

Overview of the Process and Criteria for Transfer of Territory



© Orange County Superintendent of Schools July 2024

Contents

▶ PROCESS

- Initiation of Petition
- Examination of Petition
- California Environmental Quality Act (CEQA)
- Public Hearings
- Action by the County Committee to Approve/Disapprove
- Order of Election
- Appeal

▶ SUBSTANTIVE REQUIREMENTS

- Conditions/Criteria
- Discretionary Authority
- Legislative Intent

Reorganization of School Districts by the Electorate - Initiation of Action

Education Code Section 35700:

An action to reorganize school districts begins when a petition is filed with the County Superintendent of Schools.

- ▶ The petition must be signed by one of the following:
 - (a) At least 25% of registered voters in the proposed area if inhabited. For multiple districts, 25% of voters in each district.
 - (b) At least 8% of votes cast for Governor in the last election if the area is a single district with over 200,000 pupils and is being divided into two or more districts.
 - (c) The property owner, if the area is uninhabited and a tentative subdivision map or project application has been filed.
 - (d) A majority of the governing board members of each affected district.

3

Examination of Petition

Education Code Section 36704:

- ▶ The County Superintendent of Schools must examine the petition within 30 days of filing.
- ▶ If the petition is found to be sufficient and properly signed, it will be transmitted to both the county committee and the State Board of Education.

4

California Environmental Quality Act (CEQA)

Education Code Section 35710.3:

- ▶ The County Committee acts as the lead agency under the California Environmental Quality Act (CEQA) for each petition.

Education Code Section 35706(b):

- ▶ The County Committee must:
 - Certify an environmental impact report,
 - Approve a negative declaration, or
 - Determine that the project is exempt from CEQA.

5

Public Hearings

Education Code section 35705:

- ▶ The County Committee must hold one or more public hearings within 60 days of receiving the petition.
- ▶ Hearings should be at regular or special meetings in each affected district.
- ▶ At least 10 days in advance, notice of the public hearing must be given to:
 - Up to three chief petitioners designated in the petition,
 - The governing boards of all affected districts,
 - Anyone else requesting notice of the hearing.

6

Approval or Disapproval

- ▶ The County Committee must approve or disapprove a petition for the transfer of territory within 120 days from the first public hearing on the petition.*
- ▶ The 120 days start after the County Committee:
 - Certifies an Environmental Impact Report (EIR);
 - Approves a Negative Declaration; or
 - Determines that the project is exempt.

*Substantive Requirements for Approval/Disapproval will be discussed in the next section.

7

Post-Approval Actions - Order of an Election

Education Code section 35710(a):

- ▶ If the petition is approved, the County Committee must notify the County Superintendent of Schools.
- ▶ The County Committee determines the territory for the election.
- ▶ The County Superintendent calls an election in the affected territory at the next available election following certain guidelines.

8

Appeal

Education Code section 35710.5:

- ▶ Chief petitioners or affected school districts can appeal to the State Board of Education.
- ▶ Appeals must address issues of noncompliance or adverse effects on racial or ethnic integration.
- ▶ Notice of appeal must be filed within 5 days of the County Committee's decision (30 days if the appellant is an affected school district).
- ▶ A detailed statement of reasons and evidence must be submitted within 15 days.
- ▶ State Board Review: The State Board of Education can either review the appeal or ratify the County Committee's decision. The board may hold a public hearing and will then affirm or reverse the county committee's action.
- ▶ The State Board's decision is final and sent to the county superintendent.

9

CRITERIA

- ▶ Education Code section 35710
“If the County Committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 35753 substantially are met, the county committee may approve the petition.”
- ▶ Conditions enumerated in Education Code section 35753(a)(1)-(10) and criteria enumerated in 5 CCR 18573(a)(1)-(5).
- ▶ Discretionary Authority of the County Committee
- ▶ Legislative Intent

10

Condition 1 - Adequate Enrollment in Reorganized Districts

▶ **Education Code section 35753(a)(1):**

Reorganized districts must have an adequate number of enrolled students.

▶ **5 CCR 18573(a)(1):**

- ▶ New districts should not overly rely on county or state support.
- ▶ Required projected enrollments:
 - ▶ Elementary District: 901 students
 - ▶ High School District: 301 students
 - ▶ Unified District: 1,501 students
- ▶ Must indicate if enrollment will increase or decline, and by how much.

11

Condition 2: Community Identity

▶ **Education Code Section 35753(a)(2):**

Each school district must be organized based on a substantial community identity.

▶ **5 CCR 18573(a)(2):**

Criteria to determine community identity:

- ▶ Isolation
- ▶ Geography
- ▶ Distance between social centers
- ▶ Distance between school centers
- ▶ Topography
- ▶ Weather
- ▶ Community, school, and social ties, and other unique local factors

12

Condition 3: Equitable Division of Property and Facilities

▶ Education Code Section 35753(a)(3):

The proposal must result in an equitable division of property and facilities among the districts.

▶ 5 CCR 18573(a)(3):

- ▶ Criteria for equitable division will be determined by the California Department of Education.
- ▶ The affected districts and the county office of education must be ready to appoint a committee to resolve disputes regarding property division (as per Education Code Section 35565).

13

Condition 4: Preserve Integrated Education and Prevent Discrimination

▶ Education Code Section 35753(a)(4):

Reorganization must preserve the ability to educate pupils in an integrated environment and prevent racial or ethnic discrimination or segregation.

▶ 5 CCR 18573(a)(4):

- ▶ Factors considered to prevent discrimination or segregation:
 - ▶ Current racial and ethnic composition of pupils in affected districts and schools.
 - ▶ Population trends and growth rates in racial and ethnic groups.
 - ▶ School board policies on preventing segregation and the impact of the proposal on desegregation plans.
 - ▶ Effects of distance, terrain, safety hazards, school capacity, and other geographic features on integration feasibility.
 - ▶ Governing boards' duty to alleviate segregation of minority pupils, regardless of cause.

14

Condition 5: Cost and Program Impact of Reorganization

▶ **Education Code Section 35753(a)(5):**

Any increase in state costs due to reorganization should be minimal and incidental.

▶ **5 CCR 18573(a)(5):**

- ▶ The proposal should not significantly harm the educational programs of affected districts.
- ▶ The California Department of Education will evaluate and describe the impact on districtwide and school site programs not included in the proposal.

15

Condition 6: Ensure Sound Education Performance

▶ **Education Code Section 35753(a)(6):**

- ▶ The proposed reorganization must continue to promote strong educational performance.
- ▶ It should not significantly disrupt educational programs in the affected districts.

16

Condition 7: Minimize School Facilities Costs

▶ Education Code Section 35753(a)(7):

Any increase in school facilities costs due to the proposed reorganization should be minimal and incidental.

17

Condition 8: Purpose of Reorganization

▶ Education Code Section 35753(a)(8):

The proposed reorganization should not be primarily aimed at significantly increasing property values.

18

Condition 9: Sound Fiscal Management

- ▶ **Education Code Section 35753(a)(9):**
 - The proposed reorganization must continue to promote sound fiscal management.
 - It should not cause a substantial negative effect on the fiscal status of the affected district.

19

Condition 10: Other SBE Criteria

- ▶ **Education Code Section 35753(a)(10):**
 - ▶ Any other criteria that the State Board of Education may, by regulation, prescribe.

20

Discretionary Authority of the County Committee

▶ Education Code Section 35710:

The County Committee **may** approve a petition if the minimum conditions in Section 35753(a) are substantially met.

- ▶ The word "may" indicates that the Committee has discretion to approve or deny the petition even if minimum conditions are substantially met.
- ▶ Meeting the minimum standards does not compel approval.
- ▶ School District Organization Handbook and SBE Regulations provide guidance, but each condition is assessed based on the County Committee's own analysis and judgment in the context of the specific reorganization proposal.

21

Legislative Intent

▶ Education Code section 35500 establishes the legislative intent for school district reorganizations as follows:

“It is the intent of the Legislature to utilize the organization of districts as they existed on January 1, 1981, and local educational needs and concerns shall serve as the basis for future reorganization of districts in each county.”

22



QUESTIONS AND ANSWERS

23

Lomas Laguna HOA Petition

- ▶ May 13, 2024 - Petition was submitted to OCDE
- ▶ June 11, 2024 -
 - County Superintendent completed the examination of the Petition and found it to be sufficient and signed as required by law
 - Petition was then simultaneously transmitted to the County Committee and the State Board of Education.
- ▶ July 31, 2024 - Public Hearings
- ▶ November 28, 2024 - Deadline to Approve or Disapprove Petition

24