California Department of Education
December 2022

# Analysis of (Brief Description of Proposal)

**Suggested Template for County Study of District Reorganization Proposals**

## 1.0 Recommendation

Note that there is no legal requirement that the County Superintendent of Schools (County Superintendent) make a specific recommendation regarding the proposal. Should the County Superintendent decide to make a recommendation to the County Committee on School District Organization (County Committee), that recommendation is briefly described in this section.

Example: The County Superintendent (or County Office of Education [COE] staff) recommends that the County Committee disapprove the territory transfer proposal.

If the decision is to not make such a specific recommendation, a more general recommendation may be included. Example: The County Superintendent (or COE staff) recommends that the County Committee consider (1) the information contained within this report; (2) comments from public hearings; and (3) information provided directly by petitioners, the affected school districts, and other parties in making its determinations regarding the minimum threshold conditions of *Education Code* (*EC*) Section 35753(a) and whether there are local education reasons and concerns addressed by the reorganization (*EC* Section 35500).

## 2.0 Background

### 2.1 Affected Districts

Background information on each of the affected districts can help County Committee members gain an overall understanding of each of the districts. Information could include, but not be limited to, enrollment, grade levels, number of schools, and municipalities within the district boundaries.

Also, it could be helpful to include student level data such as percentage of students in racial/ethnic categories, and who are English Learners (EL), socio-economically disadvantaged (SED), and in the Free and Reduced-Price Meals (FRPM) program. This information is easily obtained from a number of sources such as the California Department of Education’s (CDE) *Data Quest* (<https://dq.cde.ca.gov/dataquest/>), the California School Dashboard (<https://www.caschooldashboard.org/>), and *Ed-Data* (<https://www.ed-data.org/>).

The following are some sample table formats to display select information in the report (tables containing additional information also may be included if helpful to understanding the specific circumstances of the reorganization proposal):

Sample Table 1: Percent Race/Ethnicity in Affected Districts

| District | African American | Asian | Hispanic / Latino | White | \*\*Other |
| --- | --- | --- | --- | --- | --- |
| [enter sample data] | [enter sample data] | [enter sample data] | [enter sample data] | [enter sample data] | [enter sample data] |
| [enter sample data] | [enter sample data] | [enter sample data] | [enter sample data] | [enter sample data] | [enter sample data] |

\*\* *The “Other” category includes “African American,” “American Indian or
Alaska Native,” “Filipino,” “Pacific Islander,” and “Two or More.”*

*Sample Table 2*: Percent Students in Select Categories

| District | EL | FRPM  | SED |
| --- | --- | --- | --- |
| [enter sample data] | [enter sample data] | [enter sample data] | [enter sample data] |
| [enter sample data] | [enter sample data] | [enter sample data] | [enter sample data] |

### 2.2 Proposed Reorganization Area

This section should contain a description of the proposed reorganization area—descriptors could include, but not be limited to: number of homes; number of students; assessed valuation; number of acres; municipality location; geographic circumstances; and number of undeveloped parcels.

A map that shows the proposed reorganization area in relation to district boundary lines, major streets, and adjacent municipality boundaries could be helpful.

### 2.3 Petitioner Reasons for Reorganization

Included in this section are the reasons for the reorganization stated in the petition or in other documentation provided by chief petitioners.

### 2.4 Previous Reorganization Efforts

Previous efforts to reorganize the area, or adjacent areas with similar circumstances, may be described in this section.

## 3.0 Public Hearings

*EC* Section 35705 requires the County Committee to hold one or more public hearings for the reorganization petition in each of the affected districts within 60 days of receiving the petition. This section could include, at a minimum, information describing how that requirement was met (e.g., dates and location of meetings). Description also could include additional information, including (but not limited to) number of speakers at each hearing, the length of the hearing, and a summary of comments.

## 4.0 Positions of Affected School Districts

Documentation, including reference to governing board resolutions, could be included here to describe the official position taken by each affected district. If no official position is provided, a description of comments made at public hearings (or provided in other documentation) could be described.

### 4.1 District 1

Position of District 1…

### 4.2 District 2

Position of District 2…

### 4.3 etc. Additional districts

Positions

## 5.0 Analysis of *Education Code* Section 35753(a)

The courts have established that the *EC* Section 35753(a) conditions are minimum threshold requirements for a school district reorganization (*Hamilton v. State Board of Education* [1981] 117 Cal.App.3d 132) [*Hamilton v. SBE*]). The County Committee is required to determine if these minimum standards are substantially met before taking any discretionary action to approve a reorganization (*EC* sections 35709, 35710).

The nine conditions in *EC* Section 35753(a) 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)(3): The proposal will result in an equitable division of property and facilities of the original district or 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 proposed 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 facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.
* *EC* Section 35753(a)(8): The proposed reorganization is primarily designed for purposes other than to significantly increase property values.
* *EC* Section 35753(a)(9): The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the affected district.

Note that paragraph (10) of subdivision (a) of Section 35753 provides for the following, which some interpret as a tenth condition: *Any other criteria that the state board may, by regulation, prescribe.* However, the State Board of Education (SBE) has not prescribed any additional conditions for inclusion in *EC* Section 35753(a)—nor does this paragraph authorize a County Committee to prescribe a tenth condition.

Also note that subdivision (b) of *EC* Section 35753 provides that: *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.* Nowhere in this subdivision is there an authorization for a County Committee to act in the manner provided to the SBE. Further, *EC* sections 35709 and 35710 specifically provide that a County Committee may approve a petition for reorganization if it *finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 35753 are substantially met*. Subdivision (b) of Section 35753 is not referenced in either section 35709 or 35710—therefore, no assumption should be made that that subdivision applies to a County Committee.

Chapter 6 of the *School District Organization Handbook* (<https://www.cde.ca.gov/re/lr/do/sdohandbook.asp>) contains a discussion of the statutes and regulations governing the *EC* 35753 conditions—and guidelines to evaluate those conditions. Those legal requirements and guidelines are referenced in the following suggested structure for each of the *EC* Section 35753 conditions.

### 5.1 Adequate Size of Districts

*EC* Section 35753(a)(1): *The reorganized districts will be adequate in terms of number of pupils enrolled.* SBE regulations (Title 5, *California Code of Regulations* [5 *CCR*] Section 18573[a][1]) regarding this “adequate size” condition are identified in the following Standard of Review.

#### Standard of Review

5 *CCR* Section 18573(a)(1): *It is the intent of the State Board that direct service districts not be created which will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that:*

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

*Elementary District 901*

*High School District 301*

*Unified District 1,501*

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

Note that intent of the SBE here is that no new direct service districts be created as a result of the reorganization. Thus, it is the CDE’s position that a reorganization involving already existing direct service districts would substantially meet this condition assuming no **new** direct service districts would be created as a result of the reorganization.

#### Position of Petitioners

A summary of the information, if any, provided by chief petitioners regarding this condition is presented here.

#### Positions of Affected Districts

A summary of the information, if any, provided by affected school districts regarding this condition is presented here.

#### County Superintendent (COE) Findings/Conclusions

This section is provided for the County Superintendent (or COE staff) to provide an analysis of how this condition is affected by the proposed school district reorganization. Conclusions and/or recommendations also may be provided in addition to the findings. If an independent consultant has been contracted for the study, the consultant’s findings, conclusions, and recommendations can be inserted here.

### 5.2 Substantial Community Identity

*EC* Section 35753(a)(2): *The school districts are each organized on the basis of a substantial community identity.* SBE regulations (Title 5, *California Code of Regulations* [5 *CCR*] Section 18573[a][2]) regarding this “community identity” condition are identified in the following Standard of Review.

#### Standard of Review

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

In addition to the SBE-adopted regulations regarding this criterion, the *School District Organization Handbook* provides the following guidelines:

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

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

#### Position of Petitioners

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#### County Superintendent (COE) Findings/Conclusions

This section is provided for the County Superintendent (or COE staff) to provide an analysis of how this condition is affected by the proposed school district reorganization. Conclusions and/or recommendations also may be provided in addition to the findings. If an independent consultant has been contracted for the study, the consultant’s findings, conclusions, and recommendations can be inserted here.

### 5.3 Equitable Distribution of Property and Facilities

*EC* Section 35753(a)(3): *The proposal will result in an equitable division of property and facilities of the original district or districts.* SBE regulations (Title 5, *California Code of Regulations* [5 *CCR*] Section 18573[a][2]) regarding this “equitable distribution” condition are identified in the following Standard of Review.

#### Standard of Review

5 *CCR* Section 18573(a)(3): *To determine whether an equitable division of property and facilities will occur, the California Department of Education will determine which of the criteria authorized in Education Code Section 35736 shall be applied. It shall also ascertain that the affected districts and the county office of education are prepared to appoint the committee described in Education Code section 35565 to settle disputes arising from such division of property.*

In addition to the SBE-adopted regulations regarding this criterion, the *School District Organization Handbook* provides the following recommendation:

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

*Those plans should include:*

1. *Demographic studies showing both current and projected student population data;*
2. *Development of “study area” maps showing census tracts, boundaries, current and proposed zoning, and current and projected residential and commercial/industrial development;*
3. *An evaluation and report of the utilization, capacity, and condition of existing school facilities; and*
4. *Development of a “comparison analysis” considering both existing and proposed divisions.*

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

#### Position of Petitioners

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#### Positions of Affected Districts

A summary of the information, if any, provided by affected school districts regarding this condition is presented here.

#### County Superintendent (COE) Findings/Conclusions

This section is provided for the County Superintendent (or COE staff) to provide an analysis of how this condition is affected by the proposed school district reorganization. Conclusions and/or recommendations also may be provided in addition to the findings. If an independent consultant has been contracted for the study, the consultant’s findings, conclusions, and recommendations can be inserted here.

### 5.4 Education in an Integrated Environment

*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.* SBE regulations (5 *CCR* Section 18573[a][2]) regarding this “integrated environment” condition are identified in the following Standard of Review.

#### Standard of Review

5 *CCR* Section 18573(a)(4): *To determine whether the new districts will promote racial or ethnic discrimination or segregation, the effects of the following factors will be considered:*

1. *The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.*
2. *The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school, of the affected districts.*
3. *The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or to alleviate racial or ethnic discrimination or segregation.*
4. *The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.*
5. *The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.*

In addition to the SBE-adopted regulations regarding this criterion, the *School District Organization Handbook* provides the following recommendation:

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

Appendix M of the *School District Organization Handbook* (<https://www.cde.ca.gov/re/lr/do/sdohandbook.asp>)contains detailed procedures for conducting an appropriate analysis.

#### Position of Petitioners

A summary of the information, if any, provided by chief petitioners regarding this condition is presented here.

#### Positions of Affected Districts

A summary of the information, if any, provided by affected school districts regarding this condition is presented here.

#### County Superintendent (COE) Findings/Conclusions

This section is provided for the County Superintendent (or COE staff) to provide an analysis of how this condition is affected by the proposed school district reorganization. Conclusions and/or recommendations also may be provided in addition to the findings. If an independent consultant has been contracted for the study, the consultant’s findings, conclusions, and recommendations can be inserted here.

### 5.5 Increased Costs to the State

*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.*

#### Standard of Review

5 *CCR* Section 18573(a)(5): *The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition. In analyzing the proposal or petition, the California Department of Education shall describe the districtwide programs and the school site programs in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition.*

In addition to the SBE-adopted regulations regarding this criterion, the *School District Organization Handbook* provides the following recommendation:

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

*The following factors should be considered in evaluating this condition:*

1. *Whether implementation of the proposal would change one or more of the affected districts’ basic aid status.*
2. *A change in basic aid could increase the amount of state apportionment funds required for either the proposed new district or one or more of the remaining districts.*
3. *Additional state costs for school facilities.*
4. *Other state special or categorical aid programs and any increased state costs if students transferring would qualify in the gaining district and not in the losing district.*
5. *The additional costs to the state if costs per student for special or categorical programs are higher in the gaining district.*
6. *The effect on the districts’ home-to-school and special education transportation costs and state reimbursements.*
7. *Increased costs resulting from additional schools becoming eligible for “necessary small school” funding pursuant to EC sections 42280 through 42289.*

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

#### Position of Petitioners

A summary of the information, if any, provided by chief petitioners regarding this condition is presented here.

#### Positions of Affected Districts

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#### County Superintendent (COE) Findings/Conclusions

This section is provided for the County Superintendent (or COE staff) to provide an analysis of how this condition is affected by the proposed school district reorganization. Conclusions and/or recommendations also may be provided in addition to the findings. If an independent consultant has been contracted for the study, the consultant’s findings, conclusions, and recommendations can be inserted here.

### 5.6 Negative Effect on Educational Programs

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

#### Standard of Review

5 *CCR* Section 18573(a)(5): *The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition. In analyzing the proposal or petition, the California Department of Education shall describe the districtwide programs and the school site programs in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition.*

In addition to the SBE-adopted regulations regarding this criterion, the *School District Organization Handbook* provides the following recommendation:

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

1. *Many schools take part in a program quality review on a regular basis.*
2. *Most high schools participate in an accreditation review conducted by the Western Association of Schools and Colleges.*
3. *In determining program quality, a committee would do well to consider a wide array of data. For high schools these indicators range from the number of Advanced Placement courses offered by the district to the dropout rate.*
4. *Although past performance does not always predict future achievements, the academic track record of a district should certainly be considered when reviewing a school district reorganization.*

#### Position of Petitioners

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#### Positions of Affected Districts

A summary of the information, if any, provided by affected school districts regarding this condition is presented here.

#### County Superintendent (COE) Findings/Conclusions

This section is provided for the County Superintendent (or COE staff) to provide an analysis of how this condition is affected by the proposed school district reorganization. Conclusions and/or recommendations also may be provided in addition to the findings. If an independent consultant has been contracted for the study, the consultant’s findings, conclusions, and recommendations can be inserted here.

### 5.7 Increased School Facilities 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

5 *CCR* Section 18573(a)(5): *The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition. In analyzing the proposal or petition, the California Department of Education shall describe the districtwide programs and the school site programs in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition.*

In addition to the SBE-adopted regulations regarding this criterion, the *School District Organization Handbook* provides the following guidelines:

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

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

*The following areas should also be addressed:*

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

#### Position of Petitioners

A summary of the information, if any, provided by chief petitioners regarding this condition is presented here.

#### Positions of Affected Districts

A summary of the information, if any, provided by affected school districts regarding this condition is presented here.

#### County Superintendent (COE) Findings/Conclusions

This section is provided for the County Superintendent (or COE staff) to provide an analysis of how this condition is affected by the proposed school district reorganization. Conclusions and/or recommendations also may be provided in addition to the findings. If an independent consultant has been contracted for the study, the consultant’s findings, conclusions, and recommendations can be inserted here.

### 5.8 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

Although the SBE has adopted no regulations regarding this condition, the *School District Organization Handbook* recommends that *the rationale given in the petition for the territory transfer should be analyzed. If the petitioners’ rationale for the transfer appears questionable or not compelling, the county committee should at least consider whether increased property values might be the primary reason for the petition. The county tax assessor’s office or local real estate firms could be consulted for advice on whether territory transfers might have an impact on property values.*

#### Position of Petitioners

A summary of the information, if any, provided by chief petitioners regarding this condition is presented here.

#### Positions of Affected Districts

A summary of the information, if any, provided by affected school districts regarding this condition is presented here.

#### County Superintendent (COE) Findings/Conclusions

This section is provided for the County Superintendent (or COE staff) to provide an analysis of how this condition is affected by the proposed school district reorganization. Conclusions and/or recommendations also may be provided in addition to the findings. If an independent consultant has been contracted for the study, the consultant’s findings, conclusions, and recommendations can be inserted here.

### 5.9 Negative Effect on Fiscal Status

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

#### Standard of Review

There are no regulations on this subject; however, the *School District Organization Handbook* contains a recommendation that the criteria and standards adopted by the SBE pursuant to *EC* Section 33127 (Chapter 1462, Statutes of 1988) and published in 5 *CCR*, sections 15440–15466, be used for evaluation of the financial condition of school districts affected by any proposed reorganization.

#### Position of Petitioners

A summary of the information, if any, provided by chief petitioners regarding this condition is presented here.

#### Positions of Affected Districts

A summary of the information, if any, provided by affected school districts regarding this condition is presented here.

#### County Superintendent (COE) Findings/Conclusions

This section is provided for the County Superintendent (or COE staff) to provide an analysis of how this condition is affected by the proposed school district reorganization. Conclusions and/or recommendations also may be provided in addition to the findings. If an independent consultant has been contracted for the study, the consultant’s findings, conclusions, and recommendations can be inserted here.

### 5.10 Summary of Findings/Recommendations

A summary of the analyses, conclusions, or recommendations regarding the condition in *EC* Section 35753(a) may be included.

## 6.0 Compelling Reasons and Concerns

A County Committee must disapprove a reorganization proposal if it determines one or more of the *EC* Section 35753(a) conditions are not substantially met.

However, an action by the County Committee to approve a reorganization proposal always is a discretionary action if the County Committee has determined that all *EC* Section 35753 conditions are substantially met—the County Committee may approve the proposal if it finds local educational needs or concerns serve as the basis for the reorganization (this is the legislative intent of school district reorganization [*EC* Section 35500]). As part of this discretionary action, the County Committee may consider compelling reasons and concerns offered by affected districts, petitioners and appellants, community members, and the County Superintendent (or COE staff) in making its determination to either approve or disapprove the reorganization proposal.

Note that this discussion references approvals or disapprovals of proposals. The County Committee only can approve or disapprove a territory transfer or a formation of a new school district meeting the conditions of subdivision (b) of *EC* Section 35710. However, it also is recommended that the County Committee consider compelling reasons and concerns when making a recommendation to the SBE regarding formations of new school districts not meeting the conditions of subdivision (b) of *EC* Section 35710.

*EC* Section 35753(a) conditions are established as minimum threshold requirements for a school district reorganization and, as such, “substantially meeting” these standards is not intended to serve as the reason that compels approval of a reorganization proposal (*Hamilton v SBE*). The purpose of this section is to provide the County Committee with potential issues to consider when determining if there are reasons that compel it to approve the reorganization proposal, or if there are concerns sufficient to compel it to disapprove the proposal.

### 6.1 Potential Reasons for Supporting the Reorganization

The County Committee may consider any issue it finds appropriate, including the following that commonly are provided in a petition, to determine if a compelling reason for approval exists:

* Residents of the area proposed for reorganization have more community identity with another school district.
* Schools in another school district are closer (with safer travel routes) than schools in the current district of residence.
* The reorganization would promote greater local control over the education of students in both the area proposed for reorganization and the remainder of an affected school district.
* The proposed reorganization would promote more educational opportunities for all students.

### 6.2 Potential Concerns Regarding the Proposed Reorganization

The County Committee may consider any issue it finds appropriate, including the following that often are raised by a school district opposing a reorganization proposal, to determine if a compelling reason for disapproval exists:

* Approval of the proposal would lead to additional transfers, which would significantly erode the territory from the district. This could lead to a determination that many conditions of the *EC* Section 35753 would not be substantially met if all potential territory transfer were considered as a single transfer.
* Removal of more affluent areas from a district (which has high numbers of students who are English Learners, eligible for the Free and Reduced-Price Meals program, and are more socio-economically disadvantaged) is harmful to that district and is not good practice.
* The reorganization would exacerbate declining enrollment trends in a district.
* Even if the County Committee determined that the reorganization substantially would allow affected districts to educate students in an integrated environment, removal of white students from a district with a higher percentage of minority students is not good practice.

### 6.3 CDE Recommendation Regarding Reasons and Concerns

The County Superintendent (or COE staff) may make findings and/or recommendations to the County Committee regarding any reasons or concerns applicable to the proposed reorganization.

## 7.0 Amendments to the Reorganization Proposal

The County Committee has authority (pursuant to *EC* Section 35705.5) to amend or add provisions (*EC* sections 35730-35738) to any petition for reorganization. There is no requirement for the County Committee to make such additions or amendments—however, decisions may be made that such actions may be appropriate given the circumstances of a specific reorganization proposal.

Following is a discussion of these provisions; a County Committee may amend or add any appropriate provision to a reorganization proposal (if it approves that proposal).

### 7.1 Seven-Member Board for Unified School District

*EC* Section 35731: *In any proposal for unification, plans and recommendations may include a provision for a governing board of seven members. In the absence of such a provision, any proposed new district shall have a governing board of five members.*

### 7.2 Area for Election

*EC* Section 35732: *Plans and recommendations may include a provision specifying the territory in which the election to reorganize the school districts will be held. In the absence of such a provision, the election shall be held only in the territory proposed for reorganization.*

Note 1: Under *EC* Section 35710.1, no election is required if the election area is uninhabited. If the territory proposed for reorganization is uninhabited (*EC* Section 35517), an election would be required only if conditions of *EC* Section 35709 are **not** met and the County Committee expands the election area to include enough registered voters to determine that the election area is inhabited territory.

Note 2: *EC* Section 35756.5 provides that, if a territory transfer is opposed by a district with an average daily attendance of 900 or less, the election area shall include all the territory of that district.

The following two subsections contain the background text used by the California Department of Education (CDE) and the State Board of Education (SBE) in regards to this issue. The County Superintendent may choose to add similar language relating to the County Committee decision.

#### 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.

#### Recommended Area of Election

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.

The CDE then (1) makes findings regarding the existence of invidious circumstances; and (2) makes a finding regarding whether the *LAFCO* standard and analysis applies (i.e., rational basis approach) or strict scrutiny (*Fullerton*) applies.

The CDE next makes (1) findings regarding the effects of the proposed reorganization on any area beyond the territory proposed for reorganization; and (2) a recommendation regarding the election area for the proposed reorganization should the SBE allow if to move forward.

### 7.3 Single Election Proposition

*EC* Section 35733: *Whenever the recommendation is to divide the entire territory of an existing school district into two or more separate school districts, the recommendation may provide that the plans and recommendations be voted upon as a single proposition*.

### 7.4 Trustee Areas

*EC* Section 35734: *The plans and recommendations may include a provision for trustee areas that provide for representation in accordance with population and geographic factors of the entire area of the district. Any provision of that kind shall also specify the boundaries of the proposed trustee areas and shall specify whether members of the governing board shall be elected by the registered voters of the entire school district or by only the registered voters of that particular trustee area. A proposal for trustee areas shall be considered as an inherent part of the proposal and not as a separate proposition.*

*In the absence of a provision for trustee areas, the proposed new district shall have a governing board elected by the registered voters of the entire district*.

If a proposal is to transfer territory into a district in which governing board members are elected by trustee area, *EC* Section 5023 requires the County Committee (under provisions of *EC* Section 5019) to make recommendations regarding the trustee areas of the annexing district that receives the transferred territory. These recommendations, if approved by the electors, become effective at the same time the reorganization becomes effective for all purposes.

*EC* Section 5024 further stipulates: *The county committee may provide that an election to elect trustees, pursuant to its recommendations under Section 5023, shall be held at the same time as is held the election to effect a change in trustee areas.*

### 7.5 Local Control Funding Formula Entitlement

*EC* sections 35735-35735.10: The county superintendent of schools shall compute the local control funding formula entitlement pursuant to this article for a school district involved in an action to reorganize.

### 7.6 Property Division

*EC* Section 35736: *Plans and recommendations may include a proposal for dividing the property, other than real property, and obligations of any school district proposed to be divided between two or more new or acquiring districts, or proposed to be partially included in one or more new or acquiring districts. As used in this section, “property” includes funds, cash on hand, and moneys due but uncollected on the date reorganization becomes effective for all purposes, and state apportionments based on average daily attendance earned in the year immediately preceding the date reorganization becomes effective for all purposes. In providing for this division, the plans and recommendations may consider the assessed valuation of each portion of the school district, the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, in each school district, the number of children of school-age residing in each portion of the school district, the value and location of the school property, and other matters that may be deemed pertinent and equitable. Any such proposal shall be an integral part of the proposal and not a separate proposition*.

If no “division” proposal is included, the provisions of *EC* Section 35560 will apply.

### 7.7 Election of First Governing Board for a New District

*EC* Section 35737: *Plans and recommendations may include a provision specifying that the election for the first governing board will be held at the same time as the election on the reorganization of the school districts. If such a provision is included, it shall specify the method whereby the length of the initial terms may be determined so that the governing board will ultimately have staggered terms which expire in years with regular election dates. In the absence of such a provision, the election of the first governing board will take place on the first regular election following the passage of the reorganization proposal.*

The provision only is addressed if one or more new school districts are to be formed. In such cases, this provision typically is added for two primary purposes: (1) reduces costs, as only one election is needed; and (2) allows the governing board of the new district maximum time to prepare for the first-year operation.

### 7.8 Division of Outstanding Bonded Indebtedness

*EC* Section 35738: *Plans and recommendations may include a method of dividing the bonded indebtedness other than the method specified in paragraphs (1) and (2) of subdivision (b) of Section 35576 for the purpose of providing greater equity in the division. Consideration may be given to the assessed valuation, number of pupils, property values, and other matters which the petitioners or county committee deems pertinent.*

The methods of dividing bonded indebtedness referenced in *EC* Section 35576(b) apply only when the territory being reorganized contains real property. Thus, the County Committee may include an alternative to these methods only if the proposed reorganization would result in the transfer of real property from one district to another.

## 8.0 County Committee Action

Listed below are recommended actions of the County Committee (following completion of public hearings required by *EC* Section 35705). Note that statute contains no requirements for many of these actions, but they are recommended to (1) increase transparency during the local review and approval process; and (2) provide an enhanced understanding of the County Committee’s actions should its decisions be appealed to the State Board of Education (SBE). It is recommended that these actions also be incorporated into the agenda for the County Committee meeting at which it acts on the reorganization proposal.

1. Action regarding California Environmental Quality Act (CEQA) requirements (certification of an environmental impact report, approval of a negative declaration, or a determination that the project is exempt from CEQA).
2. Determination that the conditions of subdivision (a) of *EC* Section 35753 are substantially met.
* Does the reorganization proposal substantially meet the minimum threshold requirement of *EC* Section 35753(a)(1) that: “The reorganized districts will be adequate in terms of number of pupils enrolled?”
* Does the reorganization proposal substantially meet the minimum threshold requirement of *EC* Section 35753(a)(2) that “The school districts are each organized on the basis of a substantial community identity?”
* Does the reorganization proposal substantially meet the minimum threshold requirement of *EC* Section 35753(a)(3) that “The proposal will result in an equitable division of property and facilities of the original district or districts?”
* Does the reorganization proposal substantially meet the minimum threshold requirement of *EC* Section 35753(a)(4) that “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?”
* Does the reorganization proposal substantially meet the minimum threshold requirement of *EC* Section 35753(a)(5) that “Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization?”
* Does the reorganization proposal substantially meet the minimum threshold requirement of *EC* Section 35753(a)(6) that “The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the affected districts?”
* Does the reorganization proposal substantially meet the minimum threshold requirement of *EC* Section 35753(a)(7) that “Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization?”
* Does the reorganization proposal substantially meet the minimum threshold requirement of *EC* Section 35753(a)(8) that “The proposed reorganization is primarily designed for purposes other than to significantly increase property values?”
* Does the reorganization proposal substantially meet the minimum threshold requirement of *EC* Section 35753(a)(9) that “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?”
1. General finding: Does the reorganization proposal comply with the conditions enumerated in paragraphs (1) through (9) of subdivision (a) of *EC* Section 35753?
2. Does the proposal comply with the general legislative intent in *EC* Section 35500 that *local educational needs and concerns shall serve as the basis for future reorganization of districts*? See section 6.0 for additional detail.

Although no statute mandates County Committee action regarding this legislative intent, the County Committee should consider the local educational benefits or concerns of the reorganization proposal. Even if the County Committee has determined that the proposal does not comply with all *EC* Section 35753 conditions, it is recommended that the County Committee consider these local benefits and concerns. This recommendation is made for the following reasons:

* Focus the County Committee on its discretionary authority to approve or disapprove a reorganization proposal (*Hamilton v. SBE*)*;*
* Increase transparency of the County Committee’s process; and
* Provide an enhanced understanding of the County Committee’s action should its decisions be appealed to the SBE.
1. Action to approve or disapprove the reorganization proposal.

Again, note that the courts have established the *EC* Section 35753(a) conditions as minimum threshold requirements for a school district reorganization (*Hamilton v. SBE*). Although the County Committee is required to disapprove the reorganization proposal if it determines one or more of these minimum standards are **not** substantially met, it has discretionary authority to approve the proposal if it finds those conditions are substantially met (i.e., it does not have to approve the proposal if all conditions are met—again, *Hamilton v. SBE* notes that “substantially meeting the conditions” is not a reason that compels approval).

1. *EC* Section 35707(a)(1) requirement.

*EC* Section 35707(a)(1) requires a county committee to report if the following is true regarding a proposal to form a new school district: *It would adversely affect the school district organization of the county.*

The County Committee should make a finding regarding this *EC* Section 35707(a)(1) if the reorganization proposal is to form a new school district. There is no requirement to make this finding if the proposal only involves transferring territory from one district to another. It is the opinion of the CDE that there also is no requirement to make this finding if the proposal is to form a new school district under the provisions of subdivision (b) of *EC* Section 35710.

1. Action(s) to amend or add provisions of *EC* Section 35730 *et seq*. to the proposal.

Note that the County Committee is not required to amend or add any provisions should it vote to approve the reorganization—however, circumstances of the proposal may lead to County Committee to do so. As such, the County Committee should be made aware of its options (see section 7.0 for more detail regarding these provisions).