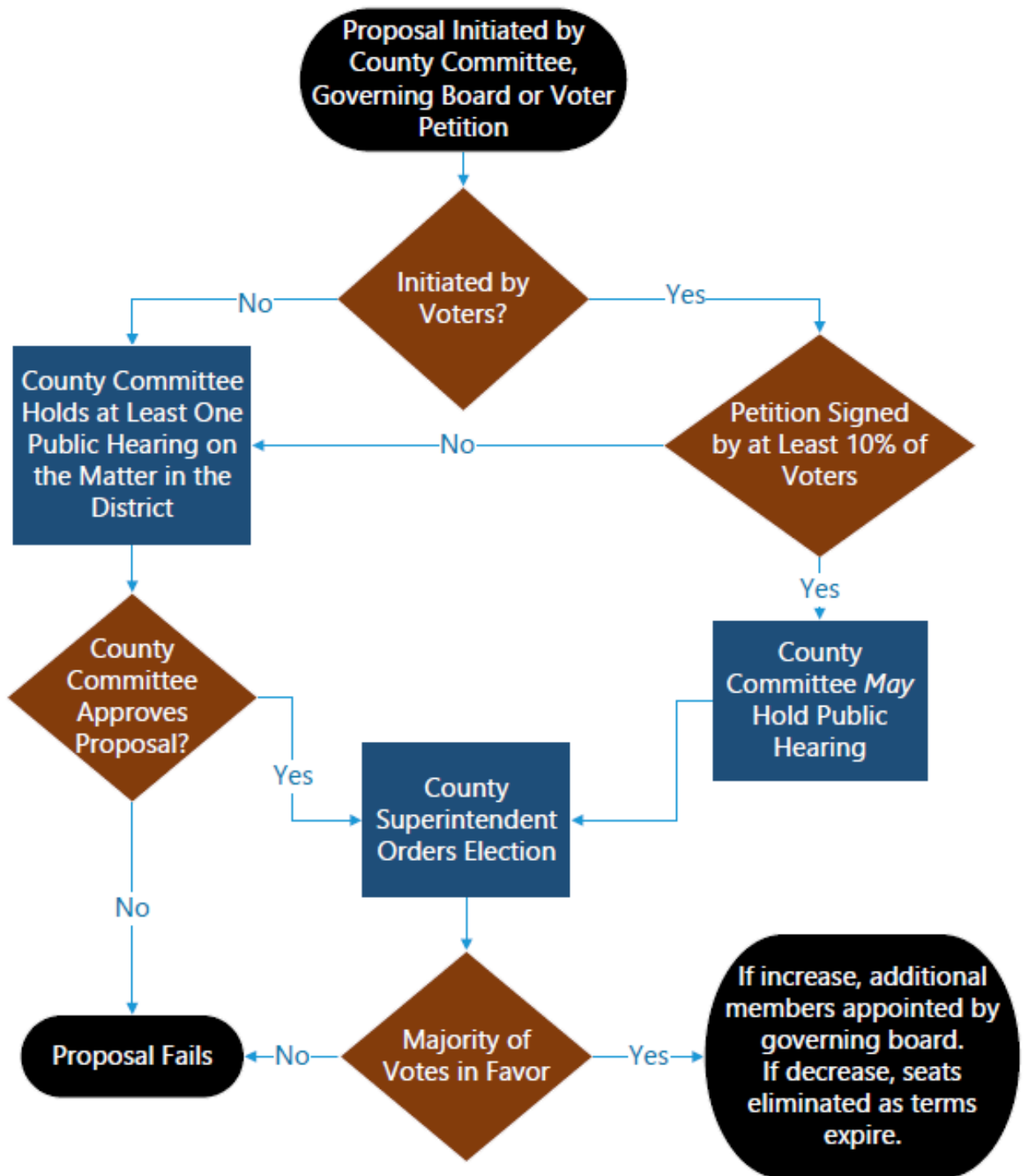
Method 2

1. Petition is filed containing at least 10 percent of the signatures of the district's registered voters proposing to increase or decrease the number of members of the governing board. (EC 5020[c])
2. Prior to placing the issue on the ballot, the county committee may call and conduct one or more public hearings on the matter. (EC 5020[c])
3. Proposal is placed on the ballot at the next succeeding regularly scheduled election, the next succeeding statewide primary or general election, or the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. (EC 5020[c])

4. If a majority of those voting approve a proposal to increase the number of members of the governing board, the two additional members of the board must be appointed by the governing board of the district. (*EC 5022*)
5. If a majority of those voting approve a proposal to decrease the number of members of the governing board, the members would continue to serve out their terms. Seats would be eliminated as terms expire, but terms must be staggered. (*EC 5021*)

Note 1: The required election in Method 1 may be waived by the State Board of Education. A county board of education or a school district governing board seeking to waive this election should contact the Waiver Office of the California Department of Education for information regarding submittal of a waiver request.

Flowchart 10.2. Change Number of Governing Board Members



B. Process: Quick-Reference Chart 10.3

REARRANGEMENT OF TRUSTEE AREAS

(Refer to Flowchart 10.3)

1. County committee receives request/initiates action to rearrange trustee areas. (*EC* 5019)
2. County committee calls and conducts at least one public hearing in the district on the matter. (*EC* 5019)
3. At the conclusion of the hearing, the county committee shall approve or disapprove the proposal. (*EC* 5019)
4. The rearrangement of trustee areas must be put into effect for the next school district election occurring at least 125 days¹ after its approval. (*EC* 5019)

Note: The proposal to rearrange trustee areas must go to an election if a petition requesting such an election is signed by five percent of the voters in the district. The following process applies under that scenario:

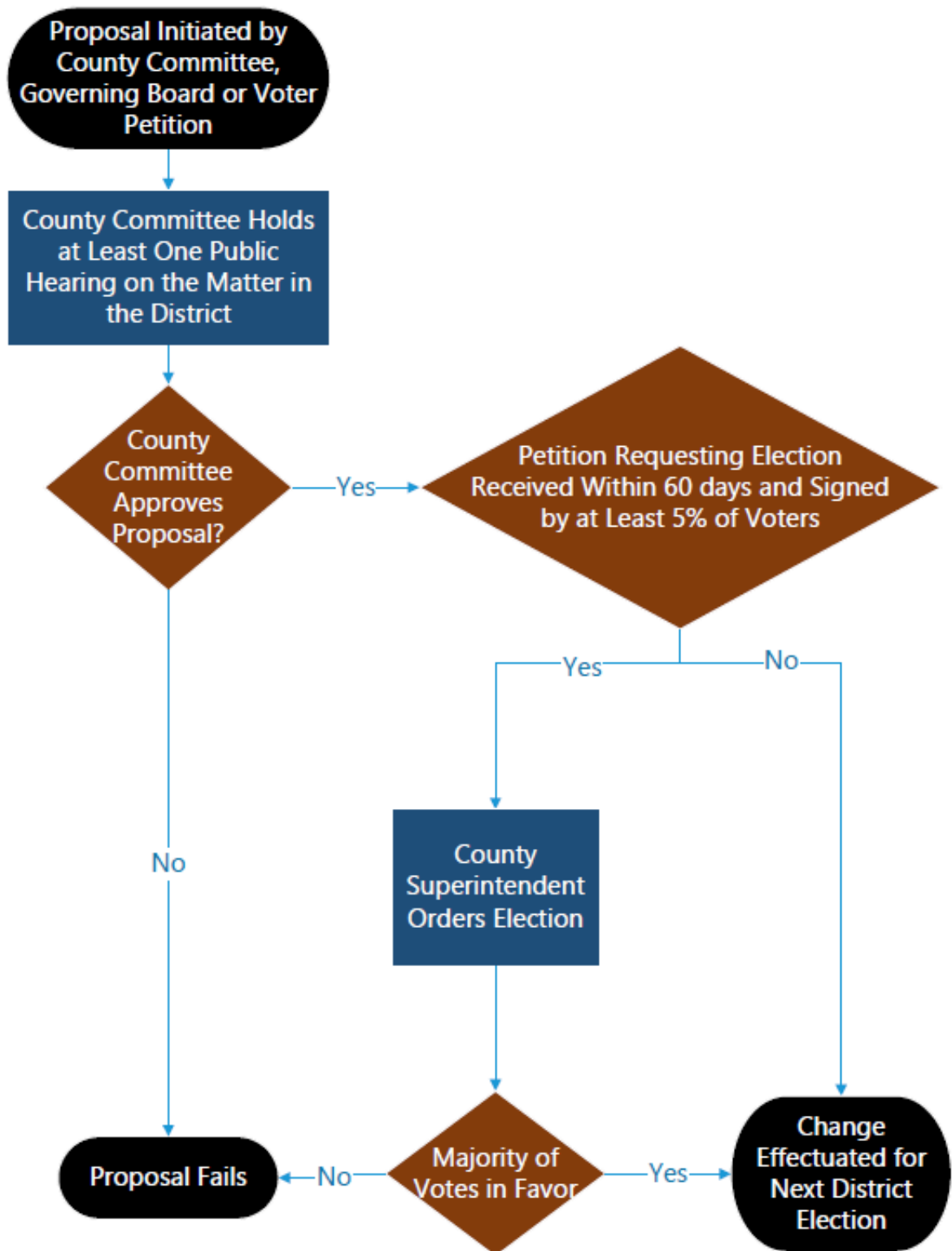
1. If the county committee approves the rearrangement of trustee areas and a subsequent petition is received, signed by at least five percent of the registered voters of the district, requesting an election on the proposed rearrangement of trustee area boundaries, the county committee must put the proposition to vote. The deadline for receiving the petition is 60 days after the county committee approves the proposal. (*EC* 5019)
2. The county committee must place the proposal on the ballot not later than the next succeeding regularly scheduled election, the next succeeding statewide primary or general election, or the next succeeding regularly scheduled election at which the electors of the district are entitled to vote, provided that there is sufficient time to place the issue on the ballot (125 days prior to the election date). (*EC* 5019[d], 5020[b])
3. If a majority of those voting approve the rearrangement of trustee areas, any affected board member serves out his or her term, and succeeding board members are elected according to the selected method and in accordance with the new boundaries. (*EC* 5021)

(See note on following page)

¹ Effective January 1, 2022, this 125-day requirement replaced the previous 120-day requirement in *EC* Section 5019 (Stats. 2021, Ch. 139, Sec. 2. [SB 442]). Note that this legislation did not make corresponding changes to the election timing requirements provided for in *EC* sections 5322 through 5325.

Note: The county committee cannot rearrange trustee area boundaries in a school district or community college district that has established a hybrid or independent redistricting commission for this purpose pursuant to Section 23003 of the *Elections Code*, the charter of a city or city and county, or a legal settlement. (EC 5019[a][3])

Flowchart 10.3. Rearrangement of Trustee Areas



B. Process: Quick Reference Chart 10.4

ALTERNATIVE METHODS OF ELECTING GOVERNING BOARD MEMBERS

(Refer to Flowchart 10.4)

Method 1

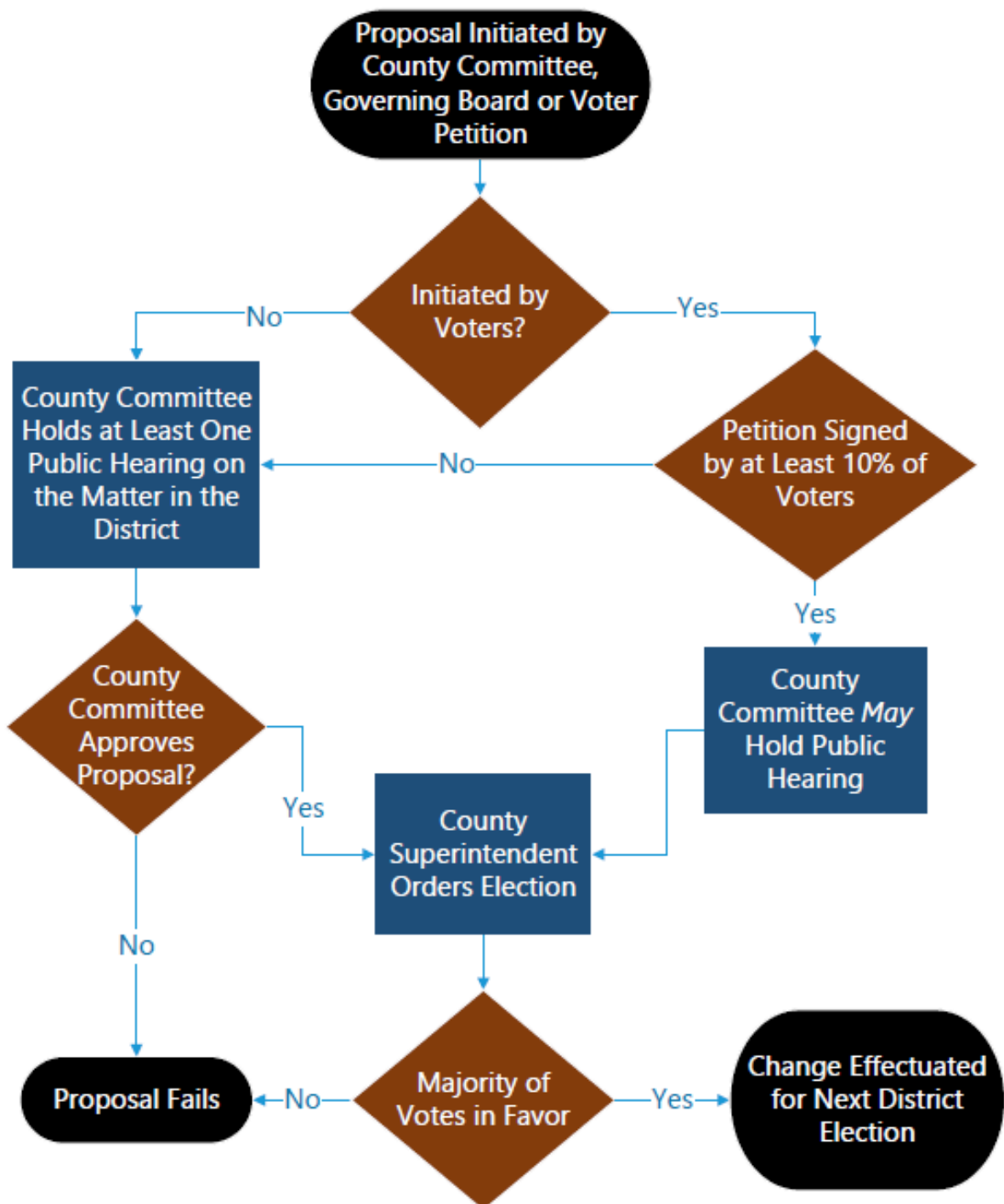
1. County committee receives request or initiates action to select an alternative method of electing governing board members. (EC 5019)
2. County committee calls and conducts at least one public hearing in the district on the matter. (EC 5019)
3. At the conclusion of the hearing, the county committee approves or disapproves the proposal. (EC 5019)
4. Proposal is placed on the ballot not later than the next succeeding election for members of the governing board.
5. If a majority of those voting approve, the proposal takes effect at the next governing board election. (Any affected board member must serve out his or her term.) (EC 5030)

Method 2

1. Petition is filed containing at least 10 percent of the signatures of the district's registered voters proposing to adopt one of the alternative methods of electing governing board members. (EC 5020[c])
2. Prior to placing the issue on the ballot, the county committee may call and conduct one or more public hearings on the matter (EC 5020[c])
3. Proposal is placed on the ballot at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. (EC 5020[c])
4. If a majority of those voting approve a proposal to increase the number of members of the governing board, the two additional members of the board must be appointed by the governing board of the district. (EC 5022)
5. If a majority of those voting approve a proposal to decrease the number of members of the governing board, the members would continue to serve out their terms. Seats would be eliminated as terms expire, but terms must be staggered. (EC 5021)

Note 1: The *Education Code* does not explicitly state whether the selection of alternative methods of electing governing board members, under Method 1, is required to go to an election or is effectuated for the next board election. It is the opinion of the California Department of Education that an election is required for the following reasons: (1) Method 2 requires an election, (2) Section 5020 contains ballot language for alternative methods of selecting governing board members, and (3) Section 5030 removes the election requirement, specifically in small counties, for county committee proposals for alternative methods of selecting governing board members (i.e., if an election requirement did not exist, there would be no need to remove it under these conditions). Flowchart F and this Quick Reference Chart reflect the opinion that alternative election methods must be presented to voters in both Method 1 and Method 2. However, it is recommended that legal counsel be consulted when county committees approve proposals for alternative methods of selecting governing board members.

Flowchart 10.4. Alternate Method of Electing Governing Boards



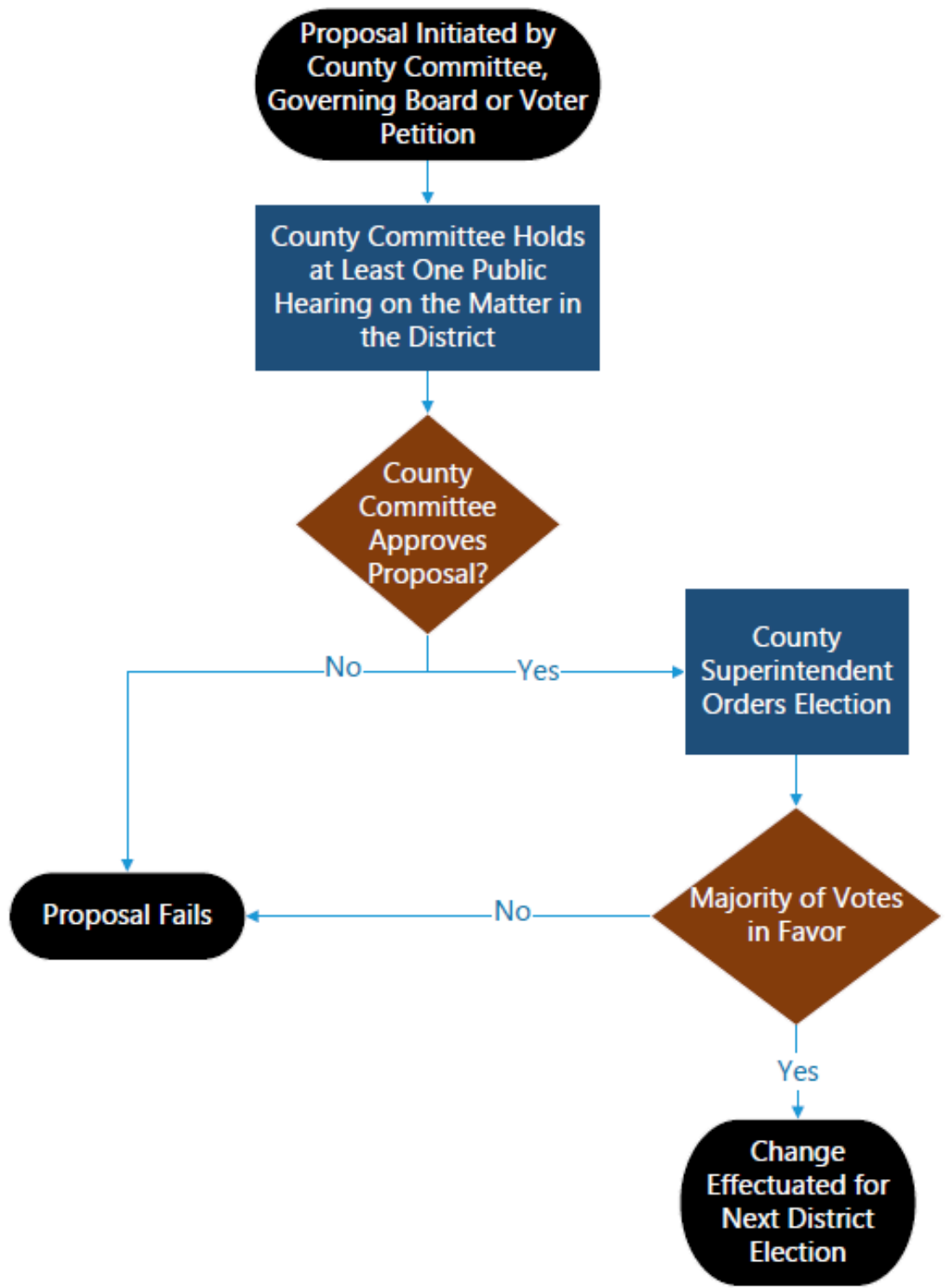
B. Process: Quick-Reference Chart 10.5

ESTABLISHMENT OR ABOLISHMENT OF COMMON GOVERNING BOARDS

(Refer to Flowchart 10.5)

1. County committee receives request/initiates action to establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. (*EC 5019*)
2. County committee calls and conducts at least one public hearing in the district on the matter. (*EC 5019*)
3. At the conclusion of the hearing, the county committee approves or disapproves the proposal. (*EC 5019*)
4. Proposal is placed on the ballot at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided there is sufficient time to place the issue on the ballot. (*EC 5020[d]*)

Flowchart 10.5. Establish or Abolish Common Governing Boards



B. Process: Quick-Reference Chart 10.6

REARRANGEMENT OF TRUSTEE AREAS BASED ON FEDERAL DECENNIAL CENSUS

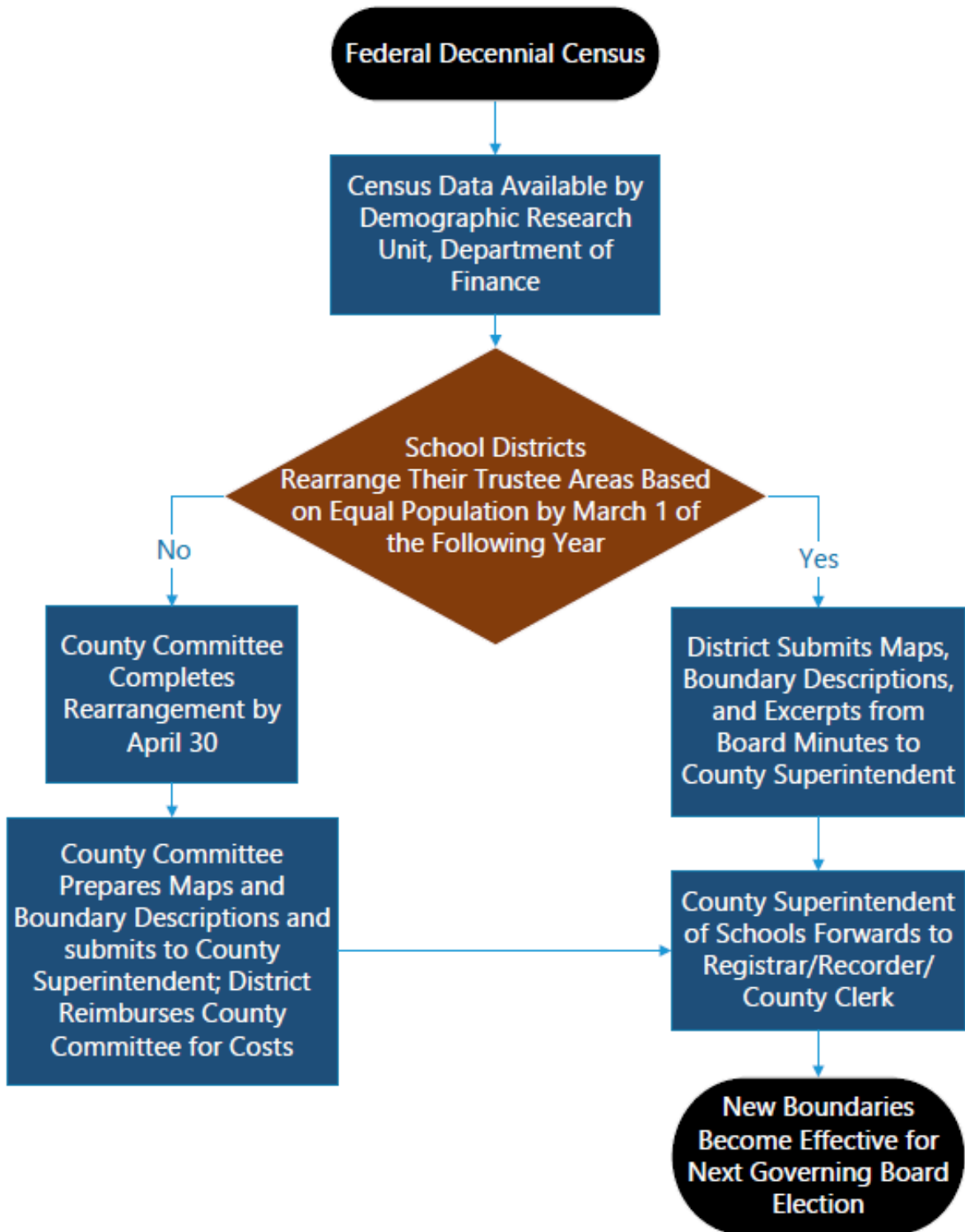
(Refer to Flowchart 10.6)

1. School and community college districts in which trustee areas have been established and in which each trustee is elected by the residents of the area he/she represents must rearrange the trustee area boundaries before March 1 of the year following the year in which the results of each decennial census are released. (*EC 5019.5*)

Note: If the school or community college district fails to adjust the boundaries before the deadline date, the county committee must do so before April 30 of the same year. (All costs incurred by the county committee in adjusting the boundaries must be reimbursed by the school district.) (*EC 5019.5*)

2. A copy of the map outlining the rearranged trustee areas and a legal written description describing the boundaries of the trustee areas must be submitted to the county superintendent of schools and the registrar, recorder, or county clerk. (*EC 5031*)

Flowchart 10.6. Rearrangement of Trustee Areas Based on Federal Decennial Census



C. Legal Provisions: Supporting Actions

1. *Trustee Areas/Trustee Membership/Methods of Election/Common Governing Boards*

a. Powers of the County Committee

Except for a school district or community college district governed by a board of education provided for in the city/county charter, the county committee has the power to:

- i. Create/abolish trustee areas. (*EC 5019*)
- ii. Rearrange trustee areas. (*EC 5019*)
- iii. Increase/decrease the number of members of the governing board from five to seven or seven to five, respectively. (*EC 5019*)
- iv. Readjust boundaries of trustee areas based on the decennial federal census. (*EC 5019.5*)
- v. Adopt one of the alternative methods of electing governing board members. (*EC 5019, 5030*)
- vi. Establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district.

Any of the processes noted above, except for item (iv), may be initiated by:

- i. County committee
- ii. Resolution of the governing board of the district
- iii. Voter petition
 - (a) Signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters;
 - (b) Signed by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters;
 - (c) Signed by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters;

- (d) Signed by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters;
 - (e) Signed by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters;
 - (f) Signed by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters;
- iv. Voter petition containing at least 10 percent of the signatures of the district's registered voters, except for items (ii) and (vi) cited above (in addition to item [iv] as cited previously) (*EC 5020*)

Note: The number of qualified registered voters is based on the most recent report submitted by the county clerk to the Secretary of State under Section 2187 of the *Elections Code*.

b. Procedures and Timelines

Once the county committee has received a proposal, it is required to call and conduct at least one public hearing in the district (no legal time frame specified for conducting hearing). Subsequent to the hearing, the county committee must either approve or disapprove the proposal. (Note: The county committee is not required to conduct a public hearing on a petition signed by 10 percent of the qualified registered voters in the school district.) (*EC 5019, 5020*)

The subsequent action of the committee to approve a proposal varies, depending on the type of proposal presented to the county committee. For example, approval of the rearrangement of trustee area boundaries requires no further action (unless a petition requesting an election is received), whereas approval of other proposals constitutes an order of election. Additionally, there are instances in which the proposal goes to election automatically without any prior approval by the county committee.

Depending on the type of proposal, any measure that must go to election must be placed on the ballot for an election not later than the next succeeding election for the members of the governing board, the next succeeding statewide primary or general election, or the next regularly scheduled election at which the electors of the district are entitled to vote, provided that there is sufficient time to place the issue on the ballot. (The county superintendent of schools must order the election at least 125 days prior to the election date.) (*EC 5019, 5020*)

i. Trustee Areas or Number of Governing Board Members

The resolution of the county committee to establish/abolish trustee areas or to increase/decrease the number of trustees on a governing board, which does **not** contain a declaration that the change in the method of electing members of the governing body is being made in furtherance of the purposes of the CVRA, constitutes an order of election, which must take place not later than the next succeeding election for members of the governing board. (EC 5020) For a petition signed by at least 10 percent of the district's registered voters requesting an election on a proposal to establish/abolish trustee areas or to increase/decrease the number of trustees on a governing board, the proposal must be presented to the electors of the district at the next succeeding regularly scheduled election, provided that there is sufficient time to place the measure on the ballot. (EC 5020)

Whenever trustee areas are established in a district, provision must be made for one of the alternative methods of electing governing board members. (EC 5030)

If the number of members of a governing board is increased from five to seven, the two additional members of the board must be appointed by the governing board of the district, with the term of one of the appointees to expire on the first Friday in December of the next succeeding odd-numbered year and the term of the other appointee to expire on the first Friday in December of the second succeeding odd-numbered year. (EC 5022)

For each proposal there must be a separate proposition on the ballot. If more than one proposal appears on the ballot, all must carry in order for any to become effective. The exception to this is a proposal to adopt one of the methods of election of board members pursuant to *Education Code* Section 5030, which has been approved; it shall become effective unless a proposal inconsistent with that proposal has been approved by a greater number of voters. (EC 5020)

Note: The required election to establish trustee areas, by way of Method 1 in Quick-Reference Chart 10.1, may be waived by the State Board of Education. A county board of education or a school district governing board seeking to waive this election should contact the Waiver Office of the California Department of Education for information regarding submittal of a waiver request.

ii. Rearrangement of Trustee Areas

County committee approval of the rearrangement of trustee areas becomes effective at future elections occurring at least 125 days after

the approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election. The petition must be submitted to the county elections official within 60 days after the adoption of the proposal by the county committee. (EC 5019)

Whenever trustee areas are rearranged in a district, provision may be made for one of the alternative methods of electing trustees. (EC 5030)

iii. *Rearrangement of Trustee Areas Based on Federal Decennial Census*

The governing board of each school or community college district in which trustee areas have been established and in which each trustee is elected by the residents of the area he/she represents (commonly referred to as a “ward” system) must adjust the boundaries of each trustee area so that each trustee area represents as close to the same proportion of registered voters as possible. (In multimember trustee areas, the proportion of population of each trustee area must be adjusted so that the number of trustees representing each trustee area is proportionate to the total number of trustees of the governing board.) The governing board must use the decennial federal census data and population figures validated by the Demographic Research Unit of the California Department of Finance as a basis. (EC 5019.5)

The rearrangement of boundaries must be completed by March 1 of the year following the release of the decennial federal census. County committee approval is not required when the district completes the realignment of its boundaries prior to March 1.

If a governing board fails to comply with the March 1 deadline, the county committee must comply before April 30 of the same year. The governing board of the school or community college district failing to comply must reimburse the county committee for all reasonable costs associated with realigning the boundaries.

Note: The above provisions do not apply to multiple campus community college districts with campuses in more than one county or to school and community college districts governed by a city charter. (EC 5019.7)

iv. *Alternative Methods of Electing Governing Board Members*

In any school or community college district that has trustee areas, *Education Code* Section 5030 provides that the county committee may at any time recommend one of the following alternative methods of electing governing board members:

- (a) That each member of the governing board be elected by the registered voters of the entire district;
- (b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area (commonly referred to as a “ward” system); or
- (c) That each governing board member be elected by the registered voters of the entire school or community college district but that the member resides in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member must serve out his or her term of office and that succeeding members must be nominated and elected in accordance with the method recommended by the county committee. (EC 5021)

In a county with a population of less than 25,000, the county committee may, at any time, by resolution, with respect to trustee areas established for any school district other than a community college district, amend the provision for election, without additional approval by the electors, to require the use of one of the alternative methods of electing board members. (EC 5030)

v. *Establishment or Abolishment of Common Governing Boards*

A county committee also has the authority to establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The proposal, if approved by the county committee, shall be presented to the electors of the school district at the next succeeding regularly scheduled election at which the electors of the district are entitled to vote, provided that there is sufficient time to place the issue on the ballot. (EC 5019, 5020)

vi. *Other Changes: Trustees and Trustee Areas*

(a) *Annexation*

Whenever an elementary, high, or unified school district or a portion of any such district is annexed to another school district in which trustee areas have been established, the county committee must study and make recommendations on trustee areas of the annexing district as enlarged. The county committee must call and conduct a hearing in the district on the matter. The recommendation of the county committee constitutes an order of election and, if approved by the electors, must become effective

on the same date that the reorganized district becomes effective. (EC 5023)

Note: The county committee may provide for the election of trustees, pursuant to its recommendation to rearrange trustee areas of a district (above), to be held at the same time as the election to effect a change in trustee areas. (EC 5024).

(b) Decreasing Number of Representatives in Trustee Areas

(Note: This provision applies only in conjunction with *Education Code* sections 5023 and 5024.) If an election is held pursuant to *Education Code* Section 5020 and there are trustee areas having more than their allotted number of representatives in the membership of the governing board for the next succeeding school year, the county superintendent of schools having jurisdiction shall determine by lot which board members must relinquish their offices either immediately upon the election and qualification of the governing board members who were elected as provided in *Education Code* Section 5024 or on the first day of April next succeeding the election establishing trustee areas in the district, whichever is the later. (EC 5025)

Members elected to fill vacancies created pursuant to *Education Code* Section 5025 shall serve out the unexpired term of the office that was terminated. The county committee must designate by lot for each newly formed trustee area the expiring term of office for which a member must be elected. (EC 5026)

(c) Membership from Supervisorial Districts

Whenever the boundaries of a county high school district are coterminous with the boundaries of a county, the board must consist of one member from each supervisorial district in the county elected at large from the district. (EC 5027)

(d) Membership from Community College Districts Having Five Wards

In community college districts that were divided into five wards on or before September 7, 1955, one member of the board must be elected from each ward by the registered voters of the ward. On or before January 1 of a fiscal year, the governing board of the district may rearrange the boundaries of the wards to provide for representation in accordance with population and geographic factors or may abolish the wards. (EC 5028)

(e) Conformance with Precinct Boundaries

When a community college trustee ward boundary line falls upon an election precinct boundary line, and such election precinct boundary line is changed (pursuant to Section 12200 et seq. of the *Elections Code*), the governing board of the district must, at least 120 days² prior to any trustee election, change such ward boundary line to conform to election precinct boundary lines, where possible. (*EC* 5029)

(f) Transfer of Territory to District Having Trustee Areas

Whenever territory is transferred to another district that has trustee areas, the territory being transferred must become a part of the trustee area to which it is contiguous. If the territory is contiguous to more than one trustee area, the transfer agreement may contain provisions indicating the division of the territory among the contiguous trustee areas. (*EC* 35544)

(g) Reorganization Proposal Containing Plans for Trustee Areas

If the reorganization plan contains a proposal for trustee areas, such proposal must be considered a part of the reorganization proposition to be voted upon, and the ballot shall include wording to that effect. (*EC* 35734, 35762)

(h) Incumbent Governing Board Members to Serve Out Terms

If trustee areas are established, any affected board member must serve out his or her term of office. Succeeding board members must be nominated and elected according to the method of election and provisions specified in *Education Code* Section 5030. If two or more trustee areas are established at an election in which there will be no incumbent board member residing after the next election, the county committee must determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board will be made.

If trustee areas are rearranged and the boundary change affects the board membership, any affected incumbent board member must serve out his or her term, and succeeding board members shall be nominated and elected according to the method of

² Effective January 1, 2022, *EC* Section 5019 requires rearrangement of trustee areas to be effectuated for the next district election occurring at least 125 days after approval of the rearrangement (Stats. 2021, Ch. 139, Sec. 2. [SB 442]). However, this legislative change did not address the 120-day requirement in *EC* Section 5029.

election and provisions specified in *Education Code* Section 5030.

If trustee areas are abolished, the incumbent board members must serve out their terms of office, and succeeding board members must be nominated and elected at large from the district.

(i) Trustee Area Boundary Requirements

The county superintendent of schools must prepare and keep in his or her office a map showing the boundaries of all trustee areas of the districts under his or her jurisdiction and also a record of all actions taken by the county committee in connection with trustee area boundaries. (*EC 5031*)

2. Trustee Areas: County Boards of Education.

A county board of education must have either five or seven members to be determined by the county committee. Each member of the board must be an elector of the trustee area that he or she represents and must be elected by the electors of the trustee area. (*EC 1000*)

In chartered counties, the county charter or the county board of supervisors must prescribe the manner of determining trustee areas for the county board of education. (*EC 1000*)

Note: The county charter, if one exists, needs to be checked to determine whether it contains provisions prescribing the methods of establishing trustee areas, rearranging boundaries of trustee areas, or increasing or decreasing the number of members of the county board of education.

In a county unified school district or in a unified or elementary school district that includes all the territory over which a county superintendent of schools has jurisdiction, the governing board of the district must serve as the county board of education. (*EC 1000*)

Upon being so requested by the county board of education, the county committee, by a two-thirds vote of its members, may either change the boundaries of any or all of the trustee areas of the county or propose to increase or decrease the number of members of the county board of education or both. The areas must be as nearly equal in population as is practicable. Proposals must be made in writing and filed with the county board of supervisors not later than the first day of March. When the election of members of county boards of education is required to be held on the same date as that prescribed for the election of members of governing boards of school districts (as provided for in *EC 1007*), the county committee must fix the boundaries of trustee areas to coincide with the boundaries of school districts, where

possible. If the trustee areas are coterminous with those of the supervisorial districts of the county, the election of members of the county board of education must be consolidated with the countywide election. (*EC 1002*)

When a county committee proposes to reduce from seven to five or increase from five to seven the number of board members, the county committee must call and conduct a hearing on the matter. At the conclusion of the hearing, the county committee must, by resolution, approve or disapprove the proposal. (*EC 1003*)

The resolution of the county committee approving a reduction or increase in the number of board members must constitute an order of election to be conducted not later than the next succeeding election for members of the board. (*EC 1004*)

The boundaries of any trustee area must not be changed at any time to affect the term of office of any member of the county board of education who has been elected and whose term of office has not expired. (*EC 1005*)

CHAPTER 11

THE APPEALS PROCESS

Chapter 11 provides a brief summary of the appeals process related to reorganizations of school districts. The issues that may be appealed, the time line, the steps the appellant must follow, and the options available to the State Board of Education are presented. This chapter will be particularly useful to individual petitioners or school districts contemplating the filing of appeals with the State Board of Education.

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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A. General Appeals (EC 35710.5)

The State Board of Education has authority for final decisions for most school district unification proposals. County committees on school district organization have authority for final decisions over territory transfer proposals and reorganizations that meet the conditions of *Education Code* Section (EC) 35710(b), but their decisions are subject to appeal to the State Board of Education. The State Board of Education is the final authority for appeals of county committee on school district organization decisions.

1. The chief petitioner or any one or more of the affected school districts may appeal a county committee on school district organization decision to approve a territory transfer proposal, or to approve a unification proposal if the conditions of EC 35710(b) are met. Appeals are heard by the State Board of Education.
2. The appeal may be made only on issues of noncompliance regarding procedural matters and the substantive provisions of the following *Education Code* sections:
 - EC 35705 Public hearings; notice
 - EC 35706 Recommendations of county committee on school district organization
 - EC 35709 Order; notification; criteria in EC 35753
 - EC 35710 Notification of approval; election; conditions; criteria in EC 35753 determination of the area of election
3. The appellant has 5 days, or 30 days if a school district, from the date of final action by the county committee on school district organization to file the notice of appeal with the county committee on school district organization and provide a copy to the county superintendent of schools. The action of the county committee on school district organization must be stayed pending the outcome of the appeal.
4. Within 15 days after the filing of the notice of appeal, the appellant must file a statement of reasons and factual evidence with the county committee on school district organization.
5. The county committee on school district organization, within 15 days of receipt of the statement, must send the statement and the complete administrative record of the county committee on school district organization's proceedings to the State Board of Education. In addition to the appeal itself, the administrative record includes the notice of appeal, the petition, notices of public hearings, the description of the petition provided at least 10 days before the public hearings,

transcripts of public hearings, related letters, legal briefs, minutes of county committee on school district organization meetings, studies, and any other materials relevant to the appeal that would enable the State Board of Education to determine whether there was evidentiary support for the county committee on school district organization's decision.

6. The State Board of Education may elect to:
 - a. Review the appeal either on the administrative record or in conjunction with a public hearing;
 - or*
 - b. Deny review of the appeal (thus ratifying the county committee on school district organization's decision).
7. The State Board of Education, if it decides to review the appeal, may:
 - a. Affirm the action of the county committee on school district organization;
 - or*
 - b. Reverse or modify the action of the county committee on school district organization.
8. If the State Board of Education action on the appeal results in a reorganization proposal that is sent to an election, the State Board of Education must determine the territory in which the election is to be held.
9. Issues regarding noncompliance of *EC* sections 35705, 35706, 35709, and 35710 include procedural matters described in those sections. However, the Court of Appeals in *San Rafael Elementary School District v. California State Board of Education (1999) 73 Cal. App 4th 1018*, held that the State Board of Education has the authority "to conduct a de novo review of the issue whether the facts supporting a transfer satisfy the substantive conditions of [*EC*] section 35753". (Id, pages 1025 and 1031).

As discussed in Part B of Chapter 6 of this handbook, the State Board of Education has discretionary authority. Thus, the State Board of Education may approve an appealed reorganization proposal even when one or more of the *EC* Section 35753 conditions are not met. By the same token, the State Board of Education may disapprove an appealed reorganization proposal even when all of the conditions are met.

10. The State Board of Education must notify the county committee on school district organization of its decision and then the county committee on school district organization must notify the county board of supervisors or the county superintendent of schools, as appropriate, pursuant to *EC* 35709 or 35710.

B. Appeals Based on Racial or Ethnic Integration (EC 35711)

1. Any person questioning the findings that the proposed reorganization will not adversely affect the racial or ethnic integration of the schools of the affected districts may appeal the decision made by the county committee on school district organization regarding such findings.
2. Appeals made on issues of whether the school district organization proposal will adversely affect the racial or ethnic integration of schools of the affected districts must be made to the State Board of Education within 30 days of the county committee on school district organization's decision. *EC 35711* does not provide for a stay of the county committee on school district organization's decision pending the outcome of the appeal.
3. The State Board of Education must notify the county committee on school district organization of its decision to:
 - a. Deny the request for an appeal, in which case the decision of the county committee on school district organization shall stand;

or
 - b. Approve the request for appeal, in which case it shall review the findings of the county committee on school district organization. The county committee on school district organization shall transmit a copy of its proceedings to the State Board of Education who will review the county committee on school district organization's findings.
4. In reviewing the findings, the State Board of Education may:
 - a. Reverse the decision of the county committee on school district organization;

or
 - b. Affirm the decision of the county committee on school district organization;

or
 - c. Direct the county committee on school district organization to reconsider its decision and to hold another hearing if the board's review appears to indicate that inadequate consideration was given to the effect of the reorganization on integration of the schools of the affected districts.

Unlike appeals under *EC 35710.5*, appeals under *EC 35711* do not include authority for the State Board of Education to determine the area of election.

C. Resubmissions and Petitions for Reconsideration (California Code of Regulations, Title 5, Section 18572)

1. At any time following a decision by the State Board of Education on a proposal, petition, or appeal, the original petitioners, the county committee on school district organization, or any affected school district may resubmit the same or an essentially identical proposal or may petition the State Board of Education for reconsideration of the board's decision.
2. Any resubmission or petition for reconsideration must be accompanied by new arguments or new facts not previously presented to the State Board of Education.
3. No resubmission or petition for reconsideration will be acted upon by the State Board of Education with respect to any reorganization proposal for which an election has been called, pursuant to *EC* 35710.51 or 35756.

CHAPTER 12

PROCEDURES FOR REORGANIZING COMMUNITY COLLEGE DISTRICTS

The legal requirements for district reorganization that apply to community college districts are discussed in this chapter. Procedures affecting community colleges are included in this handbook because county committees on school district organization have responsibilities affecting the community college districts. Legal requirements covering postsecondary education may be found in *Education Code*, Division 7, “Community Colleges,” Section 70900 et seq. Specific information on community college district reorganization or formation is covered in Part 46, chapters 1 through 5, Section 74000 et seq. (see also Section G in this chapter). Otherwise, the functions performed by the State Board of Education for school districts serving kindergarten through grade twelve are performed for community college districts by the Board of Governors of the California Community Colleges. The legal requirements affecting community college districts are published here for the convenience of the county committees on school district organization.

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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The procedures for the reorganization of community college districts were substantially revised by 1990 legislation. As noted in *Education Code* Section 74001, the provisions of Article 1 (commencing with Section 4000) of Chapter 1 of Part 3 and Article 3 (commencing with Section 35720) of Chapter 4 of Part 21 of the *Education Code* must apply to actions to reorganize community college districts, as may be applicable, except that whenever any reference is made to the California Department of Education in those provisions, the reference must be deemed, for the purpose of community college district reorganization, to be the Board of Governors of the California Community Colleges.

In general the procedures for reorganization are comparable to those involving the reorganization of elementary, high, and unified school districts. School districts, county committees, county superintendents' offices/county offices of education, boards of supervisors, and the Board of Governors of the California Community Colleges are each responsible for certain phases in the reorganization procedure.

A. Transfer of Territory

Transfer of territory from one community college district to another is initiated by a petition signed by either at least 25 percent of the registered voters in the territory or a majority of the members of the governing board of each school and community college district affected. (*EC* 74100)

If the transfer involves a change of territory affecting less than 5 percent of the adult population of the school district for which the transfer is being made, the petition may be transmitted by the county superintendent directly to the county board of supervisors and is effective without further review. This procedure may not be used more than once every five years. (*EC* 74104)

The committee must analyze the petition and hold one or more public hearings. The governing board of the community college district to which the territory is to be transferred must consent to the transfer. If the committee approves the petition, it must transmit the petition and information thereon to the Board of Governors of the California Community Colleges for review. (*EC* 74105, 74107, 74108, 74109)

B. Annexation

An annexation of territory that is not in any community college district differs from other transfers in that the petition may be signed by 25 percent of the registered voters, by a majority of the board members of the community college district, or by a majority of the members of the governing board of the high school or unified school district seeking annexation. Again, the governing board of the community college district must consent to the terms of the annexation. (*EC* 74130, 74131, 74137)

C. Formation

New community college districts may be formed, either from territory not now in a district or with the territory of one or more districts. The petition may be signed by 25 percent of the registered voters in the territory or by 25 percent of the voters in each of the affected existing districts or by a majority of the governing board of each community college district and each high school or unified school district affected by the formation of the new school district. A majority of the members of the governing boards of a majority of all affected school districts must consent to all conditions for the formation of a new community college district. (EC 74150, 74151, 74156)

D. Procedures for Districts Located Within Different Counties

When an action to reorganize or form school districts would affect territory that is located in more than one county or that is under the jurisdiction of more than one county superintendent of schools, the proceedings to be conducted or the actions to be taken by county officers or agencies must be conducted or taken according to the provisions of Article 3 (commencing with Section 35520) of Chapter 3 of Part 21 of the *Education Code*. (EC 74180)

E. Elements Critical to the Review of Proposals (EC 74157)

County committees on school district organization typically review community college district proposals for the following conditions:

1. The reorganization will not result in any increased cost to the state.
2. The reorganization will not result in a reduction in state aid to community college districts not party to the petition.
3. The projected funding of each reorganized district is adequate to meet its needs for the first five years of operation.
4. The allocation of property taxes has been accurately determined and will be appropriately implemented.
5. The reorganization will not significantly affect the racial or ethnic composition of the districts affected.
6. The reorganization will not decrease educational opportunities for the residents of the districts affected.

Certain aspects of community college district proposals in prior petitions have been troublesome for county committees to address. Specifically, community colleges calculate state general apportionment revenue differently from elementary and high school districts. Also, because many community college districts cross county lines, county committees need to consider other county revenue sources and property tax distributions when evaluating the first four conditions listed above to ensure that accurate calculations have been made. County committees typically do not analyze population and student demographics information sufficiently to make an informed decision about the racial and ethnic composition of the districts affected by the reorganization. Also, county committees typically do not analyze the width and depth of a district's curriculum to make an informed decision about the educational opportunities of the college districts affected by the reorganization.

Requiring parties seeking to reorganize districts to prepare five-year educational and fiscal plans and discussing those plans in the local hearings are the most effective means by which county committees can obtain and review the information required by statute.

The approval by county committees certifies that the petition has fulfilled all six conditions listed above. If a petition does not satisfy each of the above-mentioned six conditions, county committees should not approve the petition. If approved, the petition is transmitted to the board of governors for review.

F. Review by State Agencies

The board of governors may hear appeals on the finding of the county committee that the proposed transfer, annexation, or formation will not adversely affect the racial or ethnic composition of the affected colleges. If it disapproves of the proposal, the board of governors must provide a written basis for its rejection. (*EC 74201-74205*)

G. Elections and Board of Supervisors' Procedures

If the board of governors approves a proposal that results in a change in governing boards, the county superintendent of schools must call an election (*EC 74230*)

If approval is given pursuant to *Education Code* Section 74205 to a reorganization proposal that results in an increase in taxes levied on behalf of the districts involved or that requires changes in district governing boards, such as a change that results in the reapportionment of trustee areas or a change in the number of trustee areas, the county superintendent of schools, within 30 days after receiving notification pursuant to *Education Code* Section 74205, must call an election. The election must be called in the manner prescribed in Part 4 (commencing with Section 5000) and must be conducted at the next available regular election scheduled in the territory of districts defined in the approved proposal according to

the procedures prescribed by sections 35757 to 35764, inclusive. (EC 74230) If those results are not present, the county committee action becomes effective when filed with the county board of supervisors. (EC 74250)

After the board of supervisors receives an official notification that an action to reorganize districts has been approved as provided by law, the board of supervisors must issue an order to change districts where required by the action and to establish or reestablish the boundaries of the districts affected by the action. The order must be entered in the county's record of districts.

If the action results in a change of district boundaries of the type described in Section 54900 of the *Government Code*, the order of the board of supervisors must include the legal description of each district changed in the action, and, immediately after making the order, the board of supervisors must cause a copy of the order and a map or plat indicating the boundaries established for each district affected by the order to be filed as required by Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the *Government Code*. (EC 74250)

Education Code Section 74251 states that:

1. An action to reorganize districts is complete when the board of supervisors makes the order pursuant to *Education Code* Section 74250.
2. After the expiration of one year from the date of the order, the order will be conclusive evidence that the district has been legally organized, or the boundaries legally changed, as the case may be, and no suit will be maintained that questions the validity of the organization or change of boundaries.
3. For purposes of district tax revenues and governance, the order will be effective as of the beginning of the succeeding fiscal year.

H. Applicable Sections in the *Education Code* Part 46, "Community Colleges," Chapters 1-5, "District Reorganization or Formation"

Chapter 1. Legislative Intent and Definitions

ARTICLE 1. LEGISLATIVE INTENT AND PURPOSE

***Education Code* Sections**

74000 Territory included within districts

74001 Application of other law

ARTICLE 2. DEFINITIONS

Education Code Sections

74012 Component school district; nondistrict territory

74013 Former district

74014 Action to reorganize districts

74015 County committee

74016 "Affected districts" defined

Chapter 2. Initiation of Petition and Local Review Procedures

ARTICLE 1. TRANSFER

Education Code Sections

74100 Petition; filing; number of signatures

74102 Petition; chief petitioners

74103 Petition; affidavit

74104 Petition; examination; circulation; minor boundary change

74105 Petition; county committee to hold public hearings; notice

74106 Petition; additions and amendments permitted; inclusion of analysis regarding rights of employees, financial impact, governance of district, and so forth

74107 Petition; review by district governing boards; statement of agreement required

74108 Petition; approval by county committee; conditions

74109 Petition; transmittal to board of governors; review

74110 Petition; rejection; notice; basis; acceptance of new petition on same territory

ARTICLE 2. ANNEXATION

Education Code Sections

- 74130 Application of article
- 74131 Petition; number of signatures
- 74132 Petition; filing
- 74133 Petition; chief petitioners; affidavit
- 74134 Petition; examination; distribution
- 74135 Petition; additions and amendments permitted; inclusion of analysis regarding funding, racial or ethnic composition, and so forth; property tax contributions; restriction on reduction
- 74136 Petition, report, and recommendations; public comment; review
- 74137 Petition; public hearing; notice; approval or denial by governing board of receiving district; statement of agreement required
- 74138 Petition; approval by county committee; conditions
- 74139 Petition; approval by county committee; review by board of governors
- 74140 Petition; rejection by county committee; notice; new petition on same territory

ARTICLE 3. FORMATION

Education Code Sections

- 74150 Application of article
- 74151 Petition: filing; number of signatures
- 74152 Petition; chief petitioners; affidavit
- 74153 Petition; examination; distribution
- 74154 Petition; additions and amendments permitted; analysis regarding funding, racial or ethnic

composition, and so forth; property tax contributions; restriction on reduction

- 74155 Petition, report, and recommendations; public comment; review
- 74156 Petition; public hearing; notice; approval or denial affected by governing boards; statements of agreement required
- 74157 Petition; approval by county committee; conditions
- 74158 Petition; approval by county committee; review by board of governors
- 74159 Petition; rejection by county committee; notice; new petition on same territory

ARTICLE 4. PROCEDURES FOR DISTRICTS LOCATED WITHIN DIFFERENT COUNTIES

Education Code Sections

- 74180 Applicable law

Chapter 3. Review by State Agencies

Education Code Sections

- 74201 Adverse effect upon racial or ethnic composition; filing appeal with board of governors; time of filing; evidence; consequences of denial of appeal or rejection of county committee findings
- 74202 Board of governors' authority to make inquiries or conduct studies to validate information and recommendations of county committee; provision of information
- 74203 Petition; return for reconsideration; verification and resubmission
- 74204 Hearing on proposal; notice
- 74205 Approval or disapproval of proposal by board of governors; notice; basis of rejection to be provided in writing

Chapter 4. Elections and Board of Supervisors Procedures

ARTICLE 1. ELECTIONS

Education Code Sections

74230 Approval of reorganization proposal resulting in increase in taxes or changes in district governing boards; calling of election by board of governors; conduct of election

ARTICLE 2. BOARD OF SUPERVISORS PROCEDURES

Education Code Sections

74250 Order to change districts; issuance upon notification of approval; order to contain legal description in certain instances; filing of map or plat

74251 Order to change districts as completion of action to reorganize; order as conclusive evidence; effective date of order

Chapter 5. Miscellaneous

ARTICLE 1. TERRITORY OF DISTRICTS

Education Code Sections

74262 Inclusion of separate territory; prohibition

74263 Trustee areas

74264 Territory within boundaries of city

74265 Action to form new district from existing district; approval; election

74265.5 Formation of new district from existing district; agreements

ARTICLE 2. PERSONNEL IN REORGANIZED DISTRICTS

Education Code Sections

74270 Academic employees; probationary employees;
classified positions

**ARTICLE 3. DISPOSITION OF RECORDS, FUNDS, PROPERTY,
AND OBLIGATIONS WHEN REORGANIZED**

Education Code Sections

74280 Statement of agreement to transfer to provide for
allocation of funds, property, and obligations;
exceptions; determination of allocation

74281 Dispute resolution; arbitration; compensation and
expenses

74284 Exchange of property tax revenues; governing law

**ARTICLE 4. BONDED INDEBTEDNESS OF DISTRICTS WHEN
REORGANIZED**

Education Code Sections

74290 Application of article; liability for taxation; outstanding
bonded indebtedness liability; tax rate

APPENDIX A

STATE BOARD OF EDUCATION REGULATIONS AND CRITERIA REGARDING SCHOOL DISTRICT REORGANIZATION

According to the *California Code of Regulations*, the State Board of Education (SBE) requires the California Department of Education (CDE) to evaluate each petition or proposal submitted in terms of the adopted criteria and to make recommendations thereon. There is sufficient flexibility for the SBE to waive the criteria and approve whatever changes in school district organization have merit and fit the needs of a given locality, provided that the SBE determines that exceptional circumstances exist to justify approval.

The regulations regarding school district reorganization that have been adopted by the SBE are in *California Code of Regulations*, Title 5, Division 1, Chapter 20, Subchapter 4—which can be accessed through the CDE’s *California Laws and Codes* webpage at <http://www.cde.ca.gov/re/lr/cl/>.

NOTES:

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CALIFORNIA CODE OF REGULATIONS TITLE 5

DIVISION 1

CHAPTER 20

SUBCHAPTER 4

PROCEDURES RELATING TO HEARINGS ON PROPOSALS AND PETITIONS FOR THE REORGANIZATION OF SCHOOL DISTRICTS

18570. Submission of Proposals and Petitions

A proposal by the county committee on school district organization, a petition by another public agency or electors for the reorganization of a school district other than a transfer of territory, or an appeal under *Education Code* section 35710.5 or 35711 of an action by the county committee approving or disapproving a petition to transfer territory from one district to another shall be submitted to the Executive Officer of the Board. The Executive Officer of the Board shall cause the proposal, petition or the appeal to be:

- (a) Reviewed and analyzed by the California Department of Education.
- (b) Set for hearing before the State Board of Education at the earliest practicable date.
- (c) Transmitted, together with the report and recommendation of the California Department of Education, to the Board and to such other persons as is required by law not later than ten days before the date of the hearing.

18571. Arguments before the Board (Original Submission)

At the time and place of hearing, the Board will receive oral and/or written arguments on the proposal, petition, or the appeal. The Board may limit the number of speakers on each side of the issue, limit the time permitted for the presentation of a particular view, and limit the time of the individual speakers. The Board will not entertain a repetition of arguments previously presented by the same or another speaker at that meeting, or presented at a previous meeting at which the proposal, petition, or appeal was considered.

18572. Resubmissions and Petitions for Reconsideration

- (a) At any time following a decision by the Board on a proposal, petition, or appeal, the original petitioner, county committee on school district organization, or any affected school district may resubmit the same or essentially identical proposal, or may petition the Board for reconsideration of the Board's decision.
- (b) Any resubmission or petition for reconsideration shall be accompanied by new arguments or new facts not previously presented to the Board.

- (c) No resubmission or petition for reconsideration shall be acted upon by the Board with respect to any reorganization proposal that has been called for election pursuant to *Education Code* section 35710.51 or 35756.

18573. Criteria for Reorganization of School Districts

- (a) The analysis of the proposal or petition by the California Department of Education shall state findings of fact and recommendations as to whether each district affected by the proposed reorganization substantially meets the following criteria and standards:
 - (1) It is the intent of the State Board of Education that direct service districts not be created which will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that:
 - (A) Each such district should have the following projected enrollment on the date that the proposal becomes effective or any new district becomes effective for all purposes:

Elementary District	901
High School District	301
Unified District	1,501
 - (B) The analysis shall state whether the projected enrollment of each affected district will increase or decline and the extent thereof.
 - (2) To determine whether the new district is organized on the basis of substantial community identity, the following criteria should be considered:
 - (A) Isolation
 - (B) Geography
 - (C) Distance between social centers
 - (D) Distance between school centers
 - (E) Topography
 - (F) Weather
 - (G) Community school and social ties and other circumstances peculiar to the area

- (3) To determine whether an equitable division of property and facilities will occur, the California Department of Education will determine which of the criteria authorized in *Education Code* Section 35736 shall be applied. It shall also ascertain that the affected districts and the county office of education are prepared to appoint the committee described in *Education Code* Section 35565 to settle disputes arising from such division of property.
- (4) To determine whether the new districts will promote racial or ethnic discrimination or segregation, the effects of the following factors will be considered:
 - (A) The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved
 - (B) The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school, of the affected districts
 - (C) The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or to alleviate racial or ethnic discrimination or segregation
 - (D) The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools
 - (E) The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause
- (5) The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition. In analyzing the proposal or petition, the California Department of Education shall describe the district wide programs, and the school site programs, in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition.

- (b) The Board may waive the criteria specified in subsections (a)(1) through (a)(5) of this section and may approve a proposal or petition or decide an appeal under *Education Code* section 35710.5 or 35711 if the Board determines circumstances with respect to the proposal, petition or appeal provide a sufficient exceptional situation.

APPENDIX B BYLAWS OF THE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION (SAMPLE)

A county committee on school district organization may adopt policies and procedures (bylaws) to guide its actions. Sample bylaws are contained in the following pages.

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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(SAMPLE)

BYLAWS OF THE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

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BYLAWS OF THE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

ROLE OF THE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION 100

Purpose, Powers, Duties 101

The Riverside County Committee on School District Organization shall conduct hearings on petitions to reorganize school districts and shall either approve, disapprove or make recommendations to the State Board of Education or County Board of Education as appropriate regarding such petitions; and the Committee shall formulate plans and recommendations for the organization or reorganization of school districts in the county or any portion thereof including, if appropriate, a portion of one or more adjacent counties. The Committee exists under the authority of the California Constitution and acts of the legislature of the State of California and the regulations of the California State Board of Education.

Reference: *E.C. 35700 et seq.*
E.C. 35720 et seq.

Adopted:

ORGANIZATION 200

Membership - Terms of Office 210

The County Committee consists of eleven members - two from each of the five supervisorial districts in the county and one member at large.

No county superintendent of schools, employee of the office of a county superintendent of schools, employee of a school district, or employee of a community college district shall be a member of the county committee.

Adopted:

Term of Membership 211

The term of each member of the Committee shall begin upon election or upon appointment, as appropriate, and shall be for four years.

Adopted:

Vacancies in Membership

212

Vacancies created by the expiration of the term of office of a member of the Committee shall be filled by the majority vote of the representatives of the governing boards at the annual meeting called and held between October 1 and December 1.

A vacancy created by the early resignation of a committee member or for any other reason, shall be filled by the majority vote of the remaining members of the committee and such an appointment shall be for the duration of the unexpired term.

Reference: *E.C. 4006*

Amended:

Attendance, Removal from Membership

213

Attendance at meetings shall be on a regular basis to ensure continuity of thought and discussion to achieve the purposes and goals of the committee. Absence from three (3) consecutive called meetings, except when prevented by good cause, constitutes cause for removal from membership. Removal from membership pursuant to these bylaws requires a majority vote of the members in attendance. Notification to any member so removed shall be made in writing by the secretary.

Reference: *Government Code 1770*

Adopted:

Compensation

220

The members of the county committee shall serve without compensation. However, they shall receive reimbursement for any actual and necessary travel expenses incurred in the performance of their duties. These travel expenses shall be approved by the County Board of Education and shall be paid out of the County School Service Fund.

Reference: *E.C. 4000 et seq.*

Adopted:

Officers and Auxiliary Personnel

230

At the first meeting of each calendar year, the committee shall organize by electing one member Chairperson and one member Vice Chairperson.

Adopted:

Vacancies in Office **231**

If the office of Chairperson is vacated for any reason, the Vice-Chairperson shall become Chairperson for the remainder of the year, and the office of Vice-Chairperson shall be vacated. If the office of Vice-Chairperson is vacated for any reason, the vacancy shall be filled by appointment by the majority of the Committee, if it desires to do so, and the appointee shall hold office for the remainder of the year. If the offices of Chairperson and Vice-Chairperson are vacated at the same time for any reason, the vacancies shall be filled by appointment by the majority of the Committee for the remainder of the year.

Adopted:

Secretary **232**

The county superintendent of schools shall serve as secretary to the Committee.

Adopted:

Attorney **233**

The office of the County Counsel shall provide legal services for the County Committee, except that other counsel may be employed as needed.

Reference: *E.C. 4011 Legal Services*

Adopted:

Temporary Special Committees **240**

The Chairperson may appoint such temporary and special committees as deemed necessary or advisable and the Chairperson shall be, ex officio, a member of each committee. The duties of the special committee shall be outlined at the time of appointment, and the committee shall be considered dissolved when its final report has been made.

Adopted:

Travel Reimbursement **241**

1. Forms. All expenses will be recorded on the Riverside County Superintendent of Schools Travel Expense Claim form No. 3009.
2. Reimbursement Calendar. Claims may be submitted at any time.

Adopted:

Means of Travel/Travel Reimbursement **242**

1. Privately Owned Automobiles. Mileage is allowed at the rate of 28 cents per mile.
2. Compensation and Expense Claims. Actual and necessary travel expenses incurred as a result of official School District Organization Committee activity shall be allowed.
3. Allowance for Meals
 - a. Breakfast, lunch, or dinner meetings may be reimbursed up to \$6.00, \$7.50, or \$10.00, respectively, when ordered from the menu.
 - b. Actual expenses will be allowed for a “fixed price” breakfast, lunch, or dinner.

Adopted:

Liability Insurance **250**

Liability coverage shall be provided to protect against personal liability of the members of the Committee while acting in the scope of office as required by law.

Reference: *E.C.* 35208
E.C. 35214

Adopted:

MEETINGS **300**

Meetings of the County Committee may be called by the Chairperson or by a quorum of the committee.

Reference: *E.C.* 4013

Adopted:

Quorum **310**

A majority of the members of the County Committee shall constitute a quorum.

Reference: *E.C.* 4014

Adopted:

Motion Carried **311**

If a quorum is duly assembled, affirmative votes by a majority of the Committee members present are required to approve any action item under consideration unless otherwise provided by law.

Adopted:

Abstentions **312**

Abstentions shall be counted in determining the needed majority, but they shall not count as either an affirmative or a negative vote. The affirmative vote of the majority rule prevails in all cases.

Adopted:

Construction of Agenda **320**

The county superintendent, as secretary to the County Committee, shall prepare an agenda for each regular meeting. Any committee member may call the superintendent and request an item to be placed on the agenda.

Adopted:

Posting of Agenda **321**

At least 72 hours prior to the time of the regular meeting, the items to be included on the agenda will be posted in a place readily available to the public. Items to be included on the agenda of a public hearing shall be posted at least 10 days prior to the time of the public hearing.

Reference: *E.C. 35705 (Government Code 54954.2[a])*

Adopted:

MEETING CONDUCT **330**

Meetings of the County Committee shall be conducted by the Chairperson in a manner consistent with the adopted bylaws of the Committee.

All Committee meetings shall commence at the stated time and shall be guided by an agenda that will have been prepared and delivered in advance to all committee members and other designated persons.

The conduct of meetings shall, to the fullest possible extent, enable members of the Committee (1) to consider problems to be solved, weigh evidence related thereto, and make wise decisions intended to solve the problems, and

(2) to receive, consider, and take any needed action with respect to the organization of school districts.

Adopted:

Individuals/Groups Addressing the Committee

331

Provisions for permitting an individual or group to address the Committee concerning any subject that lies within its jurisdiction shall be as follows:

1. During a hearing, the Committee will receive oral and/or written arguments regarding the subject under consideration.
2. The Committee will not entertain a repetition of arguments previously presented by the same or another speaker. However, the Committee will consider new facts relating to arguments previously submitted.
3. The Committee Chairperson will, at the appropriate time, call upon the members of the audience who have submitted a "Request To Speak" form. These forms are available to all members of the audience.
4. The person addressing the Committee may be required to show a reasonable basis of interest in the subject of the hearing, such as being a legal resident of the school district(s) affected by the subject under discussion or being a representative of an organization having legitimate interest in the subject under discussion, or having other bona fide individual interest in the proceedings.
5. The person addressing the Committee shall state his/her name and place of residence.
6. The person speaking shall address all comments and questions to the Chairperson, not to individual committee members.
7. At the discretion of the Chairperson, time may be allotted to persons wishing to address the Committee; the Chairperson will endeavor to allot equal time to persons having opposing views.
8. Remarks or charges by any person addressing the Committee which reflect adversely upon the character or motives of any person are out of order.
9. Conduct by a participant declared out of order shall be grounds for termination of that person's privilege of addressing the Committee.

Adopted:

Parliamentary Procedure **340**

Robert's Rules of Order shall govern the parliamentary procedure when procedures are questioned; otherwise, an informal, expedient procedure will be

Reference: *Robert's Rules of Order*

Adopted:

Suspension of Bylaws **350**

Bylaws shall be subject to suspension for a specified purpose and limited time by vote of members of the Board.

Reference: *Robert's Rules of Order*

Adopted:

Actions by the Committee **360**

No action shall be taken except in a regular meeting of the Committee.

No action will be taken unless the subject acted upon was listed in the agenda published for that meeting, or as specifically authorized by law.

The Committee shall adopt resolutions when it is required by law or when the Committee intends to publish a status position of the Committee.

All actions taken by the Committee shall be clearly identified in the minutes of the Committee meeting.

Adopted:

Minutes **370**

The county superintendent, as secretary to the Committee, shall keep minutes of all meetings of the Committee. Copies of the proceedings shall be made for distribution to the Committee members with the agenda for the next regular meeting. The official minutes of the Committee meetings shall be kept in a reasonably secure place.

Adopted:

Recording of Votes **371**

Motions or resolutions shall be recorded as having passed or failed. Individual votes will be recorded only if the action was not unanimous or if requested by any Committee member.

Adopted:

Maintaining the Minutes

372

The Committee minutes shall be maintained as outlined below:

1. Content - Committee Procedure
 - a. The date, place, and type of each meeting or public hearing
 - b. Members present and members absent by name
 - c. Call to order and pledge of allegiance to the flag
 - d. Arrival of tardy members by name
 - e. Departure of members by name before adjournment or if absence takes place when any agenda items are acted upon
 - f. Date and place of next meeting
 - g. Adjournment of the meeting
2. Content - County Committee Actions
 - a. Approval or amended approval of the minutes of preceding meetings
 - b. Information as to each subject of the Committee's deliberation
 - c. Information as to each subject including the roll call record of the vote on a motion if non-unanimous or by request
 - d. A record of all important correspondence
 - e. A record of the county superintendent's reports to the Committee
 - f. A record of all consultants' reports to the Committee
 - g. Approval of all bylaws

Adopted:

CODE OF ETHICS

400

Committee Responsibility to the Community

401

A County Committee member should honor the high responsibility which committee membership demands by:

- Thinking always in terms of “students first”;
- Refusing to “play politics” in either the traditional partisan or in any petty sense;
- Representing at all times the entire school community;
- Accepting the responsibility of becoming well informed concerning the duties of committee members and the laws regarding the organization of school districts;
- Recognizing responsibility as a county official to seek the improvement of education throughout the county;
- Attempting to appraise fairly both the present and future educational needs of the community;
- Insisting that all school district organization transactions be on an open, ethical, and above-board basis;
- Refusing to use the position of Committee Member in any way whatsoever for personal gain or for personal prestige; and
- Winning the community’s confidence that all is being done in the best interest of schoolchildren.

Adopted:

Committee Relationship with Other Members

402

A County Committee member should respect relationships with other members of the committee by:

- Recognizing that authority rests only with the Committee in official meetings and that the individual member has no legal or moral status to bind the Committee outside of such meetings.
- Recognizing the integrity of his/her predecessors and associates and the merit of their work.
- Refusing to make statements or promises as to how the member will vote on any matter which should properly come before the Committee as a whole;
- Making decisions only after all facts bearing on a question have been presented and discussed;

- Respecting the opinion of others and by graciously conforming to the principle of majority rules; and
- Refusing to participate in irregular meetings, such as “secret” or “star chamber” meetings, which are not official and which all members do not have the opportunity to attend.

Adopted:

APPENDIX C

REORGANIZATION OF DISTRICTS UNDER THE JURISDICTION OF DIFFERENT COUNTIES

NOTES:

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REORGANIZATION OF DISTRICTS UNDER THE JURISDICTION OF DIFFERENT COUNTIES

In any reorganization action which involves territory in two or more counties under the jurisdiction of different county superintendents of schools, the requiring proceedings must take place in both counties, except for the following (*EC* 35520):

1. The sufficiency of any petition shall be determined jointly by the respective county superintendents. (*EC* 35521)
2. Elections will be handled separately, but the particulars of the elections are to be established by joint action. (*EC* 35522)
3. Public hearings may be conducted in each county or jointly in either county as it appears most convenient and practical. Any action regarding the reorganization may be taken at or following a joint hearing. If separate hearings are held, action may be taken only after findings of the hearings in each county have been transmitted to the other counties. (*EC* 35523, 35524)

When a county committee selects an area for study for possible recommendations for a reorganization which includes territory of one or more school districts under the jurisdiction of another county, the county committee shall so notify the members of the county committee of such other county. Thereafter, the members of the county committee of such other county shall be notified by mail of each public hearing or

meeting of the other county committee at least 10 days prior to the day of such hearing or meeting. (EC 35723)

If plans and recommendations adopted by a county committee propose changes in the boundaries or status of school districts under the jurisdiction of the superintendent of any adjacent county, the county committee of each such adjacent county shall be requested in writing to concur with the plans and recommendations. The following procedures then apply:

1. If the county committee of an adjacent county so concurs, the concurrence shall accompany the recommendations transmitted to the State Board of Education (SBE).
2. If the county committee of an adjacent county fails to respond to the request for concurrence within 90 days of the date of the request, such failure shall be deemed to be a concurrence with the plans and recommendations.
3. If a county committee of adjacent county does not concur with the plans and recommendations, it shall so notify the other county committee in writing and accompany the notification with plans and recommendations for the reorganization of school districts of its county, including territory that would be affected by the plans and recommendations of the other county committee. After 60 days from the notification of nonconcurrence, if the county committees are still unable to agree upon plans and recommendations for reorganization of the territory, either county committee may submit plans and recommendations to the SBE, and the SBE may approve or reject the plans, in the same manner as other plans and recommendations. (EC 35724)

APPENDIX D

STATE BOARD OF EQUALIZATION

CHANGE OF JURISDICTIONAL

BOUNDARY

Forms used to change jurisdictional boundaries (in *Statement of Boundary Changes link*) are available from the California State Board of Equalization, Tax Area Services Section website at:

<https://www.boe.ca.gov/formspubs/>

Requirements for statements, geographic descriptions, maps and fees are found at:

<https://www.boe.ca.gov/proptaxes/pdf/jurboundaryreq.pdf>

Statement of boundary change (Form BOE-400-TA) is found at:

<https://www.boe.ca.gov/proptaxes/pdf/400ta.pdf>

NOTES:

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APPENDIX E PETITION FOR TRANSFER OF TERRITORY (SAMPLE)

NOTES:

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Note:

This sample is for illustrative purposes only. Each new petition must be drafted to conform to the requirements and directions of the county superintendent of schools and the county election department in the county (or counties) in which the petition will be circulated.

PETITION FOR TRANSFER OF TERRITORY

To the Superintendent of School of [blank] County

Pursuant to *Education Code* Section 35700, subdivision (a), the undersigned, constituting at least 25 percent of the registered electors residing in the territory proposed to be transferred, now within the boundaries of the [blank] School District, [blank] County, petition that the boundaries of the [blank] School District be changed to eliminate from it the territory hereinafter described. The undersigned persons petition that the territory be transferred to and included within the [blank] School District of [blank] County.

The property to be transferred is described as follows:

(Insert reasonable identification of territory [Education Code Section 35700.3].)

The undersigned request the changes in the respective boundaries of the school districts for the following reasons:

(List reasons for proposed boundary change)

The Chief Petitioners for the purpose of receiving notices and so forth are:

(List names and addresses of a maximum of three petitioners)

Petition format for signature collection

Number	Name	Residence Address	For office use only
Petitioner 1, line 1	Signature	Number and street	<i>(leave blank)</i>
Petitioner 1, line 2	Print name	City and zip code	<i>(leave blank)</i>
Petitioner 2, line 1	Signature	Number and street	<i>(leave blank)</i>
Petitioner 2, line 2	Print name	City and zip code	<i>(leave blank)</i>
Petitioner 3, line 1	Signature	Number and street	<i>(leave blank)</i>
Petitioner 3, line 2	Print name	City and zip code	<i>(leave blank)</i>

This petition may be circulated by a paid signature gatherer or a volunteer. You have the right to ask.

DECLARATION OF PETITION CIRCULATOR

I, *(Print name)*, state as follows:

- (1) That my residence address is: *(Number and Street) (City and Zip Code)*
- (2) That I circulated the foregoing petition and saw the appended signatures being written.
- (3) That according to my best information and belief, each signature is the genuine signature of the person whose name it purports to be.
- (4) That the dates between which all signatures to the petition were obtained are:
(beginning date) to (ending date).

I certify, under penalty of perjury, that this declaration is true and correct.

(Signature of Circulator): Include first name and middle initial or first initial and middle name.

Executed on *(date)* at *(location)*.

APPENDIX F SAMPLE NOTICE OF PREPARATION OF DRAFT NEGATIVE DECLARATION/ MITIGATED NEGATIVE DECLARATION

NOTES:

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(SAMPLE)

NOTICE OF PREPARATION OF DRAFT NEGATIVE DECLARATION/MITIGATED NEGATIVE DECLARATION

Notice is hereby given that the Riverside County Committee on School District Organization has completed an Initial Study of the [] project in accordance with the Office of Education's Guidelines implementing the California Environmental Quality Act. This Initial Study was undertaken for the purpose of deciding whether the project may have a significant effect on the environment. On the basis of such Initial Study, the Office of Education's staff has concluded that the project will not have a significant effect on the environment and has therefore prepared a Draft Negative Declaration. The Initial Study reflects the independent judgment of the Board of Education. The Project site [] is not on a list compiled pursuant to Government Code Section 65962.5. Copies of the Initial Study and Draft Negative Declaration are on file at the Riverside County Office of Education, 3939 13th Street, Riverside, CA 92502, and are available for public review. Comments will be received until []. Any person wishing to comment on this matter must submit such comments, in writing, to the Office of Education prior to this date. Comments of all responsible agencies are also requested.

Public hearings will be held at the following locations, dates, and times:

At its meeting on [], at [], the Riverside County Committee on School District Organization will consider the project and the Draft Negative Declaration. If the Riverside County Committee on School District Organization finds that the project will not have a significant effect on the environment, it may adopt the Negative Declaration. This means that the Riverside County Committee on School District Organization may proceed to consider the project without the preparation of an environmental impact report.

Date Received for Filing:

(Clerk Stamp Here with Name and Title):

NEGATIVE DECLARATION

1. Name, if any, and a brief description of project:
2. Location:
3. Entity or person undertaking project (check one):
 Riverside County Committee on School District Organization
 Other (Private)
4. Name:
5. Address:

The Riverside County Committee on School District Organization, having reviewed the Initial Study of this proposed project, and having reviewed the written comments received prior to the public meeting of the County Committee on School District Organization, including the recommendation of the Office of Education's staff, does hereby find and declare that the proposed project will not have a significant effect on the environment. A brief statement of the reasons supporting the Riverside County Committee on School District Organization findings are as follows:

The Riverside County Committee on School District Organization hereby finds that the Negative Declaration reflects its independent judgment.

A copy of the Initial Study may be obtained from the Riverside County Office of Education, 3939 13th Street, P.O. Box 868, Riverside, CA 92502, telephone (909) 788-6685.

The location and custodian of the documents and any other material that constitute the record of proceedings upon which the Riverside County Committee on School District Organization based its decision to adopt this Negative Declaration are as follows:

Riverside County Office of Education
3939 13th Street
Riverside, CA 92502
Telephone: (909) 788-6685

Name of Staff Member:

Date filed with County Clerk:

ENVIRONMENTAL IMPACT ASSESSMENT

(STAFF RECOMMENDATION: INTERNAL USE ONLY)

Name or description of project:

Location: Riverside County

Entity or person undertaking project (check one):

Riverside County Committee on School District Organization

Other (Private)

1. Name:

2. Address:

3. Staff Determination:

The Riverside County Office of Education's staff, having undertaken and completed an Initial Study of this project in accordance with the Office of Education's *Local Guidelines for Implementing the California Environmental Quality Act (CEQA)* for the purpose of ascertaining whether the proposed project may have a significant effect on the environment, has reached the following conclusion (check one):

- (a) The project could not have a significant effect on the environment; therefore, a Negative Declaration should be adopted.
- (b) The Initial Study identified potentially significant effects on the environment but revisions in the project plans or proposals made by or agreed to by the applicant would avoid the effects, or mitigate the effects to a point where clearly no significant effects would occur; therefore a Mitigated Negative Declaration should be adopted.
- (c) The project may have a significant effect on the environment; therefore, an Environmental Impact Report will be required.

Staff:

Date:

APPENDIX G ENVIRONMENTAL INITIAL STUDY CHECKLIST FORM

Environmental initial study checklist forms are made available in Appendix G of the CEQA Statutes and Guidelines document at the California Natural Resources Agency website:

https://resources.ca.gov/-/media/CNRA-Website/Files/Programs-and-Projects/CEQA/CEQA-Homepage/2019_CEQA_Statutes_and_Guidelines.pdf

Information regarding CEQA documents and document submission may be found on the Governor's Office of Planning and Research Web page at:

<http://www.opr.ca.gov/ceqa/technical-advisories.html>

NOTES:

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APPENDIX H

CALIFORNIA ENVIRONMENTAL QUALITY ACT PROCESS

Information about the California Environmental Quality Act (CEQA), including statute and guidelines can be found on the Internet, courtesy of the California Natural Resources Agency at:

<https://resources.ca.gov/admin/Legal/CEQA-Supplemental-Documents>

A helpful flowchart for the CEQA process is available at:

https://www.califaep.org/ceqa_flowchart.php;

or, in Appendix A of the CEQA Statutes and Guidelines document at the California Natural Resources Agency website:

[https://resources.ca.gov/-/media/CNRA-Website/Files/Programs-and-Projects/CEQA/CEQA-Homepage/2019 CEQA Statutes and Guidelines.pdf](https://resources.ca.gov/-/media/CNRA-Website/Files/Programs-and-Projects/CEQA/CEQA-Homepage/2019_CEQA_Statutes_and_Guidelines.pdf)

The California *Public Resources Code* and the *California Code of Regulations* (Title 14, Division 6, Chapter 3) provide the statute and regulations that govern the CEQA process. These resources can be accessed through the California Laws & Codes Web site maintained by the California Department of Education at:

<http://www.cde.ca.gov/re/lr/cl/>

NOTES:

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<http://www.cde.ca.gov/re/di/cr/>.

APPENDIX I

CEQA Filing Fee No Effect Determination Form

Contact the appropriate California Department of Fish and Wildlife (CDFW) Region for information about obtaining the CEQA Filing Fee No Effect Determination Form. See the following CDFW Web page for a listing of Regions:

<https://www.wildlife.ca.gov/Regions>

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APPENDIX J

SAMPLE GUIDELINES FOR PUBLIC HEARING AGENDA

NOTES:

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SAMPLE GUIDELINES FOR PUBLIC HEARING AGENDA

- | | | |
|----|---|--|
| 1. | Introduction of Committee Chairperson
Responsibilities/Mission | No time limit |
| 2. | Explanation of the Proposal by Secretary
of the County Committee | |
| | Presentation of Facts | No time limit |
| 3. | Explanation of Guidelines by Chairperson | No time limit |
| 4. | Petitioners | 20 minutes maximum |
| 5. | Districts Involved

Board Members

Superintendents | 20 minutes maximum for each district |
| 6. | Proponents | 45 minutes maximum; each
speaker limited to 5 minutes
maximum (time may be
shortened at the discretion of the
chairperson) |
| 7. | Opponents | 45 minutes maximum; each
speaker limited to 5 minutes
maximum (time may be
shortened at the discretion of the
chairperson) |
| 8. | Summation/Closing Statements | |
| | Proponents | 5 minutes maximum |
| | Opponents | 5 minutes maximum |

Notes: At the second hearing, items 4 and 5 will be in reverse order, and items 6 and 7 will be in reverse order.

This process has been adopted by the Los Angeles County Committee on School District Organization. The State Board of Education, at its hearings on school district organization issues, typically allows 10 minutes total for each side of the issue, plus an open public session for other speakers (one or two minutes per speaker).

APPENDIX K SAMPLE SUGGESTED PROCEDURES FOR A PUBLIC HEARING CONDUCTED BY THE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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SUGGESTED PROCEDURES FOR A PUBLIC HEARING CONDUCTED BY THE COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

All persons who have either signed up prior to the beginning of the public hearing or contacted _____ by telephone or in writing prior to _____ p.m. on _____ will be allowed to speak. The order of speaking will be determined by the order of receipt of requests.

Those persons wishing to speak but not able to preregister *may be allowed to speak* if the committee chair wishes to recognize them. Those persons may be heard only after all preregistered persons have been heard.

No person will substitute for another person registered to speak without approval of the chair. If the pre-registrant is absent and approval has not been granted to a substitute speaker, the chair will go on to the next name.

Order of Speaking

- | | | |
|----|---|----------------|
| 1. | Major spokesperson <i>for</i> the petition | 15 minutes |
| 2. | Major spokesperson <i>against</i> the petition | 15 minutes |
| 3. | Speakers representing affected school districts | 5 minutes each |
| 4. | Preregistered speakers | 4 minutes each |
| 5. | Requests from the floor, if recognized by the chair | 4 minutes each |

No “pro” or “con” literature may be distributed before, during, or after the public hearing by any person or organization, nor may any signatures for petitions be solicited.

Note: This process was adopted by the Santa Clara County Committee on School District Organization.

APPENDIX L SAMPLE INITIAL AGENDA FOR THE GOVERNING BOARD OF A NEW SCHOOL DISTRICT

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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SAMPLE INITIAL AGENDA FOR THE GOVERNING BOARD OF A NEW SCHOOL DISTRICT

LOS ANGELES COUNTY OFFICE OF EDUCATION
Division of Business Advisory Services
Regionalized Business Services

“MANHATTAN BEACH” UNIFIED SCHOOL DISTRICT
FIRST MEETING OF THE GOVERNING BOARD

AGENDA

November 23, 1992

7:00 p.m.

Manhattan Beach City Elementary School District
Boardroom
1501 Redondo Avenue
Manhattan Beach

I. Opening Procedures

- A. Call to Order by Dr. Stuart E. Gothold, County Superintendent of Schools
- B. Pledge of Allegiance
- C. Attendance
 - 1. Governing Board Members—Roll Call
 - Kathy Campbell
 - Gary Collins
 - Barbara Dunsmoor
 - Bernard O’Connor
 - Mary Rogers
 - 2. Guests and Visitors
 - 3. Staff Members
- D. Introductory Remarks and Swearing-In Ceremony

Administration of oaths of office of the newly elected governing board members by Dr. Stuart E. Gothold.

E. Comments from the Public

Any person wishing to speak on any item on the agenda or any other relevant matter will be heard at this time.

II. Action Items

F. Election of Officers

Pursuant to *Education Code* sections 35022, 35102, and 35143, the governing board shall elect a president from among its members who shall serve until the following annual organizational meeting.

Pursuant to *Education Code* sections 35102 and 35143, the governing board shall elect a clerk from among its members who shall serve until the following annual organizational meeting.

G. Naming of District

Pursuant to *Education Code* sections 35000, 35102, and 35140, the governing board shall name the new district.

H. Election of Representative for the Los Angeles County Committee on School District Organization

Pursuant to *Education Code* Section 35023, the governing board shall select one of its members as its representative, who shall have one vote for each member to be elected to the county committee provided by *Education Code* Section 4000 et seq.

I. Setting of Regular Meeting Dates, Time, and Location

Pursuant to *Education Code* Section 35140, the governing board shall establish the date, time, and location for holding regular board meetings.

III. Closed Session—Personnel Matters

Pursuant to *Government Code* Section 54956.9, the governing board will discuss hiring a superintendent of the school district.

IV. Information Items

V. Adjournment

APPENDIX M

HANDBOOK FOR CONDUCTING RACIAL AND ETHNIC STUDIES IN SCHOOL DISTRICTS

NOTES:

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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I. STATUTORY AUTHORITY

A. California Education Code, Section 35753(a)(4)

“The reorganization of the school districts will preserve each affected district’s ability to educate pupils in an integrated environment and will not promote racial or ethnic discrimination or segregation.”

This section of the *California Education Code (EC)* relating to promotion of racial or ethnic discrimination or segregation was added to the list of conditions that must be considered in school district reorganization after the California State Board of Education (SBE) instituted a policy on “de facto” school segregation in June, 1962. Referring to the 1954 U.S. Supreme Court decision that declared that segregation of schoolchildren on a racial basis was unlawful discrimination, the SBE statement said that “primarily because of patterns of residential segregation, some of our schools are becoming racially segregated, in fact, and that this challenge must be met with the full thrust of our legal authority and moral leadership.” The declaration recognized there are social and economic forces, over which the SBE has no control, but “in all areas under our control or subject to our influence, the policy of elimination of existing segregation and curbing any tendency toward its growth must be given serious and thoughtful consideration by all persons involved at all levels.”

In 1963, the California Supreme Court recognized that this policy is a legal obligation for all school boards charged with fixing boundaries of school districts (*Jackson v. Pasadena School District*, 59 Cal 2d 876). Subsequently, the SBE adopted administrative regulations (*California Code of Regulations*, Title 5 [5 CCR] Section 18573), which established procedures and criteria to be considered in avoiding or preventing segregation in school district reorganization and transfer of territory proposals, and in state and local procedures in the selection of school sites.

In the years since the 1962 “de facto” school segregation policy declaration, the SBE’s approach to this regulation and others affecting the responsibilities of local school boards has varied considerably. However, the *EC* and 5 *CCR* regulations have remained consistent in the requirement that school district reorganization and transfer of territory proposals may not promote racial or ethnic segregation or discrimination.

B. California Code of Regulations, Title 5, Section 18573 (a)(4)(A–E) (Revised 03/29/96)

To determine whether the new districts will promote racial or ethnic discrimination or segregation, the effects of the following factors will be considered:

1. The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.
2. The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school of the affected districts.
3. The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or to alleviate racial or ethnic discrimination or segregation.
4. The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.
5. The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.

These rather detailed regulations were adopted in 1976 (revised in 1996) to clarify procedures and identify factors that should be considered in analyzing proposals and also to provide consistency and continuity with other regulations adopted earlier by the SBE that required school districts to adopt and implement a plan for the alleviation of segregation of minority pupils. However, these regulations were rescinded by the SBE in 1991 (formerly 5 *CCR* sections 90–101). Subsequently, the CDE Legal Office issued a memorandum that stated: “School districts are still under a constitutional obligation to prevent segregation in the schools and must act to prevent segregation and/or to alleviate the harmful effects of segregation.” The authority cited for this memorandum was the ruling of the California Supreme Court in the companion cases of *Crawford v.*

Board of Education of Los Angeles (1976) 17 Cal. 3d 280 and *N.A.A.C.P. v. San Bernardino City Unified School District* (1976) 17 Cal. 3d 311. The court stated that school districts are required to “take steps, insofar as reasonably feasible to alleviate segregation in schools regardless of its cause.” This ruling of the California Supreme Court is now incorporated in paragraph (E) of the 1996 revision, replacing paragraph (G) in the 1976 adoption.

The “Findings of Fact” section of this handbook outlines the steps and procedures in analyzing proposals. Each of the factors of the 5 *CCR* regulations will be considered separately relative to its impact on the promotion of segregation or discrimination.

II. DEFINITION OF TERMS

A. Segregated School or District

A school or district in which the minority student enrollment is so disproportionate as realistically to isolate minority students from other students and thus deprive minority students of an integrated educational experience.

—*California Supreme Court, 1976.*

In the process of analyzing district reorganization and transfer of territory proposals, one of the most difficult problems encountered is the determination by numerical ratios and comparisons alone when there is a promotion of segregation. Moreover, based on *Crawford* at 303-304, a determination whether a particular school or district is segregated cannot be based solely on set racial or ethnic percentages, either in absolute terms or in terms of the racial composition of a particular district's student population. “Under the California Constitution, as under the federal Constitution, ‘[w]hat is or is not a segregated school will necessarily depend on the facts of each particular case. In addition to the racial and ethnic composition of a school's student body, other factors, such as the racial and ethnic composition of faculty and staff[,] and the community and administration attitudes toward the school, must be taken into consideration.’” Additionally, in some instances, a change may occur that affects a district policy or a desegregation plan, voluntary or court ordered, which will promote segregation.

However, in the absence of these or other conditions, any change that significantly increases the percentage of minority group students could be the controlling factor in the determination of a promotion of segregation. Generally, a promotion of segregation will occur when a proposal changes the minority enrollment in a district or affected schools from proportionate (balanced or slightly imbalanced) to “disproportionate,” the term or

condition described by the California Supreme Court. When a disproportion of minority students occurs, minority students are isolated and deprived of an integrated educational experience, according to the holding of the court.

In summary, the definition of segregation describes a condition in which a disproportionate percentage of minority students in a district or affected school(s) occurs as a result of a proposal, making it unrealistic to provide integrated educational experiences. Such proposals promote segregation and discrimination.

B. Minority Groups

Minority students are those who regard themselves or are regarded by the school or community as belonging to one of the following groups:

Hispanic or Latino of any race

Or, for individuals who are non-Hispanic or non-Latino only:

- *American Indian or Alaska Native*
- *Asian*
- *Native Hawaiian or Pacific Islander*
- *Filipino*
- *Hispanic or Latino*
- *Black or African American*
- *White*
- *Two or More Races*

The racial and ethnic groups listed above have been identified by federal and state agencies that have responsibility for equal opportunity policies and practices, gathering of statistics for purposes of information, and for enforcement of non-discriminatory statutes and regulations. In California, racial and ethnic school and district enrollment statistics are compiled by the CDE.

It should be pointed out that racial and ethnic groups identified as “minority” in many situations are not a numerical “minority” compared with the white “majority” group. A more realistic definition has its roots in past laws, which subjected these groups to discriminatory practices and segregation based solely on race, color, or ethnicity. Although all such

laws have been repealed or declared unconstitutional by the courts or repealed by the California State Legislature, the pervasive, lingering effects of past discrimination and some continuing community practices require vigilance in overcoming past discrimination and protecting and expanding human rights and equal opportunity. In the review of proposals, all minority groups are combined into one numerical quantity for comparison with the white group; this is consistent with the definition of segregation set forth by the California Supreme Court.

C. Integrated Educational Experience

“Integrated educational experience” means the process of education in a racially and ethnically diverse school that has as its goal equal opportunities for participation and achievement among all racial and ethnic groups in the academic program and other activities of the school, together with the development of attitudes, behavior, and friendship based on the recognition of dignity and value in differences as well as similarities.”

This definition was developed by the CDE following the California Supreme Court definition of segregated schools in the Los Angeles and San Bernardino desegregation cases.

The definition describes a *quantitative* characteristic of segregated schools as being “so disproportionate as realistically to isolate minority students” and a *qualitative* characteristic as one that deprives minority students of an “integrated educational experience.” Such educational experiences can only be developed in schools that are racially and ethnically diverse—schools in which there is *not* a disproportion of minority students.

III. GENERALIZATIONS/GUIDELINES

The statements in this section can serve as a general guide to understanding some of the complex issues involved in the process.

- The statutes are essentially reactive or preventive; occasionally segregation can be alleviated or racial/ethnic diversity promoted. The statutes are not generally perceived to be a positive tool to facilitate desegregation/integration.
- By definition the promotion of *minority group* segregation is prohibited. A proposal could be approved if majority group (white) “segregation” occurs in the absence of any minority group segregation.
- The definition of segregation involves both *quantitative* and *qualitative* elements: “so disproportionate”—the quantitative element refers to grossly

disparate numbers of minority group students, resulting in denial or absence of any realistic opportunity for “integrated educational experiences”—the qualitative element.

- The statutes do not provide a precise quantitative definition of segregation. In the analysis, the districts and/or affected school(s) are evaluated in terms of differences in racial/ethnic composition “before” and “after” the transfer or reorganization.
- Districtwide percentages are given primary consideration if there are relatively few schools in the affected district(s). Districtwide percentages are of limited value when applied to very large districts or if affected schools are distant from each other or if geographic, safety, or other factors must be considered. In such cases, only “affected” schools are considered in the analysis.
- Other factors, such as the racial and ethnic composition of faculty and staff, and the community and administration attitudes toward the reorganization, must be taken into consideration, especially if the proposed reorganization results in changes to these factors.
- A district’s desegregation plan or court order must be considered in the analysis. The transfer/reorganization cannot alter or modify a court-ordered plan unless the court gives approval. A district plan is considered in terms of current and future implementation plans and schedules, together with a determination of whether the plan and its component parts are reasonable and feasible.
- A proposal could be approved even if the transfer/reorganization results in exceeding the district criteria established to identify a segregated school. However, in such cases alternatives that are reasonable and feasible should be available.
- There cannot be a “trade-off;” that is, a proposal cannot be approved if segregation is promoted in one district and racial/ethnic diversity occurs in the other district.

IV. GENERAL CONSIDERATIONS

A. Report of the County Committee on School District Organization (for state-level consideration)

Proposals submitted to the SBE typically include a report developed by the staff of the county superintendent of schools for the county committee on school district organization (county committee), or by a private consultant or consulting firm working under contract with the county. The

reports vary considerably in the presentation of data and information that is accurate, complete, and consistent with all the factors and criteria that must be considered. When additional information is needed, the staff of the county committee should be contacted. Other parties to the proposal can be contacted if the county staff is not able to provide the information. (EC Section 35751)

B. Statistical Data

Data reports produced by the CDE are almost uniformly used in county committee reports. When data are not identified as from the CDE or need to be separately compiled for the state or county report, the accuracy of such data should be agreed upon by all parties to the proposal.

A common problem in many proposals is incomplete or inaccurate data on the number and ethnicity of students residing in the existing district(s) or area of a transfer of territory, and who potentially will attend a school in a new or different district. The numbers of such students and their racial/ethnic compositions may be a pivotal factor in the review process. It may be difficult to accurately assess the “before” and “after” effect unless all students are accounted for in their district of residence as proposed.

C. Communication with Parties

Most proposals are highly controversial, regardless of the number of students involved or size and location of the proposed change; therefore, effective communication among the parties to the proposal should be maintained. All parties should be informed if there are changes in the data or new data are developed as the result of such communication. Every effort should be made to obtain agreement among the parties as to the accuracy of objective or statistical data. Usually, the county committee staff should be the responsible source for correcting any erroneous data or supplying new data or information. The county staff should also accept responsibility for most of the communication relative to any changes in the report submitted by the county committee.

D. Site Visits (for State-level Consideration)

Some proposals involve questions or complexities that could be clarified by a site visit. When this is not feasible, alternative approaches or sources may have to be considered, such as maps, reports, and studies by reputable persons or agencies, and telephone inquiries to responsible, knowledgeable persons. However, it may be necessary to include a statement in the report that a site visit was not possible in order to completely verify or clarify a condition or question at issue.

V. FINDINGS OF FACT

The “Findings of Fact” section of the report lists in sequential order all the data and information required by the 5 *CCR* regulations to determine whether a proposal promotes segregation or discrimination. The following process should be followed, usually in the order prescribed by the 5 *CCR* regulation:

A. Process to Prepare Findings of Fact

Step 1

Prepare tables and description of racial/ethnic enrollment of:

- Existing and proposed districts;
- Affected schools;
- Comparison of *existing* and *proposed* districts and affected schools (i.e., before and after). (At this point of comparison disproportionate differences in minority racial/ethnic enrollment could indicate a promotion of segregation.)

Step 2

Prepare tables and description of the trends and rates of change in racial/ethnic enrollment and other changes in demographic conditions, including the racial and ethnic composition of faculty and staff.

Step 3

Prepare description and assessment of various factors that affect feasibility of integration: distance between schools, safety, capacity of schools, geographic features, etc.

Step 4

Prepare description and assessment of community and administration attitudes toward the reorganization.

Step 5

Prepare description and assessment of district policies and desegregation programs or plans, voluntary or court ordered.

Step 6

Prepare description and assessment of the duty of affected districts to take reasonable and feasible steps to alleviate segregation.

Step 7

Summarize all conditions or changes that would occur if the proposal were approved that would promote segregation, referring only to data or information given in Steps 1 through 5. Do not introduce any new data or information in this section.

Step 8

Prepare a concluding statement to indicate whether the proposal promotes segregation or discrimination.

B. Racial/Ethnic Enrollment: Affected Districts, Affected Schools, Comparison of Existing and Proposed Districts and Affected Schools

1. Racial/Ethnic Enrollment - Affected Districts

Consideration of districtwide data is the first step in the process of analyzing a proposal. These data are important if the proposal will create significant racial/ethnic enrollment changes in total district enrollment. Districts with large enrollments will usually show only minor changes when there is a comparatively small number of students involved in the proposal. Districtwide data are also less important if schools and attendance centers are distant from each other or if there are other geographic or safety factors affecting the feasibility of integration. Nevertheless, districtwide data of existing and proposed districts should appear first in the "Findings of Fact," regardless of their impact on the proposal.

Note: It is recommended that data relating to affected districts, affected schools, adjacent affected schools, and trends (Sections A and B of the "Findings of Fact") be described briefly in narrative form in conjunction with limited tables in the text of the "Findings of Fact," while detailed tables, graphs, or other extended displays of these data appear in appendices.

2. Racial/Ethnic Enrollment - Affected Schools

The racial/ethnic enrollment of all schools in districts affected by a proposal will be included in this section. As indicated previously, when districtwide data are not relevant, the racial/ethnic enrollment of affected schools takes primary importance.

3. Comparison of Racial/Ethnic Enrollments: Existing and Proposed

The determination of whether a proposal promotes segregation or discrimination is made most frequently by comparing the racial/ethnic enrollment of the districts and/or affected schools as they currently exist with the racial/ethnic enrollment of the districts and/or affected schools as proposed. Any difference between the minority percentage that is disproportionate before and after reorganization, or will likely become disproportionate in the near future, will usually be apparent in this comparison. An important factor in this phase of the analysis is obtaining an accurate count of the students who will be residents of the district as proposed by reorganization or territory transfer. This problem has been noted previously because it is a frequent error or omission in many reports.

Due to their focal importance, it is recommended that the table(s) of the “before” and after” data and the differences, if any, appear in the text of the report, followed by a discussion of the comparison and its statistical impact.

C. Racial/Ethnic Enrollment: Trends and Rates of Change

Population changes are a fact of life in the nation as a whole and are especially true in California. Changes may vary widely among the various racial and ethnic groups in a district or region; therefore, trends and rates of change in racial/ethnic school enrollment need to be closely examined in each proposal. Data of at least the five previous years should be reviewed. These data will include district totals and, where appropriate, each racial/ethnic group and each affected school. These data may indicate a steady districtwide trend and rate of change with small variations from year to year among the various racial/ethnic groups and the schools of the district. If this rate of change has been steady, with limited variations from year to year, an estimate of future enrollment can be made by applying the average change of the previous five or more years to the future five years. Such *estimates* or *projections* are not measures of statistical certainty and should be used with caution in predicting demographic trends and changes.

Occasionally a proposal will include more sophisticated statistical analyses of population changes or projections. These data should be agreed upon by the parties and, when necessary, there should be recognition of the competence of the person or agency responsible for the analysis.

In some large districts the racial/ethnic enrollment of a particular school or several schools in an area may show changes that vary considerably from other schools in the district. Such significant variations should be closely examined relative to the possible effect on district totals or “affected” school totals, and whether there are current or future “reasonable and feasible steps” available to alleviate any segregation that may occur.

D. Community and Administration Attitudes toward the Reorganization

Local public hearings for reorganization matters are required by the *Education Code* and transcripts and/or video/audio recordings of these hearings often are available. If there are community or administration concerns regarding potential or existing segregation, typically such concerns will be raised during the local public hearings. Concerns regarding segregation also may be raised during site visits, if conducted.

E. School Board Policies; Desegregation Plans and Programs

Many school districts have adopted policies designed to alleviate or prevent segregation or discrimination in response to local initiatives, court orders, or previous state laws or regulations. A substantial number of districts have adopted a districtwide desegregation plan or are implementing a limited desegregation program. Other districts are carrying out court-ordered desegregation plans. These policies, plans, or programs, whether voluntary or court-ordered, must be considered relative to the effect a proposal might have on their effective implementation. As a primary consideration, a court-ordered plan or program that is part of a court order may not be modified or altered by a proposal. Court orders can be changed only by petition of one or more of the parties and by order of the court.

District policies and voluntary desegregation plans or programs must also be evaluated to determine whether any changes will create obstacles in the district’s efforts to alleviate or prevent segregation. However, the analysis of a proposal in this regard should indicate whether the policy, plan, or program is reasonable and feasible, and if current implementation of the policy or plan will be adversely affected by the proposal. Also, reasonable and feasible alternatives may be available to correct or ameliorate a problem created by the proposal. Generally, district voluntary plans and programs designed to prevent or alleviate segregation and that are currently effective in accomplishing their objectives should remain in place and may not be altered or abridged by a proposal.

F. Factors Affecting Feasibility of Integration

Local school boards are expected to take reasonable and feasible steps to alleviate segregation, according to the ruling of the California Supreme Court. Proposals to reorganize school districts or transfer territory are also held to standards of reasonableness and feasibility in determining promotion of segregation or discrimination. The regulations establish a number of factors for consideration:

- Distance between schools and attendance centers
- Terrain and geographic features affecting safety
- Capacity of schools
- Other conditions that may have an effect on the feasibility of integration of schools

Generally, these factors establish practical limitations on applying racial/ethnic enrollment differences as the sole criteria in the promotion of segregation; therefore, each proposal must be examined closely to determine the effect of one or more of these factors. Various kinds of descriptive information, including maps and related data, are helpful and frequently necessary in evaluating these factors. Site visits may be appropriate. A general rule is that conditions of infeasibility of integration currently existing in a district may not invalidate a proposal if those conditions remain unchanged. Geographic isolation (distance between schools and attendance centers), safety factors, and capacity of schools are frequently major determinants of reasonableness and feasibility. Opinions may vary widely among the parties to a proposal relating to the effect of these factors on a proposal, but in all situations a judgment must be made of whether the effect of one or more of these factors present obstacles in achieving integrated schools.

G. Duty of School Boards to Alleviate Segregation

The California Supreme Court has ruled that local school boards have a duty to take reasonable and feasible steps to alleviate segregation, regardless of cause. Therefore, the analysis and evaluation of proposals to reorganize school districts or transfer territory relative to promotion of segregation or discrimination must also consider the duty of local school boards to alleviate segregation. This consideration should be an integral part of the total process of the assessment of a proposal and should have equal standing with other factors in determining promotion of segregation or discrimination. If segregation exists in a district, and reasonable and feasible steps are available to alleviate the problem, then the analysis should indicate whether the proposal would create any obstacles in

alleviating the segregation. Generally, the analysis must consider the following questions:

- Are there one or more conditions of segregation or potential segregation in the existing or proposed district(s)?
- Are there reasonable and feasible steps available to alleviate the segregation?
- What effect would the proposal have on alternative methods of alleviating the segregation?
- Do existing districts have a clearly articulated plan with implementation schedules designed to alleviate the problem?
- Would the proposal create obstacles in achieving the objective of the plan?

The analysis must be as objective as possible in addressing these questions, keeping in mind that the California Supreme Court also stated that local school boards should “take reasonable and feasible steps” that are determined locally.

VI. SUMMARY STATEMENT: FINDINGS OF FACT

The Summary Statement is a brief recap of the factors that have the effect of promoting segregation or discrimination if the proposal were approved. The factors usually will be listed in the order in which they appear in the “Findings of Fact.” However, the factor or combination of factors that have the most significant impact should be clearly delineated. The Summary Statement should not contain any new information or data; the purpose of this section is to make a final determination on a promotion of segregation or discrimination based on the statistical data and existing or resulting conditions described in each section of the “Findings of Fact.”

VII. CONCLUSION

This section is a brief statement of the conclusion on whether the proposal promotes segregation or discrimination.

ATTACHMENT 1: Condensed Outline of Procedures

(Following is a condensed outline of the procedures and essential elements required to prepare a report on whether the creation of new districts will promote racial or ethnic segregation.)

- Step 1. Prepare statistical tables and describe racial/ethnic enrollment of:
 - a. Existing district(s) and proposed district(s)
 - b. Affected schools; existing and proposed districts
 - c. The difference between existing and proposed districts, affected schools, and adjacent schools (where appropriate)
 - d. Identify the number and percentage of minority students enrolled in racially/ethnically diverse schools (non-segregated) who would be displaced by the proposal. Describe racial/ethnic enrollment, capacity, location, etc., of possible schools where minority displaced students might be reassigned.

- Step 2. Prepare statistical tables and describe trends and rates of racial/ethnic enrollment/population change.
 - a. Use previous five-year data history for existing district and affected and adjacent schools, where appropriate.
 - b. Project future five-year change based on average annual change.
 - c. Describe other demographic factors that could affect trends or changes.

- Step 3. Prepare a description of:
 - a. District policies and procedures relating to equal educational opportunity and the alleviation of racial/ethnic segregation and whether the policies and procedures are effectively implemented. Describe how the proposal might place substantial obstacles in the way of effective implementation of the policies and procedures.
 - b. If the district(s) have a desegregation plan, voluntary or court ordered, describe whether the proposal would adversely affect any part of the plan.
 - c. If any policy or desegregation plan or program is adversely affected by the proposal, are there reasonable and feasible alternatives available that could mitigate the adverse effects?

- Step 4. Prepare a description of:
- a. The effect of distance between schools, safety factors, capacity of schools, etc., on the feasibility of integration of affected schools; and
 - b. Consider district policies relating to each factor and whether such policies are reasonable and appropriate.
- Step 5. Prepare a description of:
- a. The steps undertaken by the existing district(s) to alleviate segregation and whether the proposal would place obstacles that would prevent or preclude the duty of the districts to alleviate segregation;
 - b. Any condition of segregation that could or should be alleviated by the existing district(s) and whether the proposal would adversely affect the duty to alleviate such segregation; and
 - c. Any condition of segregation that would be created by the proposal and whether there are reasonable and feasible steps available to alleviate such segregation.
- Step 6. Summarize all conditions or changes that would promote the occurrence of segregation if the proposal were approved, referring only to data or information given in Steps 1 through 5. Do not introduce any new data or information in this section.
- Step 7. Prepare concluding statement to indicate whether the proposal promotes segregation or discrimination.