

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

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# California State Board of EducationSeptember 2018 AgendaItem #05

## Subject

La Honda-Pescadero Unified School District Appeal from an Action of the San Mateo County Committee on School District Organization to Approve a Petition to Transfer Territory from the La Honda-Pescadero Unified School District to the Portola Valley Elementary School District and the Sequoia Union High School District in San Mateo County.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issue(s)

The San Mateo County Committee on School District Organization (County Committee) approved a petition to transfer territory from the La Honda-Pescadero Unified School District (USD) to the Portola Valley Elementary School District (ESD) and the Sequoia Union High School District (UHSD). California *Education Code* (*EC*) Section 35710.5 provides that chief petitioners and affected school districts may appeal the actions of the County Committee to the California State Board of Education (SBE). The La Honda-Pescadero USD opposes the transfer of territory and appeals the action of the County Committee to approve it. The SBE may affirm or reverse the actions of the County Committee. If the SBE affirms the County Committee’s actions, it must establish an election area for the proposal.

## Recommendation

The California Department of Education (CDE) recommends that the SBE affirm the action of the County Committee to approve the proposal to transfer territory from the La Honda-Pescadero USD to the Portola Valley ESD and the Sequoia UHSD. The CDE further recommends that the SBE establish the area proposed for transfer as the election area.

## Brief History of Key Issues

The San Mateo County Superintendent of Schools (County Superintendent) received a petition signed by at least 25 percent of the voters living in the La Honda Vista subdivision along La Honda Road (near the ridgeline of the Peninsula Coastal Range of the Santa Cruz Mountains) in San Mateo County. The petition is to transfer 10 homes and a number of undevelopable parcels from the La Honda-Pescadero USD to the Portola Valley ESD and the Sequoia UHSD. Chief petitioners state the following reasons for requesting the transfer: (1) reduces the travel time to and from school; and (2) allows children to attend schools in the community with which they have greater community identity. The La Honda-Pescadero USD opposes the transfer, while the Portola Valley ESD and the Sequoia UHSD have adopted no official position.

Pursuant to *EC* Section 35704, the County Superintendent determined the petition was sufficient and transmitted it to the County Committee. The County Committee approved the petition and expanded the election area to include the entire La Honda-Pescadero USD.[[1]](#footnote-1) The La Honda-Pescadero USD subsequently filed an appeal requesting that the SBE reverse the action of the County Committee to approve the proposed territory transfer.

Prior to approving the petition, the County Committee determined that all nine minimum threshold conditions of *EC* Section 35753(a) are substantially met.[[2]](#footnote-2) The La Honda-Pescadero USD claims that the County Committee did not adequately consider the following conditions of *EC* Section 35753 in approving the territory transfer petition:

* *EC* Section 35753(a)(1): The reorganized districts will be adequate in terms of number of pupils enrolled.
* *EC* Section 35753(a)(2): The districts are each organized on the basis of a substantial community identity.
* *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.
* *EC* Section 35753(a)(8): The proposed reorganization is primarily designed for purposes other than to significantly increase property values.
* *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 affected district.

The CDE agrees with the County Committee and determines that all nine minimum threshold conditions of *EC* Section 35753(a) are substantially met by the proposed territory transfer. Furthermore, the CDE finds no compelling local educational reason to reverse the County Committee’s action. Details regarding the La Honda-Pescadero USD appeal, and the CDE analyses and recommendations regarding the appeal, are contained in Attachment 1.

## Summary of Previous State Board of Education Discussion and Action

The SBE has not considered this appeal previously. An appeal by the chief petitioners, challenging the County Committee action to expand the election area to the entire La Honda-Pescadero USD, also is on the current SBE agenda.

## Fiscal Analysis (as appropriate)

Affirming the action of the County Committee constitutes an order to the County Superintendent to call an election for the proposed territory transfer. The election area must be determined by the SBE. If the SBE establishes the territory proposed for transfer as the election area (which is the recommendation of the CDE), all costs for the election in the area established by the SBE will be costs to the San Mateo County Office of Education.

However, EC Section 35756.5 states that the election for a territory transfer will be expanded to include the entire territory of a school district if that district (1) opposes the territory transfer and (2) has an average daily attendance of 900 or fewer.[[3]](#footnote-3) If the La Honda-Pescadero USD maintains its opposition to the territory transfer proposal after SBE action, the SBE-established election area will be expanded to include all of the La Honda-Pescadero USD pursuant to EC Section 35756.5. Under this circumstance, the La Honda-Pescadero USD will bear the additional election costs ~~related to expansion~~ associated with the expanded portion of the election area.

## Attachment(s)

**Attachment 1**: Analysis of Administrative Record (21 pages)

# ATTACHMENT 1ANALYSIS OF ADMINISTRATIVE RECORD

**Appeal from a Decision by the**

**San Mateo County Committee on School District Organization**

**to Approve a Petition to Transfer Territory from the**

**La Honda-Pescadero Unified School District to the**

**Portola Valley Elementary School District**

**and the Sequoia Union High School District**

## 1.0 Recommendation

The California Department of Education (CDE) recommends that the California State Board of Education (SBE) affirm the action of the San Mateo County Committee on School District Organization (County Committee) to approve a proposal to transfer territory from the La Honda-Pescadero Unified School District (USD) to the Portola Valley Elementary School District (ESD) and the Sequoia Union High School District (UHSD). The CDE also recommends that the SBE establish the area proposed for transfer as the election area.

## 2.0 Background

The La Honda-Pescadero USD is a mostly rural district stretching from the Pacific Ocean coast to the Santa Cruz Mountains. There are three identifiable unincorporated communities within the district: La Honda, located on the coastal slope of the Peninsula Coastal Range of the Santa Cruz Mountains and known for its vineyards; Pescadero, a farming and ranching community near the Pacific Ocean coastline; and Loma Mar, a small community located between La Honda and Pescadero (see Figure 1 for a map depicting the districts and communities).

With a 2016–17 enrollment of 318 kindergarten through twelfth grade students, the La Honda-Pescadero USD is the smallest school district under the jurisdiction of the San Mateo County Superintendent of Schools (County Superintendent). Despite slight increases in enrollment from 2011–12 to 2013–14, the overall trend for enrollment in the district has been one of steady decline over the past 10 years (from a high of 398 students in the 2006–07 school-year).

The Portola Valley ESD is located on the eastern slope of the Peninsula Coastal Range and contains the incorporated city of Portola Valley, a portion of the city of Woodside, plus unincorporated rural areas of San Mateo County. Like the La Honda-Pescadero USD, it is a small district (2016–17 enrollment of 627 kindergarten through eighth grade students) and has experienced slightly declining enrollment since the 2006–07 school-year. The Portola Valley ESD is one of eight elementary component districts of the Sequoia UHSD (2016–17 enrollment of 9,911 ninth through twelfth grade students).

***Figure 1: Map of Proposed Transfer Area, Affected Districts and Schools***



*Source map: U.S. Census Bureau, 2010*

Key to Boundary Lines on Map

 Boundary between unified school districts

Boundary between elementary school districts

Boundary between unified school district and high school/elementary districts

The territory proposed for transfer contains 10 homes and a number of undevelopable parcels. It is located near Skyline Boulevard, which generally is the ridgeline of the Peninsula Coastal Range of the Santa Cruz Mountains. Currently, no students from the area attend schools in the La Honda-Pescadero USD, while three students attend Portola Valley ESD schools on interdistrict attendance agreements.

At least 25 percent of the voters from this territory signed a petition to transfer from the La Honda-Pescadero USD to the Portola Valley ESD and the Sequoia UHSD for the following reasons:

* No children from the territory proposed for transfer have attended the La Honda-Pescadero USD for 27 years.
* The La Honda-Pescadero USD middle and high schools are 17 miles away, while the middle school in Portola Valley ESD and the Sequoia UHSD high school are nine miles away (and are directly along work commutes).
* The area has no connection with the La Honda or Pescadero communities. The Skylonda community (within the Portola Valley ESD) is one mile away while La Honda (five miles away) and Pescadero (18 miles away) are much further. Petitioners’ social and business activities are conducted primarily in Skylonda, as well as in Portola Valley.

The petition was filed with the County Superintendent who, after determining its sufficiency, transmitted it to the County Committee.

## 3.0 Action of the County Committee

The County Committee held two public hearings for the proposed transfer of territory—one within the boundaries of the La Honda-Pescadero USD and one within the boundaries of the Portola Valley ESD. Under the California *Education Code* (*EC)*, the County Committee had the following options:

* If the County Committee determined that all nine conditions of *EC*Section 35753(a) are substantially met, it could approve the petition (though not required to do so), and would notify the County Superintendent to call an election on the proposed transfer (an election is required when an affected district opposes an approved transfer of territory petition).
* The County Committee could disapprove the petition to transfer territory for other concerns even if it finds that all nine conditions of *EC* Section 35753(a) have been substantially met.
* If the County Committee determined that all nine conditions of *EC*Section 35753(a) are not substantially met, it would be required to disapprove the petition to transfer territory.

The County Committee tentatively approved the petition (subject to compliance with the California Environmental Quality Act [CEQA]). Following compliance with CEQA, the County Committee took final action to approve the petition and expanded the election area to include the entire La Honda-Pescadero USD.

Prior to approving the territory transfer petition, the County Committee found that the proposal substantially meets all nine required conditions of *EC* Section 35753. The County Committee subsequently gave final, and unanimous, approval.

Chief petitioners or affected school districts may appeal a County Committee decision on territory transfers for issues of noncompliance with the provisions of *EC* sections 35705, 35706, 35709, 35710, and 35753(a). The La Honda-Pescadero USD submitted such an appeal to the County Superintendent. The County Superintendent subsequently transmitted the appeal, along with the complete administrative record of the County Committee action, to the SBE.

## 4.0 Positions of the School Districts

Neither the Portola Valley ESD nor the Sequoia UHSD is on record regarding support or opposition for the proposed transfer. The governing board of the La Honda-Pescadero USD opposes the proposed transfer of territory for the reasons listed in Section 5.0.

## 5.0 Reasons for the Appeal

The La Honda-Pescadero USD asserts that the proposed transfer of territory fails to substantially meet the following five conditions of *EC* Section 35753(a):

* The reorganized districts will be adequate in terms of number of pupils enrolled.
* The school districts are each organized on the basis of a substantial community identity.
* 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.
* The proposed reorganization is primarily designed for purposes other than to significantly increase property values.
* The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the affected district.

These concerns will be described in more detail and addressed by the CDE in Section 6.0 of this attachment.

## 6.0 CDE Analysis

CDE staff has reviewed the issues raised by the appellant and information provided in the administrative record provided by the County Superintendent. The CDE’s findings are described in the following subsections:

### 6.1 Adequate number of pupils (*EC* Section 35753[a][1])

#### Standard of Review

It is the intent of the SBE 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 any new district becomes effective for all purposes: elementary district, 901; high school district, 301; unified district, 1,501 (*California* *Code of Regulations,* Title 5 [5 *CCR*] Section 18573[a][1][A]).

#### Appeal

The La Honda-Pescadero USD argues that this condition is not substantially met by the proposed transfer of territory since the district’s enrollment (318 kindergarten through twelfth grade students) already is significantly below the 1,501 level for a unified school district as established in the *CCR*. The district further argues that removal of any territory from its boundaries violates this condition since such transfer can only serve to lower enrollment.

The La Honda-Pescadero USD also notes that enrollment in the Portola Valley ESD (627 kindergarten through eighth grade students) is below the *CCR* standard of 901 students for an elementary school district―but, enrollment of the La Honda-Pescadero USD is “far less ‘adequate’” than Portola Valley ESD enrollment.

#### County Committee Action

The County Committee voted unanimously (8-0) that this condition is substantially met.

#### CDE Findings/Conclusion

Pursuant to 5 *CCR* Section 18573(a)(1)(A), it is the intent of the SBE that “direct service districts not be created which will become more dependent upon county offices of education and state support.” No direct service district will be “created” as a result of the proposed transfer of territory. Both the La Honda-Pescadero USD and the Portola Valley ESD currently are direct service districts. Since the three current public school students from the proposed transfer area already attend the Portola Valley ESD, the transfer will not move any students out of, or into, either district and, therefore, will have no effect on their direct service district status.

It is the opinion of the CDE that the proposed transfer of territory complies with the SBE’s intent as stated in the *CCR* andsubstantially meets this condition.

### 6.2 Substantial community identity (*EC* Section 35753[a][2])

#### Standard of Review

The following criteria from 5 *CCR* Section 18573(a)(2) should be considered to determine whether a new district is organized on the basis of substantial community identity: isolation; geography; distance between social centers; distance between school centers; topography; weather; community, school and social ties; and other circumstances peculiar to the area.

#### Appeal

The La Honda-Pescadero USD argues that the territory proposed for transfer is located in a rural area of unincorporated San Mateo County as is the entirety of the school district. As such, community identity in this case should not be defined by proximity to a particular community and commute routes as claimed by the petitioners. The community identity factors of 5 *CCR* Section 18573(a)(2) apply to all residents of La Honda-Pescadero USD as well as the petitioners. Most residents of the district (not just the petitioners) must travel outside their community boundaries for public libraries, public playgrounds, youth or club sports, shopping, or health and dental services.

Given the above circumstances, the La Honda-Pescadero USD claims that community identity is too “elusive” in rural communities to be considered a valid cause for district reorganization.

#### County Committee Action

The County Committee voted (6-2) that this condition is substantially met. Although no specific reasons for the two negative votes were formally provided, CDE infers from the County Committee discussions (contained in the minutes from the meeting in which the action on the condition was taken) that the negative votes were based upon a belief that no affected district is organized on the basis of a substantial sense of community identity.

#### CDE Findings/Conclusion

The CDE agrees with the district that residents of the territory proposed for transfer share a sense of community identity with the residents in the remainder of the La Honda-Pescadero USD for many of the reasons identified by the district in its appeal.

However, the CDE also agrees with the petitioners that they have community identity with the Portola Valley ESD and the Sequoia UHSD for the reasons they present, including:

* Affiliation with the Skylonda community (within the Portola Valley ESD) located a mile away from their homes.
* Proximity to schools in the Portola Valley ESD and the Sequoia UHSD (see Figure 1 on page 2).
* Students attend Portola Valley ESD schools (on interdistrict transfers), whereas no student for the area proposed for transfer has attended schools in the La Honda-Pescadero USD for approximately 30 years.

The CDE finds that, although the territory proposed for transfer has some community identity with the La Honda-Pescadero USD, there also is community identity established with the Portola Valley ESD; thus, the affected districts will remain organized on the basis of substantial community identity if the territory transfer is approved. The CDE agrees with the County Committee that the “community identity” condition is substantially met.

### 6.3 Does not promote racial/ethnic segregation(*EC* Section 35753[a][4])

#### Standard of Review

In 5 *CCR* Section 18573(a)(4), the SBE set forth five factors to be considered in determining whether reorganization will promote racial or ethnic discrimination or segregation:

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, 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.

#### Appeal

The La Honda-Pescadero USD notes that it provides a much more racially balanced and integrated educational environment than the Portola Valley ESD. Because the disparity of racial/ethnic demographics between these two districts is statistically significant (at the time of local consideration of the petition, La Honda-Pescadero USD was 64.5 percent minority while Portola Valley ESD was 24 percent minority), the district believes that the territory transfer will promote racial/ethnic segregation.

#### County Committee Action

The County Committee voted unanimously (8-0) that this condition is substantially met. Although no specific reasons for the vote were formally provided, the CDE infers from the County Committee discussions (contained in the minutes from the meeting in which the action on the condition was taken) that the vote was based upon a finding that no students from the area proposed for transfer has attended a La Honda-Pescadero USD for many years and the belief that the County Committee should focus on these current conditions and not speculate about what may or may not happen regarding future student demographics.

#### CDE Findings/Conclusion

Since no students from the territory proposed for transfer currently attend La Honda-Pescadero USD (and have not done so for many years), the CDE finds no rationale to perform full analyses of the factors contained in 5 *CCR* Section 18573(a)(4). However, comparisons of the percentages of minority students in the affected districts, schools, and grade levels are provided in the following three tables.

As noted previously, the area proposed for transfer currently is part of the La Honda-Pescadero USD. If the proposed transfer is approved, the petition area will become part of the Portola Valley ESD and the Sequoia UHSD. Table 1 provides a comparison of the percentages of minority students in these three districts.

***Table 1: Percent Minority in Districts Affected by Proposed Transfer***

| District | Minority | White |
| --- | --- | --- |
| La Honda-Pescadero USD (318 K–12 students) | 67.6% | 32.4% |
| Portola Valley ESD (627 K–8 students) | 30.9% | 69.1% |
| Sequoia UHSD (9,911 9–12 students) | 64.5% | 35.5% |

As can be seen in Table 1, the percentage of minority students in the La Honda-Pescadero USD is 67.6 percent while the values for the Portola Valley ESD and Sequoia UHSD are 30.9 percent and 64.5 percent, respectively.

If the students from the proposed transfer area attended the La Honda-Pescadero USD, they would attend the La Honda Elementary School for kindergarten through fifth grade, the Pescadero Middle School for the sixth through eighth grades, and Pescadero High School for grades nine through twelve. If the transfer is approved, students would attend the Ormondale Elementary School for kindergarten through third grade, the Corte Madera School for the fourth through eighth grades, and Woodside High School for grades nine through twelve. Table 2 provides a comparison of the percentages of minority students in these schools.

***Table 2: Percent Minority by Schools Affected by Proposed Transfer***

| District/School | Minority | White |
| --- | --- | --- |
| La Honda-Pescadero USD La Honda Elementary (56 K–5 students) | 16.1% | 83.9% |
| La Honda-Pescadero USD Pescadero Elementary & Middle (164 K–8 students) | 80.5% | 19.5% |
| La Honda-Pescadero USDPescadero High (98 9–12 students) | 75.5% | 24.5% |
| Portola Valley ESDOrmondale Elementary (266 K–3 students) | 28.9% | 71.1% |
| Portola Valley ESDCorte Madera (361 4–8 students) | 32.4% | 67.6% |
| Sequoia UHSDWoodside High (1,790 9–12 students) | 62.0% | 38.0% |

Since the elementary and middle schools shown in Table 2 do not educate the same grade levels across the La Honda-Pescadero USD and the Portola Valley ESD, Table 3 is provided to show a more direct comparison between the minority percentages of students in specific grade level ranges. The kindergarten through fifth grade range for the La Honda-Pescadero USD contains all students from La Honda Elementary School, while that grade range for the Portola Valley ESD contains all students from Ormondale Elementary School (kindergarten through third grade) and fourth and fifth graders from Corte Madera School (a fourth through eighth grade school). Middle school students for the La Honda-Pescadero USD are all sixth through eighth grade students from the Pescadero Elementary and Middle School (a kindergarten through eighth grade school) and middle school students for the Portola Valley ESD are all sixth through eighth grade students from the Corte Madera School. High school students are all students from the Pescadero High School and the Woodside High School of the La Honda-Pescadero USD and the Sequoia UHSD, respectively.

***Table 3: Percent Minority by Grade Levels***

| District and Grade Level | Minority | White |
| --- | --- | --- |
| La Honda-Pescadero USD grades K–5 | 16.1% | 83.9% |
| Portola Valley ESDgrades K–5 | 31.0% | 69.0% |
| La Honda-Pescadero USD grades 6–8 | 73.0% | 27.0% |
| Portola Valley ESDgrades 6–8 | 30.8% | 69.2% |
| La Honda-Pescadero USD grades 9–12 | 75.5% | 24.5% |
| Sequoia UHSDgrades 9–12 | 62.0% | 38.0% |

As can be seen in Table 3, there is a higher percentage of minority students in the Portola Valley ESD in the kindergarten through fifth grades (31.0 percent) than in the La Honda Elementary School (16.1 percent minority) that would be attended by the students residing in the territory proposed for transfer. However, at the middle school level, minority sixth through eighth grade students from the Corte Madera School of Portola Valley ESD are only 30.8 percent of that school’s student population compared to being 73.0 percent of the Pescadero Elementary and Middle School sixth through eighth grade student population. High school comparisons already are in Table 2.

Again, no students from the area proposed for transfer attend the La Honda-Pescadero USD (nor have they done so for many years). Regardless, an examination of the schools from all affected districts that these students could attend demonstrates that:

* Portola Valley ESD kindergarten through fifth grades have a greater percentage of minority students than do similar grades in the La Honda-Pescadero USD;
* La Honda-Pescadero USD sixth through eighth grades have a greater percentage of minority students than do similar grades in the Portola Valley ESD; and
* percentages of minority students at the high school level, although high at Pescadero High School, are more similar.

Given the above findings, the CDE agrees with County Committee’s unanimous decision that this condition is substantially met.

### 6.4 Increased property values (*EC* Section 35753[a][8])

#### Standard of Review

The SBE has not adopted regulations regarding this condition. The rationale for the reorganization should be analyzed and, if it is determined to be questionable or not compelling, there should be a consideration of increased property values as the primary reason for the reorganization.

#### Appeal

The La Honda-Pescadero USD states: “While there is no direct evidence to suggest the petition is *primarily* designed to increase property values, it is clear that this will likely be a substantial benefit to petitioners if the petition is granted.” The district further notes that a district’s academic performance affects property values―the Portola Valley ESD consistently performs higher on academic measures than does the La Honda-Pescadero USD, and the Portola Valley ESD web site promotes its award-winning schools and proximity to Stanford University.

The La Honda-Pescadero USD concludes that the primary purpose for the transfer is to enhance property values since: (1) students in the transfer area may apply for interdistrict transfers (this ability should be sufficient if the sole desire is to attend Portola Valley ESD schools), and (2) many of the petitioners do not have children.

#### County Committee Action

The County Committee voted unanimously (8-0) that this condition is substantially met.

#### CDE Findings/Conclusion

The CDE does not find the appellant’s claims persuasive for three reasons: (1) the appellant provides no evidence that the territory transfer would increase property values; (2) no evidence that the transfer would increase property values was presented to the County Committee or at any public hearing; and (3) information provided by the appellant does not establish that the primary purpose of the entire territory transfer petition is to increase property values (in fact, the appellant specifically states there is no direct evidence to suggest this).

The CDE agrees with the County Committee’s unanimous decision that the “property values” condition is substantially met.

### 6.5 Promotes sound fiscal management (*EC* Section 35753[a][9])

#### Standard of Review

The SBE has not adopted regulations regarding this condition. The standards and criteria adopted by the SBE pursuant to *EC* Section 33127, and published in 5 *CCR* sections 15440-15466, are recommended for evaluation of the financial conditions of the affected districts.

#### Appeal

The La Honda-Pescadero USD argues that the proposed transfer of territory will result in a substantial negative effect on its financial situation. The district states that, while it has high per-pupil state revenue (as a “basic aid” or “excess revenue” district[[4]](#footnote-4)) and operates with healthy reserves, its financial outlook is precarious due to the following issues:

* Mismanaged Bond Construction Program

After voters passed a bond measure in 2006, a poorly-designed and mismanaged bond program left the district approximately $5 million dollars in debt. The district embarked on costly litigation to recover damages from the project manager and, to stay fiscally solvent, secured a $2.5 million dollar loan from the San Mateo County Board of Supervisors. The district pays back this loan with escalating payments every year (final payment is due in 2019).

As a result of the fiscal difficulties caused by the mismanaged bond program, the County Superintendent installed a fiscal advisor in the district for 18 months.

* Persistently Low-Achieving School

In 2010, Pescadero Elementary and Middle School was identified as a persistently low-performing school due to persistently low test scores placing it in the bottom five percent of schools in the state. In an effort to address the academic deficiencies, the La Honda-Pescadero USD instituted a number of necessary, but costly, interventions. Although the district obtained a state grant to provide initial funding, the district general fund will need to continue the interventions once outside funding no longer is available.

* Losing Territory is a “Double Whammy”

The loss of the territory in the proposed transfer will result in less funding for the district for educational services and will reduce assessed valuation (AV) that will make it more difficult to sell future bonds. The La Honda-Pescadero USD will be unable to pay off its loan to the San Mateo County Board of Supervisors in 2019 without a future bond sale.

* Peninsula Open Space Trust Fund

Rolling hills, marshes, watersheds, redwood forests, and ocean-front land are all found within the La Honda-Pescadero USD. In efforts to preserve this natural environment, the Peninsula Open Space Trust Fund actively pursues acquisition of property within district boundaries. Often, this acquired land is resold to, and managed by, the Mid-Peninsula Regional Open Space District. Such land is removed from the county tax roll and is removed from the AV of the La Honda-Pescadero USD. Although the open space district provides a tax share to the school district, this share is significantly lower than if the tax was based on the AV of the property.

Given the above issues, the La Honda-Pescadero USD believes that the loss of the tax base and assessed valuation from the territory proposed for transfer will have a direct negative impact on the district’s budget.

#### County Committee Action

Staff from the San Mateo County Office of Education (County Office) presented the following information to the County Committee:

* Repaying the loan from the San Mateo County Board of Supervisors is causing financial stress for the La Honda-Pescadero USD. However, the district has received a settlement of approximately $2.23 million as a result of its litigation against those responsible for the fiscal mismanagement of the district’s 2006 bond construction program.
* The La Honda-Pescadero USD is close to maximizing its bond capacity. While this specific proposed transfer may not necessarily hurt the district’s bond capacity, additional future losses of AV may be a larger problem down the road.
* The AV of the territory in the proposed transfer area is approximately 0.7 percent of the total AV of the La Honda-Pescadero USD.
* Portola Valley ESD has a parcel tax of $498/parcel while the La Honda-Pescadero USD has a parcel tax of $100 per parcel. If these parcel taxes are extended (both are set to expire soon), the transfer of territory would result in the La Honda-Pescadero USD losing approximately $3,100 annually in parcel tax revenue and the Portola Valley ESD gaining approximately $15,438 annually in parcel tax revenue. The Sequoia UHSD has no parcel tax.

Members of the County Committee made a number of observations before taking action, including:

* Although any transfer will have some fiscal effect, the issue is whether or not there is a significant fiscal risk.
* The current proposal does not appear to have any long-term negative fiscal effect on the district, although if there is a continued loss of property there may be long-term effect on revenue.
* Since no students from the transfer area have attended the La Honda-Pescadero USD for many years, the district has been receiving revenue for the purposes of providing educational programs for students that actually are being educated outside of the district.

After discussions, the County Committee voted (7-1) that this condition is substantially met.

#### CDE Findings/Conclusion

The CDE notes that the La Honda-Pescadero USD submitted a positive certification[[5]](#footnote-5) in its Second Interim Financial Report for fiscal year 2016–17. The County Superintendent concurred with the positive certification noting that: (1) the district has a reserve for economic uncertainties of over 26 percent of total expenditures (minimum reserve level for district this size is four percent); (2) cash flow projections indicate positive cash balances for all months of 2016–17 and 2017–18; and (3) assumptions upon which multi-year projections are based appear reasonable. Despite reserve levels above the State-recommended minimum, the County Superintendent did express some concern with projected General Fund operating deficits and encourages the district to identify measures to balance the General Fund budget.

The La Honda-Pescadero USD claims that the territory transfer will result in an annual loss of property tax revenue. However, the transfer of property tax revenue is not a direct result of the transfer of territory from a basic aid district. *EC* Section 35566 states that “exchanges of property tax revenues between school districts as a result of an action to reorganize shall be determined pursuant to subdivision (i) of Section 99 of the *Revenue and Taxation Code*” if at least one of the affected districts is a basic aid district. This subdivision provides that the affected governing boards negotiate the exchange in tax revenue, and, if they are unable to do so, the county board of education determines the amount of property tax revenue to be exchanged (if any).

Thus, exchanges of property tax revenue involving basic aid districts are matters for local consideration and determination. If the affected districts are unable to negotiate a mutually agreeable exchange, the county board of education will determine an exchange that is in the best interests of the districts and all students. Neither the SBE nor the CDE has any role to play in determining this exchange.

However, even if all property taxes collected from the proposed transfer did accrue to the Portola Valley ESD and the Sequoia UHSD, the CDE agrees with the County Committee that this loss to the La Honda-Pescadero USD would not have a substantial negative effect on the district. Assessed valuation of the transfer area is about 0.7 percent of the La Honda-Pescadero USD―that percentage of the district’s LCFF funding is less than $30,000. The CDE also notes that voters in the district have approved an annual $100 per parcel tax (effective until 2020). If the transfer is approved, La Honda-Pescadero USD would lose approximately $3,100 in parcel tax funding per year.

The AV of property within the La Honda-Pescadero USD is key to the financial health of the district. As noted previously, the property tax revenue associated with this AV constitutes the district’s primary funding source. Additionally, it provides the foundation for its bond capacity and ability to sell future bonds. Assessed valuation for property within the La Honda-Pescadero USD has grown over 23 percent since the proposed transfer of territory was approved by the County Committee. Given this healthy growth, the CDE does not view a potential loss of 0.7 percent of the district’s AV as a significant negative effect on the district.

Finally, the concern expressed by the La Honda-Pescadero USD and the County Office regarding fiscal difficulties related to repaying the County Board of Supervisors loan taken to address the mismanaged bond construction program should be resolved before the proposed territory transfer takes effect (assuming it is approved). The district received a substantial settlement from those responsible for the fiscal mismanagement and final payment of the loan scheduled for 2019, which is the earliest year that proposed transfer could be effective.

Given the above considerations, the CDE concurs with the finding of the County Committee that the proposed transfer of territory will not have substantial negative fiscal effects on any affected school district. The CDE determines that this fiscal condition is substantially met.

### 6.6 Summary

CDE staff does not find sufficient support for the issues raised in the appeal or in the administrative record to justify overturning the unanimous decision of the County Committee to approve the territory transfer proposal.

The CDE recommends that the SBE deny the appeal and uphold the County Committee’s decision to approve the territory transfer petition for the following reasons:

* The County Committee substantially complied with all requirements for public hearings and consideration of information regarding the proposed transfer of territory.
* The CDE agrees with the County Committee’s unanimous findings that all of the nine conditions of *EC* Section 35753 are substantially met.
* There are no reasons to disapprove the territory transfer that are compelling enough to overturn the unanimous local approval by the County Committee (see Section 7.1 for potential compelling reasons).

## 7.0 Compelling Reasons and Concerns

Approval of a territory transfer by the SBE is a discretionary action, whether the SBE finds that all *EC* Section 35753 conditions are substantially met or even if all the conditions are not met. The SBE may consider compelling reasons offered by affected districts, petitioners and appellants, community members, and the CDE in making its determination to approve a territory transfer. It also may consider any concerns raised by these same parties in a determination to disapprove the transfer.

The La Honda-Pescadero USD and the petitioners/appellants supporting the territory transfer have offered a number of reasons and concerns regarding the proposed transfer, some of which have been included in other sections of this report. In this section, the CDE will summarize the potential compelling reasons and concerns it considers most relevant.

### 7.1 Reasons for Approval

The SBE, even if it determines the transfer fails to substantially meet *EC* Section 35753 conditions, may consider any issue it determines to be compelling as a reason to affirm the County Committee’s approval of the territory transfer, including (but not limited to) the following:

* No children from the territory proposed for transfer have attended the La Honda-Pescadero USD for 27 years.
* The La Honda-Pescadero USD middle and high schools are 17 miles away, while the middle school in Portola Valley ESD and the Sequoia UHSD high school are nine miles away (and are directly along work commutes).
* The area has no connection with the La Honda or Pescadero communities. The Skylonda community (within the Portola Valley ESD) is one mile away while La Honda (five miles away) and Pescadero (18 miles away) are much further. Petitioners’ social and business activities are conducted primarily in Skylonda, as well as in Portola Valley.

### 7.2 Concerns Regarding Moving the Proposal Forward

The SBE, even if it determines the transfer substantially meets *EC* Section 35753 conditions, may consider any concerns that warrant reversing the County Committee’s action to approve the proposal, including (but not limited to) the following:

* La Honda-Pescadero USD argues that its enrollment (318 kindergarten through twelfth grade students) already is significantly below the 1,501 level for a unified school district as established in the *CCR*. The district further argues that any removal of its territory has potential to further lower enrollment.
* The La Honda-Pescadero USD notes that it provides a much more racially balanced and integrated educational environment than the Portola Valley ESD.
* The La Honda-Pescadero USD states that the territory transfer likely will substantially increase petitioners’ property values.
* The loss of the territory in the proposed transfer will result in less funding for the La Honda-Pescadero USD (a “basic aid” district) because it will reduce AV by 0.7 percent.

## 8.0 Recommended Petition Amendments

The SBE has authority to amend or add certain provisions to any petition for reorganization. The CDE recommends only one provision be added to the petition if the SBE upholds the action of the County Committee by denying the appeal—establishment of the area of election. The following information details the CDE recommendation regarding this provision.

### 8.1 Area of Election

Although the election area will be expanded to include the entire La Honda-Pescadero USD if that district maintains its opposition to the territory transfer (pursuant to *EC* Section 35756.5), the SBE still must make its own determination regarding the election area. If the district drops its opposition to the transfer, the election would be conducted only in the area specified by the SBE. Further, *EC* Section 35710.5(c) requires that the SBE determine the area of election if it disapproves the appeal (since disapproval of the appeal would result in approval of the territory transfer).

The County Committee’s plans and recommendations to reorganize districts may specify an area of election, but specification of an election area is not required (*EC*Section 35732).[[6]](#footnote-6) If a plan does not specify the area of election, the statute states that “the election shall be held only in the territory proposed for reorganization.” Thus, the area proposed for reorganizationis the “default” election area. The SBE may alter either the County Committee’s specified election area or the “default” election area, but the alterations must comply with the “Area of Election Legal Principles” in Section 8.2 below.

If the SBE disapproves the appeal from the La Honda-Pescadero USD (thus triggering a local election for approval of the territory transfer proposal), the SBE must determine the territory in which this election will be held (pursuant to *EC* Section 35756).

### 8.2 Area of Election Principles

In establishing the area of election, the CDE and SBE follow the legal precedent set by the California Supreme Court in *Board of Supervisors of Sacramento County, et al. v. Local Agency Formation Commission* (1992) 3 Cal. 4th 903 (the *“LAFCO”* decision). *LAFCO* holds that elections may be confined to within the boundaries of the territory proposed for reorganization (the “default” area), provided there is a *rational basis* for doing so. *LAFCO* requires we examine: (1) the public policy reasons for holding a reorganization election within the boundaries specified; and (2) whether there is a genuine difference in the relevant interests of the groups that the election plan creates.

A reduced voting area has a fair relationship to a legitimate public purpose. State policy favors procedures that promote orderly school district reorganization statewidein a manner that allows for planned, orderly, community-based school systems that adequately address transportation, curriculum, faculty, and administration.

Discussion of other judicial activity in this area is warranted. In a case that preceded *LAFCO,* the California Supreme Court invalidated an SBE reorganization decision that approved an area of election that was limited to the newly-unified district. As a result, electors in the entire high school district were entitled to vote (*Fullerton Joint Union High School District v. State Board of Education* [1982] 32 Cal. 3d 779 [*Fullerton*]). The *Fullerton* court applied strict scrutiny and required demonstration of a compelling state interest to justify the exclusion of those portions of the district from which the newly-unified district would be formed.

The *Fullerton* case does not require that the SBE conduct a different analysis than that described above. The *LAFCO* decision disapproved the *Fullerton* case, and held that absent invidious discrimination, the rational basis approach to defining the election area applied. In this matter of the transfer of territory from the La Honda-Pescadero USD to the Portola Valley ESD and the Sequoia UHSD, no discrimination, segregation, or racial impacts are identified. Accordingly, the *LAFCO* standard and analysis applies.

### 8.3 Recommended Area of Election

CDE staff finds that the transfer of territory would have no significant effect on the voters in either the remaining La Honda-Pescadero USD or the receiving Portola Valley ESD and Sequoia UHSD. Therefore, there is no reason relative to the territory transfer itself, to expand the election area beyond the area proposed for transfer. However, pursuant to *EC* Section 35756.5, the election area for a territory transfer proposal shall be expanded to all voters in a district if: (1) the district has an average daily attendance (ADA) of 900 or less; and (2) the governing board of the district opposes the territory transfer. The voters of the entire La Honda-Pescadero USD will have the opportunity to vote on the proposal as long as the district maintains its opposition to the transfer.

## 9.0 State Board of Education Options

The SBE has the following options for this territory transfer appeal:

* The SBE will review the appeal in conjunction with a public hearing.
* Following review of the appeal, the SBE must affirm or reverse the action of the County Committee.
* If the proposal will be sent to election, the SBE must determine the territory in which the election is to be held.
* The SBE may reverse or modify the action of the County Committee in any manner consistent with law.
* The SBE may request additional information regarding the appeal or the territory transfer, and choose not to take action until a later meeting.
* The SBE, pursuant to *EC* Section 35720, may direct the County Committee to formulate plans and recommendations for an alternative reorganization. The County Committee then would bring the plans and recommendations back to the SBE for further action.

Note: If the SBE chooses to direct the County Committee to consider alternative reorganization options, it also may affirm or reverse the action of the County Committee regarding the current territory transfer appeal as part of its direction to the County Committee; or, the SBE may elect to hold in abeyance any action on the current appeal until receipt of plans and recommendation from the County Committee.

## 10.0 Recommended Action

The CDE recommends that the SBE affirm the action of the County Committee to approve the proposal to transfer territory from the La Honda-Pescadero USD to the Portola Valley ESD and the Sequoia UHSD. The CDE further recommends that the SBE establish the territory proposed for transfer as the election area.

1. *EC* Section 35710 requires an election when an affected district opposes an approved transfer of territory. A county committee may expand the election area beyond the territory proposed for transfer. [↑](#footnote-ref-1)
2. Pursuant to *EC* sections 35709 and 35710, a county committee may approve a territory transfer only if it finds that the conditions in *EC* Section 35753 are substantially met. [↑](#footnote-ref-2)
3. Enrollment in the La Honda-Pescadero USD for 2016-17 was 318. [↑](#footnote-ref-3)
4. Local Control Funding Formula (LCFF) entitlements for a district are financed through a mix of property taxes and state aid. A “basic aid” or “excess revenue” district is funded entirely through property taxes and receives no general purpose state aid. It also retains all property taxes in excess of its LCFF level. [↑](#footnote-ref-4)
5. A positive certification is assigned when the district has certified that it will meet its financial obligations for the current fiscal year and two subsequent fiscal years. [↑](#footnote-ref-5)
6. For the current territory transfer proposal, the County Committee voted to expand the election area to the entire La Honda-Pescadero USD in anticipation of that district’s opposition to the transfer. [↑](#footnote-ref-6)