

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

ssb-sfsd-jan19item04

# California State Board of Education January 2019 Agenda Item #06

## Subject

Appeal from an Action of the Santa Clara County Committee on School District Organization to Disapprove a Petition to Transfer Territory from the Moreland School District and the Campbell Union High School District to the Cupertino Union School District and the Fremont Union High School District.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issue(s)

The Santa Clara County Committee on School District Organization (County Committee) disapproved a petition to transfer territory from the Moreland School District (SD) and the Campbell Union High School District (UHSD) to the Cupertino Union School District (USD) and the Fremont UHSD. Pursuant to California *Education Code* (*EC*) Section 35710.5, the chief petitioners for the territory transfer proposal submitted an appeal to the California State Board of Education (SBE) from the County Committee’s action.

The SBE may affirm or reverse the County Committee’s action. If the SBE reverses the County Committee’s action, thus approving the territory transfer, it must establish an election area for the proposal.

In 2008, the SBE considered a similar appeal (involving County Committee disapproval of a proposed transfer of territory that is directly across the street from the territory that is the subject of the current appeal). At that time, the SBE unanimously affirmed the County Committee’s action to disapprove the transfer.

## Recommendation

The California Department of Education (CDE) recommends that the SBE affirm the unanimous action of the County Committee to disapprove the proposal to transfer territory from the Moreland SD and the Campbell UHSD to the Cupertino USD and the Fremont UHSD.

## Brief History of Key Issues

The Santa Clara County Superintendent of Schools (County Superintendent) received a petition signed by at least 25 percent of the voters living in a neighborhood on the boundary between the city of San Jose and the city of Saratoga (the transfer area is split between these two cities). The petition is to transfer the 123 homes in this neighborhood from the Moreland SD and the Campbell UHSD to the Cupertino USD and the Fremont UHSD. Chief petitioners state the two primary reasons for requesting transfer are: (1) students from the neighborhood have a significantly longer and more dangerous commute to schools in the Moreland SD and the Campbell UHSD compared to the potential commute to schools in the Cupertino USD and the Fremont UHSD; and (2) the current school district boundary isolates neighborhood children from other students in surrounding neighborhoods.

The County Committee determined that two of the nine minimum threshold conditions of *EC* Section 35753(a) are not substantially met[[1]](#footnote-1). Those conditions are:

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

The County Committee subsequently disapproved the proposed transfer of territory from the Moreland SD and the Campbell UHSD to the Cupertino USD and the Fremont UHSD on a unanimous vote.

The CDE reviewed the entire administrative record provided by the County Superintendent (including summaries and transcripts of public hearings and meetings, documentation prepared by chief petitioners and affected school districts, and information presented to the County Committee by Santa Clara County Office of Education [County Office] staff)—as well as new information requested and received from the County Superintendent and the affected school districts (pursuant to *EC* Section 35751). After this review, the CDE completed an analysis of the appeal and the proposed territory transfer. This analysis, and resultant recommendations, are contained in Attachment 1. A summary of these findings follows:

The CDE disagrees with the County Committee’s determinations that the “community identity” and the “facilities costs” conditions are not substantially met. However, the CDE does note that there are concerns with the proposed territory transfer, which support the County Committee’s action to disapprove the proposal—primarily that (1) the historical interest and activity in transfers from the Campbell UHSD, along with the circumstances of the current transfer proposal, likely would encourage additional territory transfer requests (see Attachment 2 for more detail); and (2) petitioners stated reasons for the transfer are not unique circumstances.

The CDE further finds that there are no compelling educational reasons to overturn the unanimous action of the County Committee to disapprove the proposal to transfer territory from the Moreland SD and the Campbell UHSD to the Cupertino USD and the Fremont UHSD.

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

As noted previously, the SBE considered a similar appeal from the action of the County Committee to disapprove transfer of territory that is directly across the street from the territory involved in the current appeal. At its September 2008 meeting, the SBE unanimously affirmed the County Committee’s action to disapprove that transfer.

## Fiscal Analysis (as appropriate)

Affirming the action of the County Committee will result in no financial costs to any local or state agency. Overturning the action of the County Committee constitutes an order to the County Superintendent to call an election for the proposed territory transfer. Costs for this election will depend upon the timing of the election and the size of the election area established by the SBE—election costs will be borne by the County Office.

## Attachment(s)

**Attachment 1**: Analysis of Administrative Record (25 pages)

**Attachment 2**: Santa Clara County West Valley Reorganizations (7 pages)

# ATTACHMENT 1 Analysis of Administrative Record

**Appeal from an Action of the  
Santa Clara County Committee on School District Organization  
to Disapprove a Petition to Transfer Territory from the  
Moreland School District and the   
Campbell Union High School District to the   
Cupertino Union School District and the  
Fremont Union High School District**

## 1.0 Recommendation

The California Department of Education (CDE) recommends that the State Board of Education (SBE) affirm the action of the Santa Clara County Committee on School District Organization (County Committee) to disapprove the proposal to transfer territory from the Moreland School District (SD) and the Campbell Union High School District (UHSD) to the Cupertino Union School District (USD) and the Fremont UHSD.

## 2.0 Background

### 2.1 Affected Districts

Both the Cupertino USD and the Moreland SD contain large portions of the city of San Jose and the city of Saratoga—the Cupertino USD also contains the city of Cupertino, while the Moreland SD contains a portion of the city of Campbell. A general area map portraying the affected districts and municipalities can be found on page 2 of Attachment 2.

The Moreland SD (2017–18enrollment: 4,805) is a kindergarten through eighth grade (K-8) district that is a component of the Campbell UHSD (2017–18enrollment: 8,043); while the Cupertino USD, also a K-8 district (2017–18enrollment: 18,017), is a component of the Fremont UHSD (2017–18enrollment: 11,140).

The two largest racial/ethnic categories in the Moreland SD are Hispanic and Asian and in the Campbell UHSD those categories are “Hispanic” and “White,” while the two largest racial/ethnic categories in the Cupertino USD and the Fremont UHSD are “Asian” and “White.” Table 1 depicts the percentage of students in the most populous California Longitudinal Pupil Achievement Data System (CALPADS) racial/ethnic categories for each of the school districts.

***Table 1: Percent Race/Ethnicity in Districts Affected by Proposed Transfer***

| District | Asian | Hispanic | White | Two or More | Other\* |
| --- | --- | --- | --- | --- | --- |
| Moreland SD  (K-8 enrollment: 4,805) | 30.8% | 31.3% | 25.0% | 6.6% | 6.3% |
| Campbell UHSD  (9-12 enrollment: 8,043) | 16.5% | 35.1% | 38.6% | 3.7% | 6.1% |
| Cupertino USD  (K-8 enrollment: 18,017) | 74.2% | 5.1% | 15.1% | 3.8% | 1.9% |
| Fremont UHSD  (9-12 enrollment: 11,140) | 59.1% | 14.6% | 17.4% | 5.2% | 3.7% |

*Source:* *2017*–*18 CALPADS*

\* *The “Other” category includes “African American,” “American Indian or Alaska Native,” “Filipino,” and “Pacific Islander.” Students in the “Not Reported” CALPADS category are omitted from calculations for this table.*

### 2.2 Historical Actions Related to the Appeal

#### Early Transfers of Territory

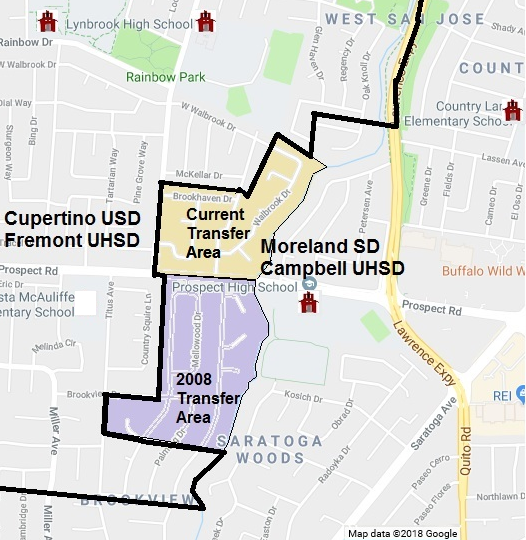
Since the mid-1990s, the County Committee (and the SBE through the appeal process) has been addressing requests to transfer territory from the Campbell UHSD (and its component elementary districts) to the Los Gatos-Saratoga Joint Union High School District (JUHSD) (and, to a lesser degree, the Fremont UHSD and its component Cupertino USD). From these early years to the present, the Campbell UHSD (and its component districts) have been concerned about the “cascading” effect of territory transfer approval (i.e., concerned that approval of one territory transfer, which would have minimal effects on any affected district, would lead to a “cascade” of additional transfers that ultimately would deplete the Campbell UHSD [and its component districts] of sufficient assessed valuation and student population to have significant negative effects on the districts).

In response to the number of requests to transfer territory from the Campbell UHSD, the Santa Clara County Superintendent of Schools (County Superintendent), in 1997, contracted with an independent consultant to study reorganization options regarding the Campbell UHSD boundaries. This study included not just an analysis of the effects of territory transfers but also “piecemeal” adjustments to existing boundaries. The study found that continuing erosion of the Campbell UHSD boundary through territory transfers would have significant negative effects not only on the Campbell UHSD (and its component districts) but also on the Fremont UHSD and the Cupertino USD.

In response to the negative findings of the study, and the lack of school district and community support for territory transfers, the County Committee voted unanimously not to support territory transfers from the Campbell UHSD unless exceptional circumstances existed. The County Committee also adopted guidelines for these exceptional circumstances, which primarily addressed home to school transportation issues (e.g., distance and safety). This action by the County Committee was welcomed and supported in newspaper editorials appearing in the San Jose Mercury News, the Los Gatos Weekly Times, and the Saratoga News. More detailed information regarding the area-wide study findings and responses is included as Attachment 2.

#### Prior Appeal Involving the Same Territory

In September 2008, the SBE heard an appeal from a County Committee decision to deny a proposal to transfer territory that is directly across the street (Prospect Road) from the territory of the current appeal (see Figure 1).

***Figure 1: Map Comparing Territory of Current and 2008 Appeals***

*Source map: Google Maps ©2018; District boundary source: U.S. Census Bureau, 2017*

The County Committee unanimously disapproved this previous territory transfer proposal. The rationale for this County Committee action was that the transfer would have a negative effect on affected school districts’ (1) community identity; (2) educational programs; (3) cost of facilities; and (4) fiscal status.

The chief petitioners submitted an appeal to the SBE. After reviewing the appeal, the CDE recommended that the SBE affirm the County Committee action to disapprove the transfer. The SBE, in 2008, unanimously affirmed the County Committee’s decision by denying this previous appeal.

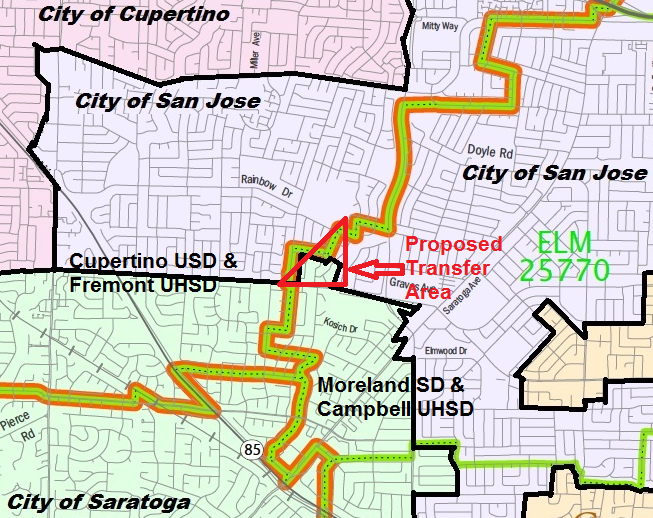
### 2.3 Current Territory Transfer Proposal

The current proposal is to transfer 123 homes (north of Prospect Road) located in the city of Saratoga and the city of San Jose (see Figure 2 on the following page). As already noted, those 123 homes are directly across Prospect Road from the proposed transfer of 200 parcels that was disapproved previously by the County Committee (the SBE subsequently affirmed the County Committee’s action unanimously in 2008). The current proposal was submitted to the County Superintendent as a petition signed by at least 25 percent of the voters residing within this 123 home area north of Prospect Road.

Petitioners’ reasons for the territory transfer are:

* Commute routes between petitioners’ homes and schools in the Moreland SD and the Campbell UHSD are less safe than routes to Cupertino USD and Fremont UHSD schools. In order to attend any elementary, middle, or high school in the Moreland SD and the Campbell UHSD, students from the neighborhood must cross through at least one major traffic intersection.
* Cupertino USD and Fremont UHSD schools are closer to the neighborhood than are schools in the Moreland SD and the Campbell UHSD. Neighborhood students will be able to walk or bike to schools, thus reducing pollution because they will not have to be driven to school.
* Residents of the proposed transfer area share a very strong sense of community identity with their neighbors who are in the Cupertino USD. Additionally, most residents are in close proximity to Lynbrook High School (Fremont UHSD) and have to deal with the problems associated with that proximity without having the benefit of students being able to attend that school.

***Figure 2: Map of Area Proposed for Transfer***



*Source map and boundaries: U.S. Census Bureau (2010)*

Boundary Key:

Map key for school district boundaries in Figure 2. School district boundary Map key for city boundaries in Figure 2. City boundary

## 3.0 Action of the County Committee

The County Committee held two public hearings for the proposed transfer—one within the boundaries of the Moreland SD and one within the boundaries of the Cupertino USD. Under the California *Education Code* (*EC)*, the County Committee then 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 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 found that the proposal failed to substantially meet two of the nine required conditions of *EC* Section 35753:

* *The school districts are each organized on the basis of a substantial community identity.*
* *Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.*

The County Committee subsequently disapproved the territory transfer petition by a unanimous vote.

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 chief petitioners submitted such an appeal to the County Superintendent, who subsequently transmitted the appeal (including the complete administrative record of the action) to the SBE.

## 4.0 Positions of Affected School Districts

The governing boards of all four affected school districts adopted resolutions opposing the proposed transfer of territory for a number of common reasons, including.

* The territory transfer proposal does not meet all the minimal threshold requirements of *EC* Section 35753.
* Transfer of the territory into the Cupertino USD and the Fremont UHSD will result in significantly increased property values for the petitioners.
* Approving the transfer proposal will set a precedent for future transfers from the Campbell UHSD to the Fremont UHSD.

In addition to the above common concerns of all affected districts, the Moreland SD and the Campbell UHSD state that any transfers of territory out of the districts will result in an increased financial obligation to remaining property owners for the general obligation bonds of the Moreland SD and the Campbell UHSD. The Moreland SD also is concerned that loss of enrollment and territory due to transfers will reduce both state funding and local parcel tax revenue for the district.

The Cupertino USD and the Fremont UHSD are concerned that territory transfers into the district will negatively affect facility needs and will increase future construction costs. The Fremont UHSD also notes that it is a high demand district that constantly is under pressure to accept out-of-district students—annually dealing with about 1,000 families outside the district boundaries who want to come into the district. The district spends approximately $500,000 per year on residency verification and dis-enrolls up to 300 students each year because of incorrect residency.

## 5.0 Reasons for the Appeal

The chief petitioners assert that numerous errors and omissions by the Santa Clara County Office of Education (County Office) and the County Committee resulted in an improper decision to disapprove their territory transfer proposal, including:

* The study and recommendations regarding the proposed territory transfer, which was prepared by the County Office and presented to the County Committee, contained substantive errors and omissions. The appellants note that these “errors and omissions” include information regarding: (1) distances between the proposed transfer area and schools; (2) various community identity issues, including commute safety concerns; (3) the focus precedence setting of the current proposal and on speculative cumulative impacts of future transfers; and (4) enrollment projections and school capacity issues.
* County Committee members had differing interpretations of the minimum threshold requirements—and their vote on these threshold requirements was based on erroneous data.
* There were numerous process flaws in the County Office and County Committee consideration of the territory transfer proposal, including: (1) the charter of the County Committee regarding large territory transfers was unclear; (2) County Committee members who did not participate in all aspects of the proposal’s consideration (e.g., public hearing attendance) or who were board members of affected school districts were allowed to vote on the proposal; (3) there was no challenge of County Committee member misstatements allowed; (4) records (e.g., minutes) of the public hearings and meeting and hearings were incomplete; (5) meetings were scheduled without consulting petitioners regarding their availability to attend; and (6) the final study and recommendations were made available only five days before the meeting at which the County Committee voted on the territory transfer proposal.

## 6.0 CDE Analyses of Reasons for the Appeal

CDE staff has reviewed the administrative record provided by the County Superintendent, which details (1) the County Committee actions in its consideration of the *EC* Section 35753 threshold conditions; and (2) the concerns raised by the appellants regarding the County Committee’s actions. As noted previously, the County Committee determined that all *EC* Section 35753 minimum threshold requirements are substantially met by the proposed transfer of territory except for the following:

* *The school districts are each organized on the basis of a substantial community identity.*
* *Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.*

For its analysis of the proposal, the CDE conducted its own studies of the above conditions, using information provided by the County Superintendent, the four affected school districts, and the chief petitioners. This analysis will address the issues raised by the appellants regarding their concerns with the County Committee determinations that the “community identity” and “facility costs” minimum threshold conditions were not substantially met. Additionally, the CDE will address separately the issues of home-to-school commute hardship and unique community identity circumstances of the proposed transfer area, which are listed as concerns by the appellants.

However, the general concerns raised by appellants regarding (1) “substantive errors and omissions” in information prepared by the County Office and (2) “process flaws” by the County Office and County Committee are not, in the CDE’s opinion, matters for appeal pursuant to *EC* Section 35710.5. Public meeting statute (the “Brown Act” in the case of the County Committee [*Government Code* Section 54950 et seq.]), parliamentary procedure (i.e., *Robert’s Rules of Order*), and the County Committee’s adopted bylaws guide the County Office and the County Committee in such matters. Thus, these concerns will not be addressed.

### 6.1 Community Identity

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

#### Standard of Review

The SBE regulation regarding this condition (California *Code of Regulation*s, Title 5   
[5 *CCR*] 18573[a][2]) lists the following criteria that should be considered: isolation; geography; distance between social centers; distance between school centers; topography; weather; and community, school, social ties, and other circumstances peculiar to the area. Additionally, the *School District Organization Handbook[[2]](#footnote-2)* notes that no single factor is likely to determine that districts are organized on the basis of a substantial community identity and examination of several attributes likely will be required.

#### County Committee Action

Staff from the County Office presented the following information to the County Committee regarding the 5 *CCR* regulations:

* The proposed transfer area is not isolated from either the Moreland/Campbell schools or the Cupertino/Fremont schools.
* There are no significant geographical distinctions between the proposed transfer area and any affected school district.
* Distance between social centers is not a significant issue since there are several social centers, retail establishments, and grocery stores within a reasonable distance from the territory proposed for transfer. Residents of the transfer area are able to choose those centers that best suit their needs.
* There are no significant differences between commute distances and commute times from the proposed transfer area to either Campbell UHSD or Fremont UHSD schools. While distances and travel times to Cupertino USD schools are shorter than to the Moreland SD schools, such differences do not reflect extreme hardship as defined by the County Committee.
* Topography and weather are the same throughout the area and therefore are not factors.
* Community identity issues raised by the petitioners are not unique and are not reasons to approve the territory transfer in this particular proposal.

The County Office also stated a concern that approval of this proposed territory transfer could result in additional requests to transfer territory from the Moreland SD and the Campbell UHSD into the Cupertino USD and the Fremont UHSD, referencing the area-wide study of school district reorganization in this area conducted in 1997 (see Attachment 2). The County Office also noted that all four affected districts, in their resolutions of opposition to this proposed transfer, expressed concerns that future transfer requests would be encouraged if the current proposal is approved.

In their discussions prior to voting on the “community identity” condition, County Committee members made a number of points[[3]](#footnote-3) including:

* Community identity of the school districts is not affected regardless of which of the affected districts contains the proposed transfer area.
* In this urban area, there are a variety of ways the boundary can be drawn that would not affect community identity.
* If boundary changes occur, they need to be part of a comprehensive examination of issues and not be piecemeal attempts.
* Even if the transfer is approved, the issues raised by the petitioners still will exist in communities adjacent to the territory transferred.
* Efforts should be expended on addressing specific districtwide issues (like transportation) rather than on changing district boundaries—boundary changes themselves will not address these issues.
* Petitioners are concerned that they are isolated from Prospect High School because it is on the other side of a busy street (Prospect Road). However, there are many students on that other side of Prospect Road who must cross that same street to attend Fremont UHSD schools.
* The reality of living in urban areas is that not every student can walk or bike to school—petitioners’ issues regarding home-to-school commutes are not unique.
* The city of Saratoga portion of the transfer area petitioned to leave the city of San Jose in the 1970s because of a perceived lack of similarity with San Jose. Now, petitioners claim they have a greater sense of community with San Jose because they use the parks, and want to use the schools, located in that city.
* The petitioners’ issues regarding community identity are not unique—there are many residents in the neighborhoods near the proposed transfer area who can make the same claims.

The County Committee then voted that this minimum threshold requirement is not substantially met.

#### Appeal

The appellants argue that both the County Office and the County Committee failed to consider many community identity issues raised by petitioners, including:

* Because of heavy traffic, commute times to Moreland SD schools are significantly greater than commute times to Cupertino USD schools.
* Students from the neighborhood can spend about two hours per day commuting by bus to and from Moreland SD schools when they could be spending five to ten minutes walking or riding a bike to Cupertino USD schools.
* Cupertino USD promotes walking and biking to schools, but opposes providing petitioners that option.
* The proposed transfer area borders Lynbrook High School (Fremont UHSD) and is closer to Cupertino USD schools than to Moreland SD schools.
* Both the Cupertino USD and the Fremont UHSD allowed students in the neighborhood to attend schools in those districts in the past.
* School commute safety was not considered as a factor in the analysis of the community identity condition.
* The community identity issues of the proposed transfer area are unique and approving the transfer will not set a precedent for other neighborhoods.

#### CDE Findings/Conclusion

Although the County Committee found that the proposed transfer failed to substantially meet this condition, the information presented by the County Office to the County Committee regarding this “community identity” condition and the comments from County Committee members prior to voting on this condition (see “County Committee Action” section) clearly indicate, at least to the CDE, that the “community identity” condition is substantially met. The *Education Code* language for this condition is “The school districts are each organized on the basis of a substantial community identity.” Nothing in County Office analysis or the County Committee discussion suggests that the proposed transfer would have a negative effect on the community identity of the affected districts. Instead, it appears that the basis for the County Office recommendation and the County Committee action is that the petitioners have not demonstrated that the proposed transfer would “improve” the community identity of the districts.

It is the CDE’s opinion that substantially meeting this condition does not require that a burden be placed upon the petitioners to prove that the territory transfer is beneficial to the community identity of the affected districts. The focus of the “community identity” condition, as a minimum threshold requirement, is that the proposed reorganization does not negatively affect the existing community identity of the districts. The information provided to the County Committee by the County Office and the subsequent comments of the County Committee both strongly indicate that the proposed reorganization has no effect on the community identity of the districts. The CDE disagrees with the County Committee finding that this “community identity” condition is not substantially met.

Both the County Office and the County Committee disagree with the appellants’ claims that (1) home-to-school commutes to Moreland SD and Campbell UHSD schools are significantly less safe than commutes to Cupertino USD and Fremont UHSD schools; and (2) no other residences in the vicinity share their unique community identity issues. Since the SBE may still view these issues as compelling reasons to approve the transfer, the CDE will examine the two concerns in more detail.

### 6.2 Commute Hardship

#### Similarities to 2008 Appeal

Issues that petitioners raise regarding commute safety are similar to those raised by the petitioners for the transfer of the territory directly across Prospect Road—these issues were considered by the CDE and the SBE in 2008 when the appeal of the County Committee’s action to disapprove that petition was heard. In its 2008 recommendation, the CDE stated that, according to the County Office, the San Jose Police Department could not confirm petitioners’ claims that the intersections between the petitioners’ homes and Moreland SD schools are among the most congested in the city.[[4]](#footnote-4) The County Office concluded, for this 2008 matter, that “traveling to Moreland SD schools does not place students in significantly greater danger than traveling to Cupertino USD schools.” The Moreland SD also submitted information regarding its bus service to the transfer area, indicating that one-way bus trip to the Country Lane Elementary School from the neighborhood was less than 30 minutes.

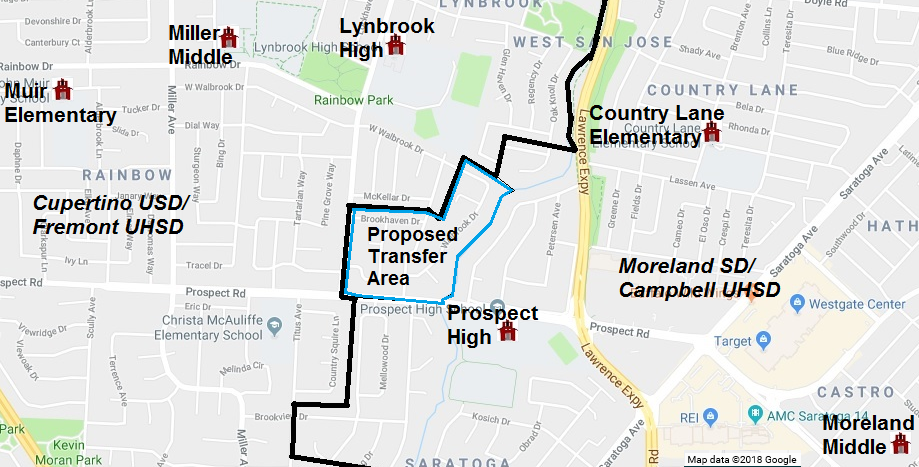
Regarding the current appeal, the County Office provided no additional information regarding commute safety other than distances and commute times between the transfer area and the affected schools. The County Office concludes that, although travel distances and times to each of the schools in the Cupertino USD are shorter than to the schools in the Moreland SD, the differences are not significant even during morning commute hours. The County Office further notes that differences do not meet the County Committee’s definition of an extreme hardship—a definition adopted following the 1997 study of school district reorganization issues in the area (see Attachment 2).

#### Appellant Concerns Regarding Commute Hardship

The primary safety concerns raised by the appellants are (1) commute times to Moreland SD and Campbell UHSD schools are significantly greater due to heavy traffic on the streets that must be used to travel to those schools; and (2) commutes to Moreland SD and Campbell UHSD schools are significantly more dangerous due to this heavy traffic and the fact that these commutes require crossing through at least one major intersection. Appellants claim that students from their neighborhood cannot walk or bike to Moreland SD schools because of the safety issues and traveling by car can take 25 minutes one way—while students can walk or ride bikes to Cupertino USD and Fremont UHSD schools along neighborhood streets.

Figure 3 displays the locations of the three schools that students from the proposed transfer area currently attend and the schools they would attend if the transfer is approved.

***Figure 3: Schools in Affected Districts***



*Source map: Google Maps ©2018; District boundary source: U.S. Census Bureau, 2017*

As stated previously, the County Office provided a comparison of distances and commute times from the proposed transfer area to schools of the affected districts, noting that Moreland SD schools are farther from the transfer area than are Cupertino USD schools (for elementary schools, Country Lane is 1.7 miles away and Muir is 1.3 miles away; for middle schools, Moreland is 1.7 miles away and Miller is 0.9 miles away), while the distances to the high schools are equivalent.

#### Commutes to Schools in High School Districts

Although there is no difference between the distances to the high schools, appellants claim that it is much more dangerous for their students to walk or bike to Prospect High School than to Lynbrook High School since students must cross Prospect Road, a much busier street with a speed limit of 40 miles per hour (mph) compared to the 25 mph speed limit on the neighborhood streets to Lynbrook High School. In their appeal, appellants provided information they had obtained regarding vehicle accidents and traffic tickets along the stretches of road next to the high schools (one mile of Prospect Road next to Prospect High School; slightly more than one mile of Johnson Road next to Lynbrook High School). According to appellants, there were 27 accidents along that stretch of Prospect Road compared to one accident on Johnson Road over the two-year period of reported data. Similarly, according to the one-year of traffic ticket data reported by the appellants, there were 53 traffic tickets reported on Prospect Road and none along Johnson Road.

The Fremont UHSD discounts the claims that it is less safe to travel to Prospect High School noting that:

* There are multiple locations along Prospect Road where students can cross at a traffic signal light.
* About 7,000 Fremont UHSD students must cross streets busier than Prospect Road to attend a Fremont UHSD high school. The district has learned that high school students can cross a street at a traffic light very safely.
* Over 300 district students must cross Prospect Road in the opposite direction to attend Lynbrook High School. There has not been a single request for a student transfer due to safety concerns.
* A major safety concern is the traffic leading to schools when there are no controlled intersections—Lynbrook High School is such a school. Traffic is calm and safe in front of Prospect High School compared with Johnson Road traffic at Lynbrook. The district must pay and train staff to monitor traffic at Lynbrook High School because it is so dangerous.

#### Commutes to Schools in Elementary School Districts

Appellants provided some additional information to support their claim that commutes to Moreland SD schools are less safe than the commutes to Cupertino USD schools. They state that attending Moreland SD schools involves traveling along and across expressways and major thoroughfares with heavy traffic moving at 40 to 50 mph, while travel to Cupertino USD schools is along 25 mph neighborhood streets. They further note that they would never allow their students to walk or bike to the Moreland SD schools, while students can walk or bike to all Cupertino USD schools.

Appellants also counter the County Office report that the commute distances and times are not significantly different. The County Office estimated that driving time to both Moreland SD schools (Country Lane Elementary and Moreland Middle) is 15 minutes,[[5]](#footnote-5) while driving times to Cupertino USD schools (Muir Elementary and Miller Middle) are five minutes or less. The County Office further noted that the driving time differential between Moreland SD schools and Cupertino USD schools does not constitute a hardship under County Committee standards.

Appellants state that the County Office report does not provide actual driving times and fails to take into account (1) the time to make a left-hand turn onto Prospect Road (up to three signal changes at the signal controlled intersection or more than seven minutes at the non-signal controlled intersection); (2) heavier traffic congestion on routes to Moreland SD schools, and (3) automobiles coming in and out of commercial establishments on the route to Moreland Middle School. While agreeing with the County Office estimate of a 15-minute commute to Country Lane Elementary School, appellants claim driving time to Moreland Middle School is 25 minutes.

#### CDE Findings

The CDE completed its own analysis of school commute issues through (1) site visits to observe traffic patterns and (2) an examination of commute information available through traffic apps (i.e., Google Maps [© 2018]).

Regarding high school commutes, the CDE finds no difference between traffic congestion at Prospect High School or Lynbrook High School (traffic flow information provided by Google Maps [© 2018] provides confirmation of this finding). The traffic speed limit issue raised by appellants (40 mph on Prospect Road versus 25 mph on neighborhood streets leading to Cupertino USD and Fremont UHSD schools [actually 35 mph on Johnson Road]) is irrelevant during school commute hours. Both high schools (as with all schools) have a posted 25 mph school speed zone in effect during times students are present—traffic congestion during school commutes cause even these speed limits to be irrelevant. There are two traffic lights at which students can cross Prospect Road to get to Prospect High School, while high school students from the proposed transfer area do not have to cross Johnson Road to get to Lynbrook High School.

Table 2 presents distances, driving times, walking times, and biking times from a central location in the proposed transfer area to each of the affected schools. All commute times listed in Table 2 are based on travel beginning between 7:20 a.m. and 7:40 a.m. on school days.

***Table 2: Distances and Commute Times to Schools***

| School/District | Distance | Driving Time | Walking Time | Biking Time |
| --- | --- | --- | --- | --- |
| Country Lane Elementary (Moreland SD) | 1.5 miles | 9 minutes | 30 minutes | 7 minutes |
| Moreland Middle (Moreland SD) | 1.6 miles | 8 minutes | 34 minutes | 9 minutes |
| Prospect High  (Campbell UHSD) | 0.4 miles | 2 minutes | 11 minutes | 2 minutes |
| Muir Elementary (Cupertino USD) | 1.2 miles | 5 minutes | 24 minutes | 7 minutes |
| Miller Middle (Cupertino USD) | 0.8 miles | 4 minutes | 15 minutes | 4 minutes |
| Lynbrook High  (Fremont UHSD) | 0.6 miles | 3 minutes | 12 minutes | 3 minutes |

*Source:* *Google Maps (© 2018)*

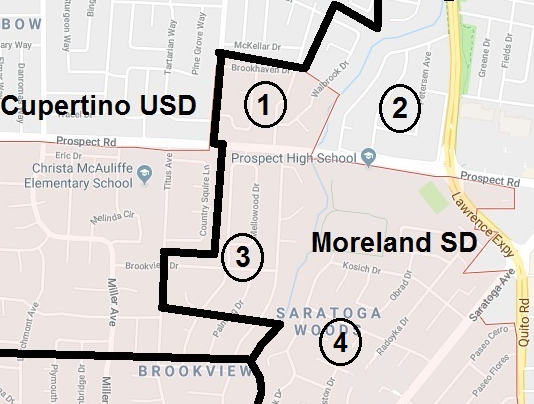
Cupertino USD schools are geographically closer to the proposed transfer area, and are more easily accessible, than are schools in the Moreland SD. However, it is CDE’s opinion that the distances and travel times to the Moreland SD schools do not constitute a significant hardship for parents or students in the transfer area. The circumstances faced by the parents and students are common throughout the affected districts, the county, and the state.

It is the further opinion of the CDE that the appellants’ commute concern is not a compelling reason to overturn the County Committee’s unanimous decision to disapprove the transfer and the opposition to the transfer by all affected school districts.

### 6.3 Unique Commute Issues

Appellants claim that there are no other neighborhoods in the vicinity that share their unique issues regarding access to Cupertino USD and Fremont UHSD schools. The CDE disagrees—Figure 4 identifies other surrounding neighborhoods with similar circumstances.

***Figure 4: Location of Similarly Situated Territory in the Area***



*Source map: Google Maps ©2018; District boundary source: U.S. Census Bureau, 2017*

Appellants note that all other surrounding neighborhoods are separated from Cupertino USD and Fremont UHSD schools by either Saratoga Creek or Prospect Road—thus, these neighborhoods do not have the ability to walk or bike to the Cupertino USD and Fremont UHSD schools solely by way of quiet, neighborhood streets. While that is a true statement, there are multiple nearby neighborhoods that could make commute hardship claims that are similar to those appellants made in their original territory transfer petition.

These neighborhoods are identified on the map in Figure 4. Area “1” on this map is the current proposed transfer area. Area “2” is the neighborhood directly east of the proposed transfer area and separated from it by Saratoga Creek. Area “3” is the Brookview community, which previously submitted a territory transfer proposal (making identical commute safety claims) that was denied on appeal by the SBE in 2008; and Area “4” is the Saratoga Woods neighborhood separated from Moreland SD and Campbell UHSD schools by the same streets identified by petitioners as obstacles. Areas “1”, “2”, and “4” are served by a Moreland SD bus route that provides transportation to and from both Country Lane Elementary School and Moreland Middle School.

### 6.4 School 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*.

#### Standard of Review

The SBE has not adopted regulations regarding this condition. However, the *School District Organization Handbook* recommends that analysis of the condition should include a determination of: (1) the availability of facilities to house all students at all grade levels in the reorganized area, (2) sources of funding for new construction, (3) effect on facilities and housing capacity of all affected districts, and (4) impact on bonding capacity of affected districts.

#### County Committee Action

County Office staff provided the County Committee the following information:

* If the transfer is approved, both the Moreland SD and the Campbell UHSD would lose approximately $100 million in assessed valuation, while the Cupertino USD and the Fremont UHSD each would gain an identical amount in assessed valuation. The bonding capacity of both elementary and high school districts is 1.25 percent of assessed valuation, so the transfer would result in approximately a $1.25 million loss in bonding capacity for both the Moreland SD and the Campbell UHSD.
* Both the Cupertino USD and the Fremont UHSD have experienced increasing enrollment over the previous 10 years, with enrollment in the Cupertino USD increasing by over 15 percent and increasing by over nine percent in the Fremont UHSD during that 10 year period.
* While enrollment in the attendance area for Muir Elementary School (which would be the home school for students in the proposed transfer area if the transfer is approved) has declined slightly in recent years, a transitional kindergarten program has been added to the site and the school serves as a possible overflow school if nearby schools reach capacity. Ten portable classrooms have been added to the site to address capacity issues.
* The Fremont UHSD currently is 101 students over the capacity of its schools and is projected to be 1,309 students over capacity by 2020.
* According to the recent School Accountability Report Cards, schools in the Cupertino USD and the Fremont UHSD are in overall good condition. Voters in both districts recently passed general obligation bonds to upgrade facilities.
* At the time of the County Office study, there were 27 public school students (21 kindergarten through eighth grade and six ninth though twelfth grade) residing in the territory proposed for transfer. The County Office noted that student generation calculations, based on factors used by the affected districts, suggest that as many as 68 kindergarten through eighth grade students and 36 high school students could be generated from the area.

The County Office recommended to the County Committee that the additional students from the proposed transfer area will have negative effects on the Cupertino USD and the Fremont UHSD, stating that both districts have capacity issues and any additional students will compound the issue of overcrowding in these districts.

The County Committee voted unanimously that this “facility cost” condition is not substantially met.

#### Appeal

Appellants claim that the estimates used by the County Office to project potential student enrollment from the proposed transfer area are based upon unsubstantiated and irrelevant student generation factors. The County Office used student generation calculations, provided by the affected districts, to project that the transfer area could have 68 kindergarten through eighth grade public school students and 36 public high school students if the transfer would be approved. Currently, there are 20 kindergarten through eighth grade public school students and six public high school students in the area.

Appellants note that the generation factors provided by the Fremont UHSD are based on a single small neighborhood that is dissimilar to housing and student density in their neighborhood. They believe that the Fremont UHSD should have used a broader sampling of neighborhoods than the single 105-home community that was used. The appellants claim that the Cupertino USD provided no documentation to explain the development of its student generation factors—so it is impossible to substantiate any projections made by using that district’s factors.

Appellants state that the projected public school enrollment projections used by the County Committee (in determining that this “facility cost” condition is not substantially met) are inaccurate and overstate the actual student population from the area. Thus, appellants believe the condition is substantially met.

#### CDE Findings/Conclusion

##### Enrollment Growth and School Capacities

Regardless of whether the public school students generated from the transfer area remain at the current level (20 kindergarten through eighth grade students and six high school students) or are those projected by the County Office (68 kindergarten through eighth grade students and 36 high school students), the CDE finds that existing and/or projected enrollment declines in the Cupertino USD and the Fremont UHSD exceed any student numbers that would be generated from the proposed transfer area (at least in the near term).

The County Office noted that both districts historically (over a ten-year period) saw significant year-to-year enrollment gains. The County Office further noted that enrollment projections for the Fremont UHSD demonstrated that enrollment would continue to grow in that district until at least 2020–21. The County Office also stated that enrollment in the Cupertino USD has declined from 2013–14 to 2014–15, but did not report any enrollment projections for that district. The CDE subsequently determined that demographers for the Cupertino USD had, since 2008, forecast an enrollment decline for that district beginning 2014–15.

Table 3 provides five-year historical enrollment growth data for the Cupertino USD and the Fremont UHSD. As can be seen in this table, the forecast of enrollment decline for the Cupertino USD has proven to be accurate. The Fremont UHSD continued its pattern of enrollment growth over the past five years, adding 476 students over that period.

***Table 3: Historical Enrollment Growth***

| Year | Cupertino USD | Fremont UHSD |
| --- | --- | --- |
| 2012–13 | 19,035 | 10,664 |
| 2013–14 | 19,194 | 10,710 |
| 2014–15 | 19,079 | 10,792 |
| 2015–16 | 18,948 | 10,736 |
| 2016–17 | 18,598 | 10,869 |
| 2017–18 | 18,017 | 11,140 |

*Source:* *2017–18* *CALPADS*

Since 2014–15, enrollment in the Cupertino USD has declined by over 1,050 students, with losses of 85 students at Muir Elementary School and 77 students at Miller Middle School. Enrollment declines for this district (and, presumably, the affected schools) are projected to continue until at least 2020–21.

Although Fremont UHSD has grown 348 students since 2014–15, enrollment is projected to drop below the 2014–15 enrollment level in four years. Even with district’s enrollment growing from 2014–15 to 2017–18, enrollment at Lynbrook High School has remained flat (dropping by five students over that time frame). Current enrollment exceeds capacity at both the Fremont UHSD and Lynbrook High School, but projections are that the district will drop below capacity by 2021–22 (the district’s forecast is that enrollment will continue to decline beyond the 2021–22 school-year). Assuming Lynbrook High School enrollment matches the district decline, it too will drop below its capacity level by 2021–22.

##### Loss of Assessed Valuation and Bonding Capacity

Both the Moreland SD and the Campbell UHSD have expressed concerns that the proposed transfer of territory will have a negative effect on the districts’ ability to issue general obligation bonds for future facility construction and maintenance. Each district’s bonding capacity is 1.25 percent of the assessed valuation in the district and the transfer will remove assessed valuation and, thus, bonding capacity.

The 2017–18 assessed valuation of the transfer area is almost $118 million dollars, which represents about 1.4 percent of the total assessed value of the Moreland SD and less than a half a percent of the Campbell UHSD’s. Furthermore, the assessed valuation of these two districts has grown considerably over the past five years—increasing by over $2.3 billion in the Moreland SD (38 percent growth) and by over $12.6 billion in the Campbell UHSD (40.2 percent growth).

##### Conclusion

Given the relatively few students that would be generated from the proposed transfer area, coupled with existing and/or projected enrollment declines in the Cupertino USD and the Fremont UHSD, it is the CDE’s opinion that the territory transfer would have insignificant effects on the capabilities of those districts to house their current or future student populations. It also is the CDE’s opinion that the bonding capacity of the Moreland SD and the Campbell UHSD would not be significantly affected due to loss of the relatively small assessed valuation of the area and the current overall increases to districtwide assessed valuation. Therefore, the CDE disagrees with the County Committee and finds that this “facility cost” condition is substantially met.

The CDE does understand that there are existing local concerns that approval of this territory transfer will encourage future transfers—and that the projected effects of additional future transfers will cause significant problems regarding overcrowding in the Cupertino USD and the Fremont UHSD, as well as significant loss of bonding capacity for the Moreland SD and the Campbell UHSD. These concerns will be included in Section 7.2.

### 6.5 Summary

CDE staff does not find sufficient support in the issues raised in the appeal or in the administrative record to justify overturning the unanimous decision of the County Committee to disapprove the territory transfer proposal. The CDE finds that:

* The County Committee substantially complied with all requirements for public hearings and consideration of information regarding the proposal.
* The CDE finds no compelling educational reason to support overturning the action of the County Committee (see Section 7.1 for potential compelling reasons considered by the CDE).
* The CDE notes that there are concerns with the proposed transfer (identified in Section 7.2) that support the County Committee’s action to disapprove the transfer.

## 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 affected school districts 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 Compelling 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 reverse the County Committee’s disapproval action, including the following:

* Community identity: (See discussion in Section 6.1).
* Safety of home-to-school commute: (See discussion in Section 6.2).
* Uniqueness of proposal: (See discussion in Section 6.3).

### 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 disapproving the proposal, including (but not limited to) the following:

* Encouragement of future transfers: Historically, there has been significant interest and activity regarding transfers from the Campbell UHSD to the Los Gatos-Saratoga JUHSD (see Attachment 2).
* Fiscal effects: Future additional transfers from the Moreland SD and the Campbell UHSD may result in significant negative financial effects on those districts. Both districts could lose significant assessed valuation resulting in declining bonding capacity and see increased property taxes for the remaining residents, who would shoulder a larger share of the districts’ bonded indebtedness. Moreover, the Campbell UHSD currently is an excess tax (or basic aid) district, so loss of assessed value directly results in reduced funding.
* Overcrowding: Both the Cupertino USD and the Fremont UHSD expressed concerns that additional territory transfers into the districts will negatively affect facility needs and disrupt educational programs.
* Public policy: Piecemeal transfers of territory may result in school district boundaries that make little sense, which can reflect poor public policy.
* Increased property values: Although the County Committee determined (and the CDE agrees) that the proposed transfer is not primarily due to a desire to increase property values, the affected districts note the likelihood that increased property values play a major role in the reasons for the transfer proposal (given the lack of other compelling reasons for the transfer).
* Lack of unique circumstances: The general issues raised by the petitioners are not unique to their neighborhood and will not be addressed by transferring the territory to different districts.

## 8.0 Staff Recommended 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 overturns the action of the County Committee by approving the appeal: the determination of the area of election. The following information details the CDE recommendation regarding this provision.

### 8.1 Area of Election

The County Committee voted to disapprove the proposed territory and, therefore, did not take any action regarding establishing an election area. If the SBE approves the appeal (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 (*EC* Section 35756).

### 8.2 Area of Election Principles

In establishing the area of election, the CDE and the 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 the matter of this transfer of territory from the Moreland SD and the Campbell UHSD to the Cupertino USD and the Fremont 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 Moreland SD and Campbell UHSD or the receiving Cupertino USD and Fremont UHSD. The CDE finds no reason to believe that the proposed transfer would affect the present or future racial composition of any affected district, or have any significant negative fiscal effect. Therefore, there is no reason relative to the territory transfer itself to expand the election area beyond the area proposed for transfer. The CDE recommends that the election area for the territory transfer, should the SBE approve the appeal, be the territory proposed for transfer.

However, the SBE may consider the concerns of districts (and residents of these districts) that the proposed transfer could encourage future transfer proposals. As detailed in Attachment 2, there historically have been significant concerns raised by residents throughout all the affected districts regarding potential territory transfers from the Campbell UHSD. If the SBE reverses the County Committee and approves the territory transfer, it may consider that a reasonable nexus exists between widespread public concerns and an expanded election area.

## 9.0 State Board of Education Action

Subdivision (c) of *EC* Section 35710.5 provides that the SBE, upon receiving an appeal from an action of a County Committee, may review the appeal (either in conjunction with a public hearing or based solely on the administrative record) or ratify the County Committee’s decision by summarily denying review of the appeal. Since the CDE does not find any rationale to summarily deny review of the appeal, and the practice of the SBE has been to hear all appeals in conjunction with a public hearing, the assumption in this section is that the SBE will conduct a public hearing as part of its review.

### 9.1 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. The SBE may reverse or modify the action of the County Committee in any manner consistent with law.
* 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 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 report back to the SBE regarding its actions.

### 9.2 Recommended Action

The CDE recommends that the SBE deny the appeal, thus affirming the action of the County Committee to disapprove the proposal to transfer territory from the Moreland SD and the Campbell UHSD to the Cupertino USD and the Fremont UHSD. Should the SBE decide to approve the appeal, and overturn the County Committee’s unanimous decision to disapprove the territory transfer proposal, the CDE recommends that the SBE establish the territory proposed for transfer as the election area.

# ATTACHMENT 2 Santa Clara County West Valley Reorganizations

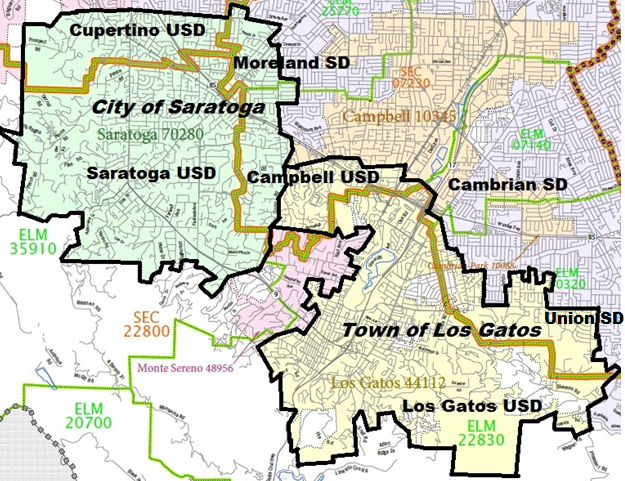
## Background

For the past 20-25 years in Santa Clara County, the Campbell Union High School District (UHSD), along with its component elementary school districts, has been the center of territory transfer requests along its western boundary, which it shares with the Los Gatos-Saratoga Joint Union High School District (JUHSD) (and its Los Gatos Union School District [USD] and Saratoga USD components) and the Fremont UHSD (and its Cupertino USD component).

There are a number of reasons for this, including:

* A history of approvals of interdistrict transfer requests among the districts. However, a number of factors led to the interdistrict transfers becoming less available, including (1) student population growth due to the economic expansion in Silicon Valley and influx of new residents; (2) fiscal concerns in school districts (including excess tax districts that do not receive increased funding for additional students[[6]](#footnote-6)); Proposition 13, which restricted the ability of school districts to construct facilities with local tax revenue; and (3) class size reduction practices, which further exacerbated the school capacity problem.
* The explosive growth of technology and Silicon Valley in the 1980s brought a large influx of employees for the high tech sector from areas outside of California. Many were unfamiliar with the concept of school districts not matching city boundaries (which is very common in California) and assumed that, if they bought a home in a given city they would be within the school district that shared that city name. Realtors often blurred the distinctions by noting the ease with which interdistrict transfers could be attained.
* As noted above, the school district boundaries in this area do not match city and town boundaries. There are large portions of the town of Los Gatos and the city of Saratoga within the Campbell UHSD (see Figure 1). Residents of Los Gatos and Saratoga, who are not also residents of the Los Gatos USD and the Saratoga USD, believe they do not receive full advantage of Los Gatos and Saratoga residency when they are in the Campbell UHSD.

***Figure 1: Los Gatos Town Boundaries and Saratoga City Boundaries***

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Source Map: United States Census Bureau, 2010

(<https://www.census.gov/geo/maps-data/maps/2010ref/st06_sch_dist.html>)

Key to Boundary Lines on Map

Map key for city or town boundary. City/Town Boundary

Map key for high school district boundary line. High School District Boundary

Map key for elementary school district boundary line. Elementary School District Boundary

* The town of Los Gatos and the cities of Saratoga and Cupertino are considered much more affluent than the cities of Campbell and San Jose (see Table 1), which comprise the remainder of the Campbell UHSD.

***Table 1: Select Census Data[[7]](#footnote-7) for Affected Municipalities***

| Census Data Element | Los Gatos Town | Saratoga City | Cupertino City | Campbell City | San Jose City |
| --- | --- | --- | --- | --- | --- |
| Per Capita Income | $74,855 | $79,870 | $60,040 | $51,269 | $37,845 |
| Percent Bachelors Degree or Higher | 65.5% | 77.0% | 76.6% | 51.5% | 40.2% |
| Median Home Value | $1,338,400 | $1,742,900 | $1,214,300 | $804,500 | $658,000 |

* Although the academic performance of the Campbell UHSD and its component elementary districts exceeds state averages, the academic performance of the schools in the Cupertino, Los Gatos, and Saratoga USDs is perceived to be superior. Table 2 displays California Assessment of Student Performance and Progress (CAASPP)[[8]](#footnote-8) data for affected elementary school districts.

***Table 2: Percent CAASPP Standards Exceeded or Met***

| Elementary School District | District Enrollment | English/ Language Arts | Math |
| --- | --- | --- | --- |
| Cambrian SD | 3,514 | 66.1% | 56.3% |
| Campbell Union SD | 7,465 | 53.4% | 48.3% |
| Moreland SD | 4,780 | 68.3% | 62.3% |
| Union SD | 5,751 | 77.9% | 75.7% |
| Cupertino Union SD | 18,598 | 84.3% | 86.2% |
| Los Gatos Union SD | 3,263 | 79.2% | 76.7% |
| Saratoga Union SD | 1,906 | 86.9% | 90.1% |

* The combination of higher levels of affluence and academic performance often results in property values in the Cupertino, Los Gatos, and Saratoga USDs that are 10 to 20 percent higher than in the neighboring Campbell UHSD.

## Early Transfer Requests from the Campbell UHSD

In 1994, the Santa Clara County Committee on School District Organization (County Committee) approved a request to transfer territory from the Campbell USD and the Campbell UHSD to the Saratoga USD and the Los Gatos-Saratoga. The County Committee approved the proposal over the opposition of the Campbell districts, who claimed that such approval would open the “floodgates” to additional transfer requests out of the districts. In response to this concern, the County Committee did expand the election area for the transfer proposal to the entire Campbell USD.[[9]](#footnote-9) At this time, both the Saratoga USD and the Los Gatos-Saratoga UHSD supported the transfer.

The Campbell districts appealed the County Committee’s action to approve the transfer to the California State Board of Education (SBE), while chief petitioners for the transfer proposal similarly appealed the expansion of the election area. Both appeals were pulled from SBE consideration after the districts and the chief petitioners negotiated an agreement allowing the transfer to occur after certain conditions were met.

Following this initial proposal, the Santa Clara County Office of Education (County Office) reported receiving 17 inquiries regarding territory transfers from residents of the portion of the city of Saratoga that is in the Campbell districts. These inquiries resulted in the County Committee receiving five territory transfer proposals.[[10]](#footnote-10) It disapproved all five—however, only two of these disapprovals were appealed to the SBE. The SBE overturned the County Committee’s action to disapprove the first appeal,[[11]](#footnote-11) allowing the transfer to be approved following an election only in the area proposed for transfer.

Following this SBE action, additional proposals to transfer territory out of the Campbell UHSD were filed with the County Office, with interest expanding beyond the portion of the city of Saratoga that is in the Campbell UHSD to the portion of the town of Los Gatos in the Campbell UHSD. These transfer proposals, along with formal action by the Saratoga City Council to support the transfer of all property within the city of Saratoga to the Saratoga USD, along with support from the Los Gatos and Saratoga USDs, raised concerns by the County Office and the County Committee that the “piecemeal”[[12]](#footnote-12) approach to changing the boundaries of the school districts was not sound policy.

The County Office and the County Committee approved a comprehensive study of school district reorganization options for the entire west valley of Santa Clara County, which included 13 school districts (over one-third of the districts in the county). To allow for the proper focus on this area-wide study, the Santa Clara County Board of Education (County Board) requested that the SBE waive the timelines required for the County Committee to act on territory transfer proposals until after the study had been completed. The SBE approved the County Board’s request at its June 1997 meeting.

## West Valley Study of District Reorganization Options

The County Office contracted with an independent consultant for a study of reorganization options for the west valley of Santa Clara County (West Valley Study). This study included not just an analysis of the comprehensive effects of territory transfers but also unification options and “piecemeal” adjustments to existing boundaries. In February 1998, the Santa Clara County Superintendent of Schools (County Superintendent) notified the SBE of the study results and the County Committee’s response to the study, along with public reception.

The study noted numerous negative effects on school districts due to the removal of the municipal portions of Los Gatos and Saratoga from the Campbell UHSD, with the Los Gatos and Saratoga districts particularly hard hit. Those negative effects included:

1. The Los Gatos and Saratoga districts would experience significant increases in student population without commensurate school facilities, resulting in increased overcrowding of schools and future costs for new facilities.
2. Residents of the Los Gatos and Saratoga districts would experience increased property taxes due to shifts of bonded indebtedness into the districts.
3. Per pupil funding would decline for the Los Gatos and Saratoga districts.

While the Campbell UHSD (along with its component districts and residents of those districts) already opposed the idea of transferring territory out of the districts, the findings in the study gave rise to additional, and even more vociferous, opposition from the Los Gatos and Saratoga districts (and the residents of those districts) toward proposed district reorganization. Throughout the course of the study, the County Office received, in writing, over 2,800 responses from area residents regarding the possibility of territory transfers. Over 2,500 of those responses were in opposition to the idea of territory transfers and fewer than 300 were in support. Overwhelming opposition also was expressed at the numerous public hearings conducted by the County Committee.

Regarding “piecemeal” adjustments to the existing boundaries, the general finding in the West Valley Study was that “reorganization of portions of the territories of the … school districts will shift community identity problems rather than resolve them.” Absent any viable global reorganization options that are supported by the communities and the districts, the study noted that current boundaries “may be optimal.”

In response to the negative findings of the study and the lack of school district and community support for territory transfers, the County Committee voted unanimously not to support territory transfers in the West Valley area unless exceptional circumstances existed. The County Committee also adopted guidelines for these exceptional circumstances, which primarily addressed home to school transportation issues. This action by the County Committee was supported in newspaper editorials appearing in the San Jose Mercury News, the Los Gatos Weekly Times, and the Saratoga News.

Although no boundary adjustments resulted from the West Valley Study, the study did lead to a number of efforts to address some of the concerns raised, including:

* The County Office worked with the Santa Clara County Association of Realtors to address the practice of touting proximity to Los Gatos and Saratoga schools when marketing Los Gatos and Saratoga homes located in the Campbell UHSD.
* In collaboration with the Santa Clara County Assessor, the County Office developed one of the first internet sites in the state to allow potential home buyers to enter an address and determine the school district(s) of residence.
* Affected districts and municipalities worked more closely with local community organizations (e.g., Little League) to address issues regarding residency, participation, and communication.

## Territory Transfers Subsequent to West Valley Study

The County Superintendent, in her February 1998 communication to the SBE, noted that the County Committee likely would continue to receive territory transfer requests from this area despite the findings in the West Valley Study and the actions of the County Committee—and that the SBE likely would continue to receive appeals from future County Committee actions on territory transfer proposals.

Since the West Valley Study, the SBE has received 11 appeals from actions of the County Committee to disapprove territory transfers from the Campbell UHSD (including the three on the current SBE agenda). The action of the County Committee has been affirmed by the SBE in each of these previous appeals.

1. 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-1)
2. The *School District Organization Handbook* was prepared through the joint efforts of the SBE, the California County Superintendents Educational Services Association, the Fiscal Crisis and Management Assistance Team, and the CDE. It is online at: <https://www.cde.ca.gov/re/lr/do/>. [↑](#footnote-ref-2)
3. The County Office included a transcript of the meeting proceedings as part of the administrative record. The referenced points made by County Committee members are from that transcript. [↑](#footnote-ref-3)
4. The San Jose Police Department maintains a list of the top 20 most dangerous intersections in the city of San Jose—none of the area intersections were on that list. [↑](#footnote-ref-4)
5. The County Office estimates were based on driving times obtained for the previous 2008 appeal (12 minute driving time to each Moreland SD school) and general experience with traffic in the area. [↑](#footnote-ref-5)
6. For 2018–19 Advance Apportionment purposes, the Campbell UHSD, the Los Gatos-Saratoga JUHSD, and the Fremont UHSD are all excess tax districts, along with the Campbell USD and all component elementary districts of the Los Gatos-Saratoga JUHSD (<https://www.cde.ca.gov/fg/aa/pa/ada75701819.asp>). [↑](#footnote-ref-6)
7. U.S. Census population estimates (July 1, 2017) at <https://www.census.gov/quickfacts>. [↑](#footnote-ref-7)
8. For more detail, see the CDE’s CAASPP website at <https://www.cde.ca.gov/ta/tg/ca/>. [↑](#footnote-ref-8)
9. *Education Code* (*EC*) Section 35710 requires an election for a territory transfer if an affected district opposes the transfer. *EC* Section 35732 provides the County Committee the authority to expand an election area beyond the default election area, which is “the territory proposed for reorganization.” [↑](#footnote-ref-9)
10. The County Office also reported that the County Committee had addressed only six territory transfer proposals from the entire county over the previous 10 years. [↑](#footnote-ref-10)
11. The second appeal was heard by the SBE a few months later at the same meeting it considered a Santa Clara County request to waive timelines for processing territory transfer proposals pending a comprehensive study of reorganization issues. The SBE affirmed the action of the County Committee regarding this second appeal. [↑](#footnote-ref-11)
12. County agencies believed that this “piecemeal” approach did not allow for a comprehensive look at what, in the opinion of these agencies, was a clear intent to transfer all Los Gatos and Saratoga municipal territory from the Campbell UHSD to the Los Gatos-Saratoga JUHSD. Small transfers by themselves did not cause significant concerns regarding the minimum standards (*EC* Section 35753) and the county agencies wanted a more comprehensive analysis of their effects on school district reorganization in the area. [↑](#footnote-ref-12)