

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

ssb-sfsd-sep19item01

# California State Board of Education September 2019 Agenda Item #04

## Subject

Appeal from an Action of the Stanislaus County Committee on School District Organization to Disapprove a Petition to Transfer Territory from the Denair Unified School District to the Turlock Unified School District.

## Type of Action

Action, Information, Public Hearing

## Summary of the Issue(s)

The Stanislaus County Committee on School District Organization (County Committee) disapproved a petition to transfer territory from the Denair Unified School District (USD) to the Turlock USD. Pursuant to California *Education Code* (*EC*) Section 35710.5, the Turlock USD 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 to disapprove the territory transfer proposal. If the SBE reverses the County Committee’s action, thus approving the territory transfer, 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 disapprove the proposal to transfer territory from the Denair USD to the Turlock USD.

## Brief History of Key Issues

The Stanislaus County Superintendent of Schools (County Superintendent) received a petition from Katakis Development, the owner of approximately 91 acres of undeveloped land in the City of Turlock, but in the Denair USD. The development has been approved by the City of Turlock (under a Master Plan) for 189 home sites, with up to 264 total planned single family homes.[[1]](#footnote-1) According to the petition, the transfer is requested because the “transferred territory would be organized on the basis of a substantial community identity by allowing the City of Turlock residents to attend Turlock schools.” The petition further notes that the proposed transfer would substantially meet the minimum threshold conditions of *EC* Section 35753.

After conducting public hearings in each affected school district and receiving recommendations from its legal counsel, the County Committee determined that three of the nine minimum threshold conditions of *EC* Section 35753(a) are not substantially met[[2]](#footnote-2). Those conditions are:

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

The County Committee subsequently disapproved the proposed transfer of territory from the Denair USD to the Turlock USD on a unanimous vote. The governing board of the Turlock USD, in support of the developer’s petition, submitted an appeal of the County Committee action pursuant to *EC* Section 35710.

The CDE reviewed the entire administrative record provided by the County Superintendent (including summaries and transcripts of public hearings and meetings, documentation prepared by affected school districts, and information presented to the County Committee by its legal counsel)—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 the findings from that attachment follows.

The CDE agrees with the County Committee’s finding that the proposed transfer does not substantially meet the “community identity” condition and disagrees with the County Committee’s determinations that the “adequate enrollment” and the “increased property values” conditions are not substantially met. However, the CDE does note concerns with these two conditions that support the County Committee’s action to disapprove the proposal—primarily the potential negative effects on Denair USD’s future enrollment growth and inconsistencies between the chief petitioner’s rationale for the territory transfer proposal and the circumstances of that proposal (see Attachment 1 for more detail).

More importantly, the CDE 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 Denair USD to the Turlock USD.

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

The SBE has not considered a territory transfer proposal between the Denair USD and the Turlock USD previously.

## 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[[3]](#footnote-3)—election costs will be borne by the county.

## Attachment(s)

**Attachment 1**: Analysis of Administrative Record (29 pages)

# ATTACHMENT 1 Analysis of Administrative Record

**Appeal from an Action of the  
Stanislaus County Committee on School District Organization  
to Disapprove a Petition to Transfer Territory from the  
Denair Unified School District to the Turlock Unified School District**

## 1.0 Recommendation

The California Department of Education (CDE) recommends that the State Board of Education (SBE) affirm the action of the Stanislaus County Committee on School District Organization (County Committee) to disapprove the petition to transfer territory from the Denair Unified School District (USD) to the Turlock USD.

## 2.0 Background

### 2.1 Affected Districts

Both the Denair USD and the Turlock USD are kindergarten through twelfth grade districts in Stanislaus County along its border with Merced County. The Turlock USD has two component elementary school districts (the Chatom Union Elementary School District [ESD] and the Keyes Union ESD)—both are completely contained within the geographic boundaries of the Turlock USD (see Figure 1).

Table 1 depicts the percentage of students in the most populous California Longitudinal Pupil Achievement Data System (CALPADS) racial/ethnic categories for both of the school districts. The largest racial/ethnic category in both districts is “Hispanic.”

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

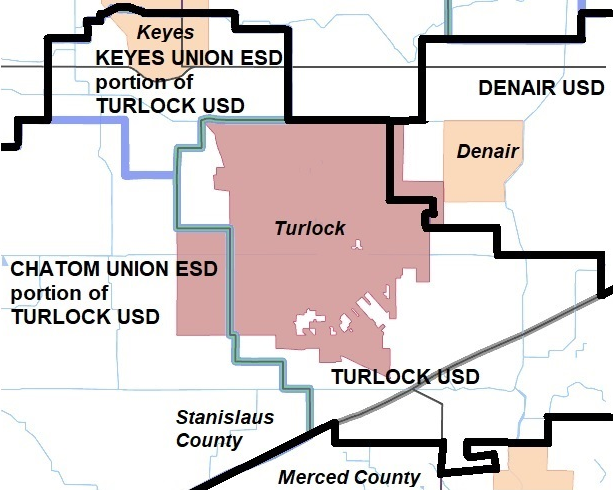
| District | Hispanic | White | Other\* |
| --- | --- | --- | --- |
| Denair USD  (K-12 enrollment: 1,273) | 50.9% | 44.3% | 4.8% |
| Turlock USD  (K-12 enrollment: 14,261) | 58.7% | 31.2% | 10.1% |

*Source:* *2018*–*19 CALPADS*

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

The Denair USD contains Denair (a census-designated place [CDP])[[4]](#footnote-4), portions of the incorporated City of Turlock, and significant portions of unincorporated agricultural territory in Stanislaus County. The Turlock USD contains the remainder of the City of Turlock, a portion of the Keyes CDP, and significant portions of unincorporated agricultural territory (extending west to the San Joaquin River and southeast into Merced County). As noted previously, the Chatom Union ESD and the Keyes Union ESD are components of the Turlock USD.

***Figure 1: Map of Affected Area***

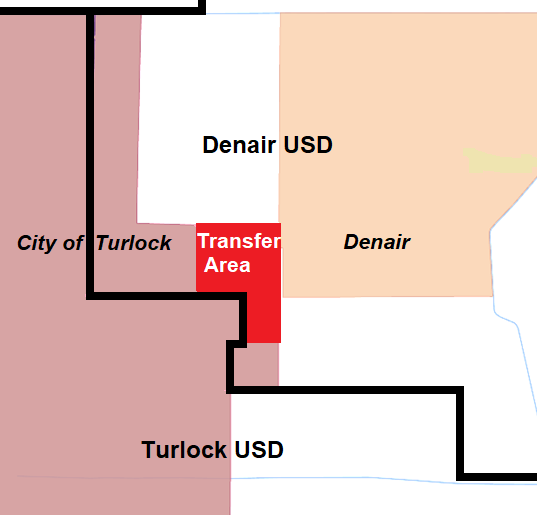


*Map and boundaries source: US Census Bureau*, *Geography Division* ([*https://tigerweb.geo.census.gov/tigerweb/*](https://tigerweb.geo.census.gov/tigerweb/)*)*

### 2.2 Territory Transfer Proposal

Katakis Development, the owner of approximately 91 acres of undeveloped land in the City of Turlock, but in the Denair USD (see Figure 2), requests that the territory be transferred to the Turlock USD because the “transferred territory would be organized on the basis of a substantial community identity by allowing the City of Turlock residents to attend Turlock schools.” The development has been approved by the City of Turlock (under a Master Plan) for 189 home sites, with up to 264 total planned single family homes. As of the time this report was prepared, the territory remains undeveloped.

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



*Map and boundaries source: US Census Bureau*, *Geography Division* ([*https://tigerweb.geo.census.gov/tigerweb/*](https://tigerweb.geo.census.gov/tigerweb/)*)*

## 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 Denair USD and one within the boundaries of the Turlock USD. Legal counsel prepared an analysis of the proposal and recommendations for the County Committee’s consideration. Under the California *Education Code* (*EC)*, the County Committee then had the following options:

* If the County Committee determined that all nine minimum threshold standards of *EC*Section 35753(a) are substantially met, it could approve the petition (though not required to do so).
* 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 minimum threshold standards 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 three of the nine minimum threshold standards of *EC* Section 35753. Those standards are:

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

The report, prepared by legal counsel and presented to the County Committee, stated that this condition may not be substantially met because it is likely that enrollment from the proposed transfer area would assist the Denair USD in approaching the 1,501 enrollment level established by the SBE.[[5]](#footnote-5)

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

Legal counsel for the County Committee stated that this condition may not be substantially met because community identity aspects of the proposed transfer area (proximity to schools, the area is surrounded on three sides by the Denair USD, parent testimony on community identity) favor the Denair USD.

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

Legal counsel for the County Committee finds that the proposed territory transfer is primarily designed for purposes of increasing property values, noting that a new home in the Turlock USD may have a $12,000 to $15,000 greater value than if it was in the Denair USD.

The County Committee subsequently disapproved the territory transfer petition by resolution adopted by a 9-0 vote (with two members absent).

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 Turlock USD, in support of the chief petitioners for the territory transfer, submitted such an appeal to the County Superintendent, who subsequently transmitted the appeal, along with the complete administrative record of the County Committee action, to the SBE.

## 4.0 Position of Denair USD

The Denair USD is opposed to the proposed transfer of territory, noting that the current boundaries have been in place for many decades. The district further states that, in recent years, new housing developments in the City of Turlock have expanded eastward toward the Denair community. These previous developers have built new homes without requesting a boundary change.

The Denair USD believes that the proposed transfer of territory, if approved, would have significant negative fiscal effects on the district, including:

* More than one million dollars in developer fees would be diverted from the Denair USD to the Turlock USD.
* At least $750,000 of annual revenue (from average daily attendance [ADA]) would go to the Turlock USD rather than the Denair USD.
* The transfer will set a precedent for future territory transfers, with resultant additional losses of developer fees and ADA-generated revenue.

Denair USD schools also are within walking distance of the proposed development (approximately one half mile away) while schools of the Turlock USD are much more distant. Given the fiscal effects of the territory transfer proposal and the geographic proximity of the proposed new homes to Denair USD schools, it is the conclusion of the Denair USD that the petitioners are motivated by factors other those cited in the petition—specifically, the developer’s business interests may well be the sole driving force behind the territory transfer request.

## 5.0 Position of Turlock USD/Reasons for the Appeal

The chief petitioner for the territory transfer proposal (Katakis Development) stated that, as a primary purpose of the proposal, the boundary change will allow “City of Turlock residents to attend Turlock schools.” However, the chief petitioner did not file the appeal of the County Committee action to disapprove the proposal—the appeal was filed by the Turlock USD. Thus, this section will combine the position of the Turlock USD with the reasons for the appeal.

In general, the Turlock USD agrees with the chief petitioner that (1) the SBE should approve the transfer so that all families who reside within the City of Turlock are guaranteed the opportunity to attend Turlock USD schools and (2) the proposed transfer of territory clearly meets all the minimum threshold requirements of *EC* Section 35753, including the following conditions that the County Committee determined were not substantially met:

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

The Turlock USD notes that Denair USD enrollment currently is below the *California Code of Regulations* enrollment level of 1,501—this lack of adequate enrollment is not due to the proposed reorganization. The district also argues that the intent of the enrollment criterion in the regulation is that direct services districts (those that are more dependent on county support[[6]](#footnote-6)) not be created as a result of a reorganization. It is not the case that the Denair USD will become a direct services district as a result of the territory transfer.

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

The Turlock USD claims that this condition is substantially met due to a number of factors, including (1) there exists a clear community identity between the district and the City of Turlock; (2) traffic and regional shopping patterns flow toward the City of Turlock due to the extensive options there; (3) the proposed transfer area shares a zip code with the Turlock USD; and (4) the Stanislaus County Board of Supervisors adopted a General Plan that creates an “urban buffer” between the transfer area and the Denair USD.

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

The Turlock USD argues that the proposed territory transfer is primarily designed to guarantee that the students (who will eventually reside in the area) have the opportunity to attend Turlock USD schools and participate in the extensive educational options offered by the district.

The Turlock USD believes that petition meets every minimum threshold standard—therefore, the SBE should approve the transfer so that all families who reside within the City of Turlock are guaranteed the opportunity to attend the Turlock USD. In addition to the claim that the proposal meets minimum standards, the district offers other reasons to support the proposal, including:

* The Turlock USD receives approximately 800 interdistrict transfer requests from students in other districts because of the district’s “rigorous and unique academic and athletic program offerings”. Approximately 350 of these 800 annual requests are from students residing within the boundaries of Denair USD students.
* Although the Turlock USD has the facility capacity to house additional students, the district has continuing problems with funding the modernization of its existing facilities. The developer fees collected from home construction in the proposed transfer area will help offset the Turlock USD costs for facility needs associated with the Denair USD resident students who are attending the Turlock USD on interdistrict attendance agreements.

## 6.0 CDE Analyses of *Education Code* Conditions

CDE staff reviewed the administrative record provided by the Stanislaus County Superintendent of Schools (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 in previous sections, the County Committee determined that the following *EC* Section 35753 conditions are not substantially met by the proposed transfer of territory:

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

For its analysis of the effects of territory transfer proposal, the CDE conducted its own studies of these three conditions, using information provided by the County Superintendent and the affected school districts.

The County Committee determined that the remaining six *EC* Section 35753 conditions are substantially met—however, the Denair USD raised a number of issues during local consideration of the proposal related to expected negative financial effects on the district as a result of an approved territory transfer. The CDE will examine some aspects of these fiscal effects in Section 7.0 of this report—however, an examination of the “fiscal effects” minimum threshold standard (*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.*) is not included in this section. The CDE also will not address the other five conditions that the County Committee determined were substantially met, which are:

* *EC* Section 35753(a)(3): *The proposal will result in an equitable division of property and facilities of the original districts.*
* *EC* Section 35753(a)(4): *The reorganization of the school districts will preserve each affected district’s ability to educate pupils in an integrated environment and will not promote racial or ethnic discrimination or segregation.*
* *EC* Section 35753(a)(5): *Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.*
* *EC* Section 35753(a)(6): *The reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the affected districts.*
* *EC* Section 35753(a)(7): *Any increase in school facility costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.*

Findings and conclusions regarding the issues addressed by the CDE, including discussions of relevant *EC* Section 35753 minimum threshold requirements and any related Title 5 *California Code of Regulations* (5 *CCR*) factors, are contained in the following sections.

### 6.1 Adequate Enrollment

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

#### Standard of Review

The stated intent of the SBE regulation regarding this condition (5 *CCR* Section 18573[a][1]) is “that direct service districts not be created” that can result in the need for additional support. For a unified school district (e.g., Denair USD), the regulation states that a district affected by a reorganization should have an enrollment of 1,501. The regulation further requires that projected increases or decreases in enrollment be considered.

#### County Committee Action

Legal counsel for the County Committee presented the following information:

* Denair USD enrollment is below the guideline of 1,501 students established in regulation (5 *CCR* Section 18573[a][1]).
* Approximately 96 students likely will be generated from the area proposed for transfer once housing construction in the territory is complete.
* Although the estimated number of students from the transfer area would not push Denair USD enrollment over the 1,501 guideline, the enrollment growth from the transfer area would assist the district in approaching the guideline.
* Given the above factors, County Committee legal counsel recommended that this condition may not be substantially met.

A finding that this condition was not substantially met was part of the resolution denying the proposed territory transfer—that resolution was unanimously approved by the County Committee.

#### Appeal

The Turlock USD argues that Denair USD enrollment currently is below the 1,501 student guideline established in 5 *CCR* Section 18573(a)(1) and will remain below that guideline regardless of whether or not the territory transfer is approved. Even if all the projected new students in the proposed transfer area attend Denair USD schools, the district’s enrollment will not meet the 1,501 criterion. Thus, it is the position of the Turlock USD that the territory transfer will have no effect on the question of whether this *EC* Section 35753 minimum threshold standard is substantially met.

The Turlock USD further notes that the intent of the 5 *CCR* Section 18573(a)(1) regulation is “that direct service districts not be created”—and the proposed transfer of territory will not result in the creation of a direct service district. Because the reorganization will not affect the current Denair USD enrollment and does not necessitate the creation of a direct service district, the Turlock USD states that the proposed transfer of territory substantially meets this “adequate enrollment” condition.

#### CDE Findings/Conclusion

With the exception of a seven year period from 2006–07 to 2012–13 when Denair USD enrollment ranged between approximately 1,500 and 1,600 students, enrollment in the district has been below the 1,501 level established in 5 *CCR* Section 18573(a)(1). Historical enrollment over the past six years for the Denair USD is displayed in Table 2.

***Table 2: Denair USD Historical Enrollment***

| Year | Enrollment |
| --- | --- |
| 2013–14 | 1,382 |
| 2014–15 | 1,293 |
| 2015–16 | 1,276 |
| 2016–17 | 1,309 |
| 2017–18 | 1,273 |
| 2018–19 | 1,273 |

*Source:* *2018*–*19 CALPADS*

As depicted in Table 2, Denair USD enrollment has not met the 1,501 level contained in 5 *CCR* Section 18573(a)(1) over the past six years. Moreover, enrollment projections provided by the district indicate that the 1,501 level will not be met in the near future (district projected enrollment for 2022–23 is 1,282).

The County Committee assumes that enrollment in the territory proposed for transfer will be approximately 96 students (however, the Denair USD projects 215 students while the Turlock USD estimate is 49). Regardless of the estimate used, it is unlikely that the additional enrollment from the proposed transfer area will bring enrollment in the Denair USD to the 5 *CCR* Section 18573(a)(1). However the CDE does recognize that any factors potentially affecting the enrollment in a district may be a cause for concern. That concern is addressed in Section 7.0 of this report.

##### Conclusion

Enrollment in the Denair USD will not exceed the 1,501 student level required in 5 *CCR* Section 18573(a)(1)—however, it is the SBE’s stated intent for that section that “direct service districts not be created” as a result of a proposed reorganization. It is the CDE’s position that the proposed territory transfer will not result in the creation of a direct service district since it will not move the Denair USD enrollment below 1,501 students and it is unlikely that additional students from the proposed transfer will increase enrollment over that level at the time the territory transfer would go into effect.

The CDE disagrees with the County Committee’s finding and recommends that this “adequate enrollment” condition is substantially met.

### 6.2 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 (5 *CCR* Section 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, and social ties and other circumstances peculiar to the area. Additionally, the *School District Organization Handbook[[7]](#footnote-7)* 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. The Handbook also states that there is no legal necessity that school district boundaries match city boundaries.

#### County Committee Action

Legal counsel for the County Committee presented the following information:

* The approximate 91 acres of territory proposed for transfer is located entirely within the Denair USD and solely within the city limits of the City of Turlock.
* There are residential areas contiguous to the proposed transfer area that similarly are within the Denair USD and the City of Turlock.
* The proposed transfer area is surrounded on three sides by territory of the Denair USD.
* Denair High School is one-half mile from the transfer area, while Turlock High School is two miles away.
* Given the above factors, County Committee legal counsel recommended that this “community identity” condition may not be substantially met.

A finding that this condition was not substantially met was part of the resolution denying the proposed territory transfer—that resolution was unanimously approved by the County Committee.

#### Appeal

The Turlock USD argues that “the proposed territory transfer will ensure that both districts are appropriately organized on the basis of a substantial community identity” and the “community identity” condition is substantially met. The district notes the following as rationale for its argument:

* There is a clear community identity between the City of Turlock and the Turlock USD through the existence of traffic and regional shopping patterns and the extensive collaboration between the two entities on issues of school safety.
* The proposed transfer area shares a common zip code with the Turlock USD, while none of that area is in the same zip code as the Denair USD.
* Future residents of the transfer area will be taxed by the City of Turlock for a variety of services.
* The Stanislaus Board of Supervisors, in its adoption of the Denair Community Plan Update in 1998, stated an intent to establish an “urban buffer” zone around the Denair community in order to promote “a well-defined rural small town characteristic edge between the City of Turlock and the community of Denair…”
* The County Committee inaccurately states that Denair High School is one-half mile from the transfer area, while Turlock High School is two miles away. Depending on location within the proposed transfer area, Denair High School is 1.0 to 1.7 miles away, while Turlock High School is between 1.7 and 2.2 miles away.
* Regardless of the distance between locations in the proposed transfer area and the two high schools, the commute to Turlock High School is much safer than the commute to Denair High School. The City of Turlock maintains high infrastructure standards for its streets and sidewalks—however, Stanislaus County has not improved unincorporated roadways to these high standards. This lack of improvement means that students must traverse “narrow, high speed, two lane roads without sidewalks or bicycle lanes” on commutes to Denair schools.

#### CDE Findings/Conclusion

It appears to the CDE that the general argument of the Turlock USD, in its appeal, is that the proposed transfer area has greater community identity with the Turlock USD than it does with the Denair USD (based on the issues discussed in the previous section). However, it consistently has been the CDE’s position that an analysis of this “community identity” condition does not require proving that the territory transfer is more beneficial to the community identity of one school district over another district. The focus of the condition, as a minimum threshold requirement, is that the proposed reorganization does not negatively affect the community identity of either affected school district.

Although the “community identity” issues raised by the Turlock USD certainly can be part of any examination of this condition, the CDE’s focus is on whether the affected districts would remain “organized on the basis of a substantial community identity” if the proposed territory transfer goes into effect. Similarly, the issue of commute safety that is raised in the appeal could be considered by the SBE in determining if there is a compelling reason to approve the territory transfer—that issue also will be addressed in this section, as well as in Section 7.0.

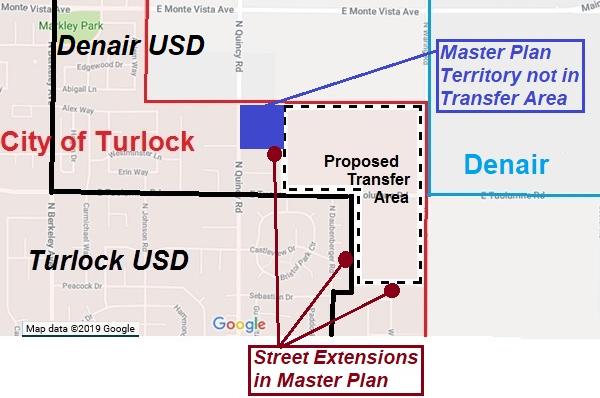
##### Community Identity Concerns

The CDE has the following concerns regarding the territory transfer’s effect on the community identity of the Denair USD:

* As noted by the Turlock USD in its appeal, the proposed transfer area is part of the *East Tuolumne Master Plan[[8]](#footnote-8)* (Master Plan) adopted by the City of Turlock. However, not all of the territory identified in this Master Plan is included in the proposed territory transfer. Approximately 10 acres of the Master Plan area would remain in the Denair USD if the territory transfer is approved.
* A number of local streets in residential areas adjacent to the proposed transfer area currently dead-end into the Master Plan area and, according to the Master Plan, “will need to be extended into the Master Plan area.” Such extension would create a connection (through common streets) between the proposed transfer area (which would be in the Turlock USD, if approved) and other residential areas of the City of Turlock, which would remain in the Denair USD.
* As stated by legal counsel for the County Committee, the territory proposed for transfer is surrounded on three sides by territory of the Denair USD. The CDE further notes that transfer of this area would divide the currently contiguous City of Turlock territory that is in the Denair USD.

It is the CDE’s opinion that the above three issues establish geographic conditions in and around the transfer area that could promote additional territory transfers, which could threaten significant erosion of the western Denair USD boundary shared with the Turlock USD. The map in Figure 3 provides a visual representation of these three concerns.

***Figure 3: Community Identity Concerns of the Proposed Transfer***



*Source map: Google Maps © 2019*

##### CDE Concerns with Appeal Claims

The CDE also has issues with the following “community identity” claims made by the Turlock USD in its appeal:

* The Turlock USD claims the Stanislaus County Board of Supervisors (Board of Supervisors) calls for creation of an “urban buffer” between the Denair community and the City of Turlock in the Denair Community Plan portion of its General Plan. Thus, the district believes that the clear intent of the Board of Supervisors is to maintain Denair as a community separate from the City of Turlock. While the CDE acknowledges that this urban buffer is part of the Board of Supervisors General Plan, it should be noted that Denair is not the only community adjacent to the City of Turlock with such an urban buffer. The Board of Supervisors, in the *Keyes Community Plan*,[[9]](#footnote-9) states that the Keyes community should cooperate with the City of Turlock “in establishing definitive community separator policies/implementation measures.” Additionally, a major theme of the *Turlock General Plan[[10]](#footnote-10)* is to maintain the City of Turlock as an independent community, separated from adjacent communities such as Denair and Keyes through agricultural-urban buffer designs. The CDE notes that the majority of the Keyes CDP is within the boundaries of the Turlock USD—the district does not identify any specific negative effects that the existence of a Keyes community urban buffer area has on the current community identity of the Turlock USD.
* The Turlock USD states, in its appeal, that the *School District Organization Handbook* identifies shared zip codes as potential indicators of community identity. The district further states that the entire proposed transfer area shares the same zip code (95380) as the Turlock USD and that none of the transfer area shares the Denair USD zip code (95316). The CDE finds that none of the proposed transfer area is in the 95380 zip code[[11]](#footnote-11)—it, instead, is in the 95382 zip code, which is one of the two zip codes (along with 95380) that covers the City of Turlock. The CDE also notes that the proposed transfer area is contiguous to the 95316 (Denair) zip code.

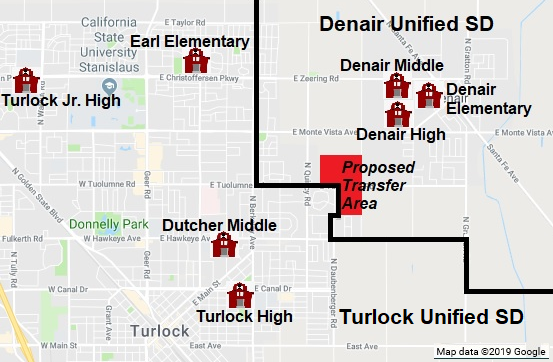
##### Distance to Schools and Commute Safety

Legal counsel for the County Committee reported that Denair USD schools are considerably closer to the proposed transfer area than are Turlock USD schools. The Turlock USD, in its appeal, disagrees with that distance comparison and claims that, regardless of distance, commutes from the transfer area to Turlock USD schools would be significantly safer than would be the commutes to Denair USD schools. The Turlock USD claims that students would have to “traverse narrow, high speed, two lane roads without sidewalks or bicycle lanes” to attend Denair USD schools, while students would be “safer travelling along the City of Turlock’s improved roadways, sidewalks, and bike lanes” to Turlock USD schools. Other than the above descriptions of commute routes and a discussion of the extensive collaboration by the City Turlock and the Turlock USD regarding issues of school safety, the appeal contains no data or other documentation to support the claims that commutes from the proposed transfer area to schools in the Turlock USD would be safer than the commutes to Denair USD schools.

###### *Distance to Schools*

The map in Figure 4 depicts the locations of the schools in Denair USD that would serve students in the proposed transfer area in addition to the Turlock USD schools that those students likely would attend if the territory was transferred to the Turlock USD (according to information presented in the appeal).

***Figure 4: Schools in Affected Districts***



*Source map: Google Maps © 2019*

In addition to the three schools shown on the map in Figure 4, the Denair USD has a kindergarten through grade 12 charter academy (Denair Elementary School also is a locally funded charter school). The Turlock USD operates nine total elementary schools (including Earl Elementary) and one other comprehensive high school in addition to the two middle schools and high school displayed on the map.

Typically, the CDE would identify a central location within a community to determine the distance and travel time to the schools in the respective districts. However, there are no residences or streets within the proposed transfer area at this time—so, it is difficult to determine a central location within this proposed transfer area. The CDE, instead, selected a point on the perimeter of the proposed transfer area farthest from each district’s schools (i.e., on the northeast portion of the perimeter for Turlock USD schools and on the southwest portion of the perimeter for Denair USD schools). Distances and commute times from those points to the schools in the respective districts are presented in Table 3.

***Table 3: Distances and Commute Times to Schools***

| School/District | Distance (miles) | Walking Time (minutes) | Biking Time (minutes) | Driving Time (minutes) |
| --- | --- | --- | --- | --- |
| Denair Elementary (Denair USD) | 1.7 | 34 | 10 | 4 |
| Denair Middle (Denair USD) | 1.5 | 30 | 9 | 3 |
| Denair High  (Denair USD) | 1.4 | 28 | 8 | 3 |
| Earl Elementary (Turlock USD) | 2.7 | 52 | 15 | 5 |
| Dutcher Middle (Turlock USD) | 1.9 | 36 | 11 | 6 |
| Turlock Junior High  (Turlock USD) | 4.3 | 79 | 24 | 10 |
| Turlock High (Turlock USD) | 2.3 | 42 | 14 | 6 |

*Source:* *Google Maps (© 2019)*

As can be seen from the information provided in the above table, the Denair USD schools are considerably closer to the proposed transfer area than are Turlock USD schools. For the elementary and high schools, Turlock USD schools are about a mile farther away.

###### *Commute Safety*

Regardless of distance, the Turlock USD, in its appeal, argues that the commutes to Denair USD schools would be much more dangerous, involving “narrow, high speed, two lane roads without sidewalks or bicycle lanes,” than would be the commutes along the “improved roadways, sidewalks, and bike lanes” to Turlock USD schools. As stated previously, the Turlock USD provides no data to corroborate safety concerns, other than general descriptions of commute circumstances.

Based on available information, the CDE identifies the following details regarding the safety concerns raised in the appeal:

* The “high speed” roads identified by the Turlock USD have posted speed limits of 40 to 45 miles per hour (mph) compared to the posted speed limits of 35 to 40 mph on major streets leading toward Turlock USD schools from the proposed transfer area.
* Traffic in the Denair community is described as relatively light,[[12]](#footnote-12) while traffic to Turlock USD schools appears much heavier (based on Google map data [© 2019]).
* Some of the information presented by the Turlock USD regarding infrastructure is based on current conditions—not conditions after the proposed transfer area has been developed, which include the road improvements listed in the *East Tuolumne Master Plan*. Based on Google Street View (© Google 2019) tours of the area, the CDE estimates that approximately four-tenths of a mile of the commute to Denair USD schools will be without sidewalks or bike lanes after development is completed (however, shoulders along these road spans are sufficient to keep foot and bike traffic off the roadway).
* No community member expressed concerns about the safety of commutes to Denair USD schools during any of the public meetings conducted by the County Committee for this proposed territory transfer.
* The CDE also notes that the Denair USD provides transportation services for students attending its schools. The district currently operates two morning bus routes and two after-school bus routes that include service to students who live in the City of Turlock neighborhoods in the district.

As with determining commute distances to schools before any homes and streets are constructed, the CDE believes it is difficult to gauge accurately the safety conditions that will exist after the development is complete. According to the *East Tuolumne Master Plan*, perimeter streets of the proposed development are scheduled for upgrades, which includes the additions of sidewalks—the appeal does not take into account these upgrades. Additional infrastructure improvements in the general area surrounding the development could occur in response to (1) greater population density and increased traffic flows in the transfer area; and (2) the infrastructure improvements specific to the development itself.[[13]](#footnote-13) Thus, development in the proposed transfer area not only will improve any existing safety concerns in the immediate vicinity of the newly constructed homes but also could lead to infrastructure improvements that benefit the general area surrounding the new construction.

##### Conclusion

The CDE has a number of concerns regarding negative effects of the proposed territory transfer on the community identity of the Denair USD, including:

* The transfer will separate the existing City of Turlock portion of the Denair USD into two pieces;
* Development of the proposed transfer area will include street access from the proposed transfer area to each of the sections of the City of Turlock portion of the Denair USD that would be separated by the transfer. Such access would create conditions that could promote additional requests to transfer territory;
* The territory transfer proposal does not contain all of the proposed housing development included in the *East Tuolumne Master Plan*, which also creates a condition that could promote additional requests to transfer territory; and
* The proposed territory transfer, if approved, would create a “peninsula” of Turlock USD territory that would be surrounded by remaining Denair USD territory.

The CDE does not find substantial support for appellant claims that the proposed transfer area has a more significant sense of community identity with the Turlock USD over the Denair USD. However, since the SBE may view one or more of these claims as compelling reasons for approving the transfer, the CDE will address aspects of some of these claims for that purpose in Section 7.0.

Given these findings, the CDE agrees with the County Committee that the proposed territory transfer does not substantially meet the “community identity” minimum threshold requirement.

### 6.3 Increased Property Values

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

#### Standard of Review

The SBE has no adopted regulation regarding this condition. However, the *School District Organization Handbook* notes that the rationale given in the petition for the territory transfer should be analyzed and, if the rationale appears questionable or not compelling, the county committee should at least consider whether increased property values might be the primary reason for the petition.

#### County Committee Action

Legal counsel for the County Committee made the following points in the report on this condition:

* The petitioner, who is a developer, provided no reason or purpose for the proposed territory transfer—including only conclusory language in the petition that five of the nine minimum threshold standards are substantially met.
* A survey of home sales in each of the districts, which was conducted by a local real estate broker, found that homes in the Turlock USD have a $5 to $7 per square foot increased value over homes in the Denair USD.
* Based on this information, it would appear that the petition is designed to increase property values.

A finding that this condition was not substantially met was part of the resolution denying the proposed territory transfer—that resolution was unanimously approved by the County Committee.

#### Appeal

The Turlock USD claims that “the proposed territory transfer is primarily designed to provide parental choice for families who will soon inhabit the territory, *not* for the primary purpose of increased property values.” The Turlock USD further notes that the proposed transfer area is within the City of Turlock, but not within the Turlock USD—thus, not all families in the City of Turlock are guaranteed the ability to attend Turlock USD schools and take advantage of the “extensive educational opportunities” provided by the district. The petition, if approved, will allow the families in the proposed transfer area to have the same educational opportunities as other families in the City of Turlock.

The district further argues that the survey of home sales conducted for the County Committee was flawed—comparing home sales throughout each district without regard to whether the home was located in an incorporated area or an unincorporated area. The Turlock USD completed the following additional analyses of the home sales in the County Committee report:

* A comparison of home sales in the incorporated City of Turlock (regardless of school district) with sales in the unincorporated portions of the Denair USD demonstrates that homes in incorporated areas sold for $12 per square foot more than homes in unincorporated areas.
* A comparison of homes sold in the City of Turlock portion of Denair USD with sales in the unincorporated portions of that district demonstrates that the homes in the City of Turlock sold for $18 per square foot more than homes in the unincorporated areas of the Denair USD.

Based on the above findings, the Turlock USD claims that a home’s location in an incorporated area is what increases the sale price and not the location in a particular school district. Thus, the district argues that the County Committee could not determine that the primary purpose of the transfer was to increase property values because it had no evidence that school district location has any effect on those property values.

#### CDE Findings/Conclusion

The CDE finds that the petition, in addition to the conclusory language in the petition that five of the nine minimum threshold standards are substantially met (as noted by the legal counsel for the County Committee), specifically states the territory transfer would “allow City of Turlock residents to attend Turlock schools” in the listing of reasons for the petition. The CDE understands the County Committee concerns with the motives of the petitioner—a developer who could stand to profit if the homes were located in a school district that is considered to be more desirable. However, the developer has offered a reasonable rationale for proposing the territory transfer. Additionally, no evidence was presented to the County Committee that the petitioner or community members believe the Turlock USD is considered a more desirable district than is the Denair USD. In light of this information, and the inconclusive evidence presented to the County Committee on home sales in the districts, the CDE disagrees with the County Committee’s finding and recommends that this “increased property value” condition is substantially met.

### 6.4 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 agrees with the County Committee finding that the proposed territory transfer fails to substantially meet the “community identity” minimum threshold requirement.
* 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 numerous 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 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 CDE recommends that the proposed territory transfer fails to substantially meet the “community identity” minimum threshold standard of *EC* Section 35753. However, subdivision (b) of that section states: “The state board may approve a proposal for the reorganization of school districts if the state board determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.” Thus, even if the SBE determines the transfer fails to substantially meet all the minimum threshold standards in *EC* Section 35753, it may consider any issue it determines to be compelling (i.e., an exceptional situation) as a reason to reverse the County Committee’s disapproval of the transfer proposal, including the following:

#### Community Identity

The Turlock USD states that, due to antiquated boundaries, the proposed transfer area is within the City of Turlock but not within the Turlock USD. The district provides numerous reasons (see Section 6.2 of this report) to support its contention that the proposed transfer area shares a greater sense of community identity with the Turlock USD than with the Denair USD.

The CDE already has responded to the Turlock USD claims regarding that district’s greater sense of community identity with the proposed transfer area (see Section 6.2). In addition, it is noted that there are a number of circumstances within the Turlock USD itself that are similar to the issues in the appeal regarding the separation of the Denair community from the City of Turlock territory, including:

* Although the Turlock USD focuses attention on the geographic equivalence of the City of Turlock and the Turlock USD, the district is much more than just City territory. As noted in Section 2.1 (and displayed in Figure 1), the Turlock USD also is comprised of significant portions of unincorporated land (including territory extending into an adjacent county) and a large portion of the Keyes CDP (which itself is divided amongst three school districts).
* The Turlock USD claims that the Stanislaus County General Plan imposition of an “urban buffer” between the Denair community and the City of Turlock promotes separation of these two areas. However, an identical “urban buffer” between the Keyes community and the City of Turlock exists, with no reported concerns from the Turlock USD regarding community identity between those areas.
* The Turlock USD contains two component districts (Chatom Union ESD and Keyes Union ESD), which have responsibility for kindergarten through eighth grade education in large portions of the Turlock USD (while Turlock USD has responsibility for secondary education in those portions of the district. Thus, educational services within the boundaries of the Turlock USD are divided.

Despite the existence of these issues of “separation” within the Turlock USD, the district provides no discussion of any negative effects they may have on the existing community identity of the Turlock USD.

Finally, the *School District Organization Handbook* specifically states that there is no legal necessity that school district boundaries match city boundaries.

#### Safety of Home-to-School Commute

The Turlock USD claims that, although schools in the district are farther away from the transfer area than are Denair USD schools, the commute to and from the Denair USD schools would be less safe because roads, sidewalks, and bike lanes do not meet the same high standards that exist on the routes to the Turlock USD schools (see Section 6.2 of this report). Thus, according to the district, students who walk or bike to Denair USD schools from the proposed transfer area would have to do so along streets that do not always have sidewalks or bike lanes.

The CDE already has addressed the difficulty in identifying potential safety issues with home-to-school commutes when the area in question is undeveloped and the extent of infrastructure improvements related to the planned development in the area is unknown. Regardless, while the CDE agrees that existing routes between the area and Turlock USD and the proposed housing development currently meet higher standards (i.e., more sidewalks and bike lanes), the CDE also acknowledges that the traffic volume to and from Turlock USD schools is higher. Finally, the CDE notes that the Denair USD currently operates two morning and two afternoon bus routes that serve students residing in the City of Turlock.

#### Offset Costs of Interdistrict Transfers with Developer Fees

According to the most recent data provided by the affected school districts, approximately 375 students residing within the boundaries of the Denair USD attended Turlock USD schools on interdistrict transfer agreements during the 2018–19 school year. The Turlock USD states that, although it has capacity to house those students, it has “continuing problems funding refurbishments of its current facilities.” If the proposed transfer is approved, the Turlock USD would collect the developer fees from construction in the area to help fund modernization of its existing facilities. While the Turlock USD receives the LCFF apportionments for the students it educates from outside the district, it is the Denair USD that collects the developer fees from the construction of homes housing those students, regardless of which district the students ultimately attend.

The CDE notes that the Turlock USD has significant control over the number of interdistrict attendance agreements that it approves. If the district has concerns regarding the fiscal implications of these voluntary agreements, the CDE believes those concerns are best addressed locally. Similarly, if the Turlock USD believes that local developer fees can be a potential solution to its modernization concerns, that solution is best addressed through local negotiation and resolution rather than through a blanket action on the part of the SBE.

### 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:

#### Unanimous Local Decision to Disapprove the Proposed Transfer

Although County Committee decisions can be appealed to the SBE, statute provides the County Committee the authority to approve or disapprove territory transfers based on local educational needs and concerns. The County Committee, as a local agency, is well positioned to understand the educational needs and concerns that affect all students and school districts in the county. A unanimous decision by this local body to disapprove the territory transfer petition (which followed public hearings and recommendations from its legal counsel) provides a strong local perspective regarding the proposed territory transfer.

#### Encouragement of Future Transfers

The CDE documents a number of concerns, in Section 6.2 of this report, regarding the encouragement of future territory transfers if the proposed transfer is approved including: (1) the transfer proposal does not contain all of the proposed development; (2) the transfer would split the current City of Turlock portion of Denair USD into two pieces; and (3) the proposed transfer area is a peninsula, surrounded by Denair USD territory. It is the CDE’s opinion that these issues establish geographic conditions that could promote additional territory transfers, potentially threatening significant erosion of the Denair USD boundary shared with the Turlock USD.

#### Denair USD Enrollment

The County Committee determined that the proposed transfer did not substantially meet the “adequate enrollment” condition primarily because students from the proposed transfer area would assist the Denair USD (with a 2018–19 enrollment of 1,273) in attaining the 1,501 student goal established in 5 *CCR* Section 18573(a)(1). The CDE disagrees with the County Committee’s determination since the territory transfer would not create a direct service district, which is the intent of the SBE in the 5 *CCR* Section 18573(a)(1) regulation. The CDE also notes that the Denair USD has some control over its enrollment. As noted earlier, there were approximately 375 Denair USD resident students attending the Turlock USD on interdistrict attendance agreements during the 2018–19 school year—agreements that need the approval of the Denair USD. Furthermore, the district has authorized two charter schools that enroll students both from within the district and from outside the district’s boundaries.

#### Increased Property Values as a Motive for Transfer

The County Committee found that the proposed transfer would result in increased property values and, subsequently, determined that the primary reason for the territory transfer was for that purpose. The CDE disagreed with that determination because the petitioner provided a reasonable rationale for proposing the territory transfer (to “allow City of Turlock residents to attend Turlock schools”) and the evidence provided to demonstrate increase property values appeared inconclusive.

#### Fiscal Effects on Denair USD

The County Committee determined that there would be no negative fiscal effects on the Denair USD due to approval of the territory transfer petition. That district, however, disagrees, noting that the approval of the transfer will result in the annual loss of LCFF funding generated by new students in the proposed development and more than $1 million in developer fees from the newly built homes. The CDE agrees with the County Committee determination that the territory transfer would have no negative fiscal effect on the Denair USD—the loss of potential LCFF funding would be offset by the elimination of costs to educate students in the territory and the purpose of developer fees is to offset costs of providing school facilities for students residing in the new development.

The CDE also agrees with the County Committee that, due to economies of scale, LCFF funding for new students residing in the proposed transfer area likely would exceed costs to provide direct educational services to those students. Although this increase in LCFF funding potentially could have a positive financial effect on the Denair USD, its absence would not predict a substantial negative effect.

## 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 (pursuant to *EC* Section 35732). The following information details the CDE recommendation regarding this provision.

### 8.1 Area of Election

District opposition to a territory transfer approved by a County Committee is one the factors that triggers a local election (see *EC* sections 35709 and 35710). The Denair USD is opposed to the territory transfer—however, 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 due to the opposition of the Denair USD), the SBE must determine the territory in which this election will be held (pursuant to *EC* Section 35756).

The “default” election area in *EC* Section 35732 is the territory proposed for reorganization (i.e., the proposed transfer area). Since there are no voters residing in the transfer area, no election is required if the SBE determines that the election area will remain the “default” area.[[14]](#footnote-14) The SBE may expand the election area if it determines that conditions warrant such expansion.

### 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 proposed transfer of territory from the Denair USD to the Turlock USD no discrimination, segregation, or racial impacts are identified. Accordingly, the *LAFCO* standard and analysis applies.

### 8.3 Recommended Area of Election

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. However, the CDE does note that the transfer of territory may highlight the interests of voters in the City of Turlock portion of the Denair USD since that portion of the district would be divided as a result of approval of the proposed transfer (see Section 6.2 of this report). Such division of territory potentially may concern voters residing in this divided portion of the City of Turlock and may result in increased interest among these residents in future territory transfers. Therefore, the CDE recommends an expanded election area to include all of the City of Turlock territory in the Denair USD if the SBE takes action to overturn the County Committee’s disapproval of the territory transfer proposal.

## 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. The practice of the SBE has been to hear all appeals in conjunction with a public hearing—thus, 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 considering territory transfer appeals:

* The SBE may ratify the County Committee’s decision by summarily denying review of the appeal.
* The SBE may review the appeal based solely on the administrative record or 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 report back to the SBE regarding its actions.

### 9.2 Recommended Action

The CDE recommends that the SBE affirm the action of the County Committee to disapprove the proposal to transfer territory from the Denair USD to the Turlock USD.

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 of the City of Turlock that is in the Denair USD as the election area.

1. Estimates of the number of students in the proposed development vary depending on the agency and projection method—ranging from 49 to 215 students. For purposes of this study, the County Committee legal counsel’s estimate of 96 projected students is assumed. [↑](#footnote-ref-1)
2. Pursuant to *EC* sections 35709 and 35710, a county committee may approve a territory transfer only if it finds the conditions in *EC* Section 35753 substantially met. [↑](#footnote-ref-2)
3. Currently the territory proposed for transfer is uninhabited. No election will be required if it remains uninhabited (as defined in *EC* Section 35517) and SBE does not expand the election area beyond this territory (pursuant to *EC* sections 35732 and 35754). [↑](#footnote-ref-3)
4. Census-designated places are the US Census Bureau’s statistical counterparts to incorporated places, and are delineated to provide data for settled concentrations of population that are identifiable by name but are not legally incorporated. [↑](#footnote-ref-4)
5. Title 5 *California Code of Regulations* (5 *CCR*) Section 18573(a)(1)(A) states that each unified school district, following reorganization, should have at least 1,501 students. [↑](#footnote-ref-5)
6. County offices of education may offer more intensive assistance to smaller districts that have fewer internal resources. Such services may include, but not be limited to, instructional supervision, attendance supervision, and student health and guidance services. [↑](#footnote-ref-6)
7. The *School District Organization Handbook* was prepared through the joint efforts of the SBE, the California County Superintendents Educational Services Association (CCSESA), the Fiscal Crisis and Management Assistance Team (FCMAT), and the CDE. It is online at: <https://www.cde.ca.gov/re/lr/do/>. [↑](#footnote-ref-7)
8. The Turlock USD states that the *East Tuolumne Master Plan* (<https://www.cityofturlock.org/_pdf/files/ETMPFINAL.pdf>)provides “a framework for developers to follow when preparing development proposals….and establish[ed] criteria for City staff and policy makers to use when evaluating the consistency and appropriateness of development proposals.” [↑](#footnote-ref-8)
9. The *Keyes Community Plan* can be viewed on the Stanislaus County website at: <http://www.stancounty.com/planning/pl/documents/gp/i-a-5-keyes-cp.pdf> [↑](#footnote-ref-9)
10. The *Turlock General Plan* can be viewed on the City of Turlock website at: <https://www.cityofturlock.org/_pdf/files/generalplancomplete.pdf>. [↑](#footnote-ref-10)
11. Zip code maps are available at [https://www.unitedstateszipcodes.org](https://www.unitedstateszipcodes.org/). [↑](#footnote-ref-11)
12. *Denair Community Plan* (<http://www.stancounty.com/planning/pl/documents/gp/i-a-3-denair-cp.pdf>) [↑](#footnote-ref-12)
13. The *Denair Community Plan* has a stated goal that “community pedestrian and bicycle facilities shall connect to regional pedestrian and bicycle facilities.” [↑](#footnote-ref-13)
14. *EC* Section 35710.1 prohibits an election if the election area is uninhabited territory (as defined in *EC* Section 35517). [↑](#footnote-ref-14)