



**JULY 2003 AGENDA**

SUBJECT	X	ACTION
Appeal of the County Committee’s Denial of a Petition to Transfer Territory from the Redwood City Elementary School District to the Woodside Elementary School District in San Mateo County.		INFORMATION
		PUBLIC HEARING

**Recommendation:**

Affirm the action of the San Mateo County Committee on School District Organization by denying the appeal to transfer territory from the Redwood City Elementary School District to the Woodside Elementary School District and adopting the attached proposed resolution. (Attachment 2)

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

This is a new appeal before the State Board of Education (SBE).

**Summary of Key Issue(s)**

This is an appeal by the chief petitioners under *Education Code* Section 35710.5 of the San Mateo County Committee on School District Organization’s (SMCC’s) action to deny a petition to transfer property territory within the limits of the Town of Woodside from the Redwood City Elementary School District (ESD) to the Woodside ESD. The area proposed for transfer has approximately 287 homes. A study performed at the request of the appellants indicates that 70 school age (K-8) children, most of whom attend private school, reside in the proposed transfer area. At the time of the petition, 5 students from this area attended the Redwood City ESD.

Both of the affected districts are opposed to the transfer. Both districts believe that the appellants’ reasons for the transfer do not justify the additional cost to the state and educational damage to the districts. Estimates indicated that the increase in cost to the state would have totaled over \$500,000 if the transfer of territory had occurred in 2000-01. More recent estimates indicate that there would not be an additional cost to the state if the transfer of territory occurred in 2002-03.

The SMCC concluded that the petition did not substantially comply with three of the nine criteria in *Education Code* Section 35753 and denied the transfer of territory. The chief petitioners are appealing the SMCC’s action, asserting that the SMCC did not comply with the mandate of *Education Code* sections 35710 and 35753 in evaluating the petition, applied an erroneous standard in reviewing the petition, and based its ruling on speculation, not on the evidence. California Department of Education (CDE) staff found no evidence that substantiates the appellants’ allegations.

The county committee and the State Board of Education (SBE) are not required to approve the transfer, even if all conditions are met. *Education Code* Section 35753 is permissive, providing

---

## Summary of Key Issue(s)

minimum standards, and does not preclude the county committee or the SBE from rejecting proposals for other reasons. The county committee and the SBE have the ability to consider other local issues or concerns when exercising their discretionary authority.

Although the CDE staff found all nine criteria set forth in *Education Code* Section 35753(a) were met, staff found no compelling reason to recommend approval of the transfer of territory. Staff found that the SMCC complied with the existing mandates for evaluating the proposal and that all local agencies (i.e., SMCC and both affected districts) are opposed to the transfer of territory. In addition, although staff has determined that the proposed transfer will not result in any substantial increase in costs to the state (Criterion 5 of Section 35753) for the current year, the transfer of territory may result in an added cost to the state of over \$500,000 in subsequent years if Educational Revenue Augmentation Fund (ERAF) monies are not available to fund the loss in property tax revenues and the special education programs. Accordingly, staff recommends that the SBE, following a review based on the administrative record, affirm the action of the SMCC by denying the appeal to transfer territory from the Redwood City ESD to the Woodside ESD.

---

## Fiscal Analysis (as appropriate)

Should the petition to transfer territory from the Redwood City ESD to the Woodside ESD be approved, there would be no associated state cost for Woodside ESD because Woodside ESD is a basic aid district. Redwood City ESD is a state aid district and will lose a portion of its local property tax revenues. There is no added cost to the state in 2002-03. However, because the availability of ERAF monies to offset the loss in local tax funds is uncertain from year to year, future costs to the state are unknown.

---

## Attachment(s)

Attachment 1: [Report of Required Conditions for Reorganization \(Pages 1-17\)](#)

Attachment 2: [Proposed Resolution \(Page 1-1\)](#)

Attachment 3: “Administrative Report Concerning Petition to Reorganize the Woodside Elementary School District and the Redwood City Elementary School District,” prepared by John Mehl, Associate Superintendent and Secretary to the San Mateo County Committee on School District Organization (Pages 1-6) (This attachment is not available on the web.)

Attachment 4: “Preliminary Report to the San Mateo County Committee on School District Organization Concerning Petition to Reorganize the Woodside Elementary School District and the Redwood City Elementary School District,” prepared by John Mehl, Associate Superintendent and Secretary to the San Mateo County Committee on School District Organization (Pages 1-45) (This attachment is not available on the web.)

Attachment 5: “Appeal to the State Board of Education from a Decision of the San Mateo County Committee on School District Organization, Statement of Reasons and Factual Evidence” (Pages 1-35) (This attachment is not available on the web.)

Attachment 6: “Racial and Ethnic Report: Proposed Reorganization of Woodside Elementary School District” prepared by CDE Office of Equal Opportunity (Pages 1-4) (This attachment is not available on the web.)

---

**Attachment(s)**

Attachment 7: “Fiscal Analysis of the Proposed Territory Transfer from the Redwood City Elementary School District to the Woodside Elementary School District” prepared by CDE Office of Management Assistance and Categorical Programs (Pages 1-8) (This attachment is not available on the web.)

Attachment 8: “Condition 6 Review of Appeal of San Mateo County Committee on School District Organization Decision to Deny a Transfer of Territory from Redwood City School District to Woodside Elementary School District in San Mateo County” prepared by CDE Policy and Evaluation Division. (Pages 1-2) (This attachment is not available on the web.)

Attachment 9: “Transfer of Territory from the Redwood City Elementary School District to the Woodside Elementary School District” prepared by CDE School Facilities Planning Division (Page 1-1) (This attachment is not available on the web.)

Attachment 10: Map of the Proposed Transfer Area (Page 1-1) (This attachment is not available on the web.)

Attachment 11: [Alternative Proposed Resolution \(Page 1 of 1\)](#)

**TERRITORY TRANSFER APPEAL  
REDWOOD CITY ELEMENTARY SCHOOL DISTRICT TO  
WOODSIDE ELEMENTARY SCHOOL DISTRICT  
IN SAN MATEO COUNTY**

**REPORT OF REQUIRED CONDITIONS FOR REORGANIZATION**

---

**1.0 RECOMMENDATION**

Staff recommends that the State Board of Education (SBE) affirm the action of the San Mateo County Committee on School District Organization (SMCC) by denying the appeal to transfer territory from the Redwood City Elementary School District (ESD) to the Woodside ESD.

**2.0 BACKGROUND**

A petition, signed by over 25 percent of the registered voters in the affected territory, proposes to transfer territory from the Redwood City ESD to the Woodside ESD. The area proposed for transfer includes 308 parcels with approximately 287 homes. At the time of the petition, 5 students from this area attended schools within the Redwood City ESD. Attachment 10 contains a map of the area.

At a regular meeting on November 26, 2001, subsequent to the public hearings, the SMCC denied the transfer of territory after finding that the proposal did not substantially meet the following criteria in *Education Code* Section<sup>1</sup> 35753(a):

Criterion 5: The proposed reorganization will not result in any substantial increase in costs to the state.

Criterion 6: The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue to promote sound education performance in those districts.

Criterion 7: The proposed reorganization will not result in a significant increase in school housing costs.

The chief petitioners (hereinafter appellants) appealed the SMCC's decision on December 18, 2001. (Attachment 5)

**3.0 REASONS FOR THE APPEAL**

Section 35710.5 limits appeals of denials of territory transfers to issues of noncompliance with the provisions of sections 35705, 35706, 35709, 35710, and by references in sections 35709 and 35710 to the nine criteria prescribed in Section 35753(a) for the proposals to

---

<sup>1</sup> All subsequent statutory references are to the *Education Code* unless otherwise indicated.

reorganize school districts.

The stated reason in the petition for the requested transfer is community identity. The petition states the following:

“We believe that the school forms the nexus of the community, and represents the place where neighbors meet, become friends, learn about their community, and form lifetime relationships. As residents of Woodside, our children should be permitted to attend our community school. Our children and families are denied this opportunity by our exclusion from the Woodside School District.”

The appeal alleges that the SMCC did not comply with the mandate of sections 35710 and 35753 in evaluating the petition, applied an erroneous standard in reviewing the petition, and based its ruling on speculation, not on the evidence. The appeal also alleges that the SMCC’s denial was based on its erroneous view that the transfer would:

- (a) Substantially increase costs to the state (Criterion 5).
- (b) Cause a negative effect on educational programs in the Woodside Elementary School District (Criterion 6).
- (c) Cause a negative effect on school housing in the Woodside Elementary School District (Criterion 7).

#### **4.0 POSITIONS OF SCHOOL DISTRICTS**

Both the Redwood City ESD (district losing territory and students) and the Woodside ESD (district gaining territory and students) are opposed to the transfer.

##### **4.1 Woodside Elementary School District**

The Woodside ESD expressed the following concerns:

- (a) The appellants submitted a report showing the increased cost associated with the proposed transfer to be over \$500,000. The Woodside ESD feels that the appellants’ reasons for the transfer do not justify this additional expense to the state or the potential damage to the districts involved. The Woodside ESD believes that the petition offers no reasonable justification for the transfer, and it fails to meet the statutory criteria required for territory transfers.
- (b) The Woodside ESD is concerned that the petition requests the county committee on school district organization to approve the transfer of the Woodside Hills neighborhood from the low-wealth Redwood City ESD to the high-wealth Woodside ESD. The Woodside ESD’s families are affluent and the student population is predominately white (87%). The Redwood City ESD’s student population is predominately Latino (62%) and the district’s families are far less affluent than those in Woodside. The Woodside ESD believes that the transfer

would further exacerbate the socio-economic and racial concentration of the Redwood City ESD.

- (c) The Woodside ESD is a basic aid district, which spends \$10,820 per K-8 student annually, including private foundation funding. The Redwood City ESD spends only \$7,198 per student annually, and has no significant recurring private foundation funding. Because the Woodside ESD has basic aid status, they are concerned that the property taxes generated from the transfer area will not be sufficient to support the additional students it enrolls.
- (d) The appellants argue that because Woodside Hills is located in the Woodside town limits it should be included in the Woodside ESD instead of the Redwood City ESD. The Woodside ESD expressed that the appellants fail to recognize that the school districts in San Mateo County, and across the state, are generally not organized on the basis of city or town boundaries.

#### **4.2 Redwood City Elementary School District**

The Redwood City ESD believes that the sole basis of the petition is that Woodside Hills is located in the Woodside town limit and its residents are part of the Woodside community. The Redwood City ESD feels that this rationale does not justify the substantial state cost and educational damage the territory transfer would cause. The Redwood City ESD indicated that, more importantly, the petition fails to meet the statutory criteria required for territory transfers and would:

- result in significant state costs of nearly \$500,000;
- promote racial and ethnic segregation;
- disrupt the educational programs in both districts;
- negatively affect the fiscal status of the Redwood City ESD and increase its facilities costs;
- exacerbate the socio-economic segregation of students in the two school districts; and
- encourage other predominately white and wealthy neighborhoods in the Redwood City ESD that border higher wealth and predominately white school districts to transfer out of the Redwood City ESD.

#### **5.0 SECTION 35753 CRITERIA**

The SBE may approve a proposal for the reorganization of districts if the SBE has determined the proposal substantially meets the nine criteria in Section 35753. Those criteria are further clarified by Section 18573, Title 5, *California Code of Regulations*.

For its analysis of the current proposal, staff reviewed CDE studies of specific issues related to the proposal and the following written information:

- (a) Petition for the proposed transfer of territory from Redwood City ESD to Woodside ESD, including maps of the area.
- (b) “Administrative Report Concerning Petition to Reorganize the Woodside Elementary School District and the Redwood City Elementary School District,” prepared by John Mehl, Associate Superintendent for the San Mateo County Office of Education and Secretary to the San Mateo County Committee on School District Organization, December 2001. (Attachment 3)
- (c) “Preliminary Report to the San Mateo County Committee on School District Organization Concerning Petition to Reorganize the Woodside Elementary School District and the Redwood City Elementary School District,” prepared by John Mehl, Associate Superintendent for the San Mateo County Office of Education and Secretary to the San Mateo County Committee on School District Organization, August 2001. (Attachment 4)
- (d) “Appeal to the State Board of Education from a Decision of the San Mateo County Committee on School District Organization, Statement of Reasons and Factual Evidence “ December 18, 2001. (Attachment 5)
- (e) Various letters and reports in support of and opposition to the proposed transfer of territory.
- (f) Miscellaneous related reports.

Staff findings and conclusions regarding the Section 35753 and Title 5 conditions follow.

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

Standard of Review

*It is the intent of the State Board of Education 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 each such district should have the following projected enrollment on the date the proposal becomes effective or any new district becomes effective for all purposes: Elementary district, 901; high school district, 301; unified district, 1,501. (Section 18573(a)(1)(A), Title 5, California Code of Regulations)*

County Committee Evaluation/Vote

The SMCC report indicates that if the petition were approved, the enrollment in the Redwood City ESD would be reduced by less than ten students and the district would continue to exceed the 901 enrollment standard contained in the Title 5, California Code of Regulations. The Woodside ESD currently is a direct service district and would remain a direct service district if the transfer were approved.

The SMCC voted unanimously (9-0) that this criterion is substantially met.

Staff Findings/Conclusion

Staff agrees with the SMCC's finding that this criterion is substantially met.

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

Standard of Review

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

County Committee Evaluation/Vote

The SMCC concluded that it was clear that the residents of the territory identify with the Town of Woodside. Moreover, the county committee found nothing to indicate that the school districts, as currently configured, are not organized on the basis of a substantial community identity, and that they would continue to be organized on such a basis if the petition were approved. Although the SMCC members discussed the fact that the boundaries of school districts in the San Mateo County are not generally coterminous with city boundaries, the county committee did not wish their decision to be construed in any way as suggesting that all school districts should be reorganized along city boundaries.

The SMCC voted unanimously (9-0) that this criterion is substantially met.

Staff Findings/Conclusion

The Woodside ESD stated that because the Woodside Hills area is geographically outside of the Woodside ESD's community, the proposed transfer would add a geographically separate appendage to the Woodside ESD. Interstate 280 creates a substantial barrier between the Woodside ESD and the Woodside Hills neighborhood. A substantial portion of undeveloped land lies between Woodside Hills and Interstate 280, further separating Woodside Hills from the Woodside ESD.

The Woodside ESD further stated that in addition to the freeway separation, the Woodside Hills neighborhood is on a hill that crests at an elevation of 500 feet. Most of the neighborhood is on the northeastern side of the hill, the side that slopes away from the rest of the Woodside ESD. In order to get from Woodside Hills to the Woodside School, one must travel down the hill on which the Woodside Hills neighborhood is located, cross Interstate 280, and travel back up to the school and the center of town at an elevation of about 420 feet.

Staff recognizes the Woodside ESD's concerns. However, no significant differences exist regarding the proximity of the territory to schools in either district. The Woodside ESD school (Woodside Elementary School) is not significantly farther from the area proposed for transfer than are the Redwood City ESD schools (Henry Ford Elementary School and John F. Kennedy Middle School).

Staff agrees with the SMCC's findings that the school districts, as currently configured, are organized on the basis of a substantial community identity, and that they would continue to be organized on such a basis if the petition were approved. Staff finds that this criterion is substantially met.

### **5.3 The proposal will result in an equitable division of property and facilities of the original district or districts.**

#### Standard of Review

*To determine whether an equitable division of property and facilities will occur, the California Department of Education reviews the proposal for compliance with the provisions of Education Code sections 35560 and 35564 and determines which of the criteria authorized in Section 35736 shall be applied. The California Department of Education also ascertains that the affected districts and county office of education are prepared to appoint the committee described in Section 35565 to settle disputes arising from such division of property. (Section 18573(a)(3), Title 5, California Code of Regulations)*

#### County Committee Evaluation/Vote

The SMCC indicates that there are no assets to be divided, as the subject territory contains no public school property or buildings.

The SMCC voted unanimously (9-0) that this criterion is substantially met.

#### Staff Findings/Conclusion

Staff agrees that no assets should be divided. Should the transfer of territory occur, the territory would drop any liability for outstanding bonded indebtedness in the Redwood City ESD and assume its proportionate share of outstanding bonded indebtedness in the Woodside ESD.

Staff agrees with the SMCC's finding that this criterion is substantially met.

### **5.4 The reorganization of the districts will not promote racial or ethnic discrimination or segregation.**

#### Standard of Review

*In Section 18573(a)(4), Title 5, California Code of Regulations, the State Board of Education set forth five factors to be considered in determining whether reorganization will promote racial or ethnic discrimination or segregation:*

- (a) 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.*
- (b) 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.*
- (c) 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 alleviate racial or ethnic discrimination or segregation.*
- (d) The effect of factors such as distance between schools and attendance centers, terrain, geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.*
- (e) 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.*

#### County Committee Evaluation/Vote

The SMCC expressed a general concern that the Redwood City ESD has experienced a loss of similar, predominately white territory as a result of the State Board of Education's approval of the transfer of the Emerald Hills territory in 1994. Nevertheless, the committee felt that the small number of students who would leave the Redwood City ESD if the petition were approved would not affect the Redwood City ESD's ability to continue its successful magnet school program, and would not change the racial makeup of the Woodside ESD.

The SMCC voted unanimously (9-0) that this criterion is substantially met.

#### Staff Findings/Conclusion

Both the Redwood City ESD and the Woodside ESD feel that the transfer would promote racial and ethnic discrimination and segregation in the Redwood City ESD by removing a larger, predominately white territory from the over 71 percent minority

Attachment 1  
Page 8 of 17

district. Although only a small number of students from Woodside Hills currently

attend the Redwood City ESD, the Woodside ESD expects to draw more students from this predominately white neighborhood in the future.

The appellants employed RL Associates of Princeton, New Jersey, to determine the number of children from the proposed transfer area that would actually enroll in the Woodside ESD if the transfer of territory were approved. RL Associates' study indicates that the total number of school age (K-8) children in the Woodside Hills transfer area, as of July 2001, totaled 70. The study further indicates that of the 70 children, most of whom currently attend private school, only 21 students would attend the Woodside Elementary School if the transfer were approved.

Theorem7 Marketing Services conducted a follow-up study at the appellants' request.

This study identified the racial/ethnic categories of the 21 students interested in attending the Woodside Elementary School. The findings of the survey are depicted in the following table. (Note: Two students have relocated and would not respond to the survey.)

Racial/Ethnic Category	Woodside Hills (proposed transfer area)	
	Enrollment	Percentage
African-American	1	5.3%
American Indian/Alaskan	0	0.0%
Asian	2	10.5%
Filipino	1	5.3%
Hispanic	1	5.3%
Pacific Islander	0	0.0%
White	11	57.9%
Multiple/ No Identification	3	15.8%
Total	19	100%

*Source: Theorem7 Marketing Services*

The following table depicts the effects of minority student population as a result of the

proposed territory transfer. This table assumes that if the territory transfer is approved, the Redwood City ESD will lose five students that currently attend their schools and reside in the transfer area, and the Woodside ESD will gain 19 students.

	Redwood City ESD (All schools)		Redwood City ESD (Henry Ford Elem. & Kennedy Middle Schools)		Woodside ESD (Woodside Elementary School)	
	Enrollment	% of Minority Students	Enrollment	% of Minority Students	Enrollment	% of Minority Students
Current District Organization	8,813	72.5%	1,484	62.6%	437	16.9%
Proposed District Organization	8,808	72.5%	1,479	62.7%	456	18.0%

Source: 2002-03 data from the California Basic Educational Data System

The CDE’s Office of Equal Opportunity (OEO) provides support to the CDE review of the school district organization proposals. The OEO staff analyzed the five factors set forth in Section 18573 of Title 5, *California Code of Regulations* in light of information provided in the RL Associates and Theorem7 Marketing Services reports, and compared their findings to the California Basic Educational Data Systems information on file with the CDE. A report prepared by the OEO (Attachment 6) finds that given the minimal number of students involved, the approval of the proposal to reorganize the Woodside ESD and the Redwood City ESD would not appear to substantially impact the ability of the affected districts’ efforts to alleviate segregation of minority students. Although staff recognizes the districts’ concern that the transfer of territory may represent an erosion of affluent and predominately white students from the Redwood City ESD, there is no evidence that this will occur. Staff cannot speculate that future transfers will occur, let alone speculate what effects these unknown transfers may have on the racial/ethnic balance of a district at some unspecified time in the future. Based solely on the small population of students in the territory currently proposed for transfer, staff agrees with the SMCC’s finding that this criterion is substantially met.

**5.5 The proposed reorganization will not result in any substantial increase in costs to the state.**

County Committee Evaluation/Vote

The appellants submitted a detailed report prepared by Vavrinek, Trine, Day & Company showing the increased cost associated with the proposed transfer to be \$515,027, if effective in 2000-01. The appellants concluded that since the increase in costs represents only a 2.25 percent increase in state apportionment countywide and a .003 percent increase in state apportionment statewide, that the proposed transfer

would substantially meet criterion 5. The San Mateo County Office of Education’s Associate Superintendent for Fiscal Services reviewed the report and concurs with

these figures. However, the consensus of the SMCC was that the excess cost of the proposed reorganization is substantial and will escalate annually.

The SMCC voted 7-2 that this criterion is not substantially met.

#### Staff Findings/Conclusion

The CDE's Office of Management Assistance and Categorical Programs (OMACP) provides support to the CDE review of reorganization proposals. The OMACP report on this proposal is Attachment 7 to this Board item.

The fiscal issue impacting the determination of compliance with this criterion is the shift in local property tax revenues of over \$500,000 from the Redwood City ESD to the Woodside ESD and the availability of Educational Revenue Augmentation Fund (ERAF) monies to offset this loss. ERAF monies are local tax proceeds that traditionally support the county, cities, and special districts, but since the early 1990's have instead been deposited into a special fund, with K-12 education as the first priority for use of those funds. The K-12 ERAF monies augment local tax proceeds that help satisfy school districts' and county offices of education's revenue limit entitlement. If there are excess ERAF monies available after funding the school districts and county office of education to their revenue limit levels, the ERAF monies are then allocated to community colleges districts, special education programs, and county, cities, and special districts, respectively.

The proposed transfer of territory would have the following impact:

- Property taxes associated with the proposed territory transfer would shift from the Redwood City ESD to the Woodside ESD. The tax transfer to Woodside ESD has no associated state cost because the Woodside ESD is a basic aid district and receives no state aid (other than basic aid). Their revenue limit is funded primarily with property taxes. Adding more property taxes to the Woodside ESD simply makes the district less likely to receive state aid.
- Because the Redwood City ESD would lose a portion of its local property tax revenues, the county must identify available ERAF monies to replace this lost revenue and bring the Redwood City ESD up to its revenue limit level. In this instance, the county would transfer ERAF monies to the Redwood City ESD. Because ERAF monies also offset the state aid portion of special education, this transfer of ERAF monies to the Redwood City ESD would reduce the funds available for special education programs countywide. The state must backfill any loss in taxes that contributed to the special education entitlement if ERAF monies are depleted.

Because the availability of ERAF monies may vary from year to year, the transfer of territory from Redwood City ESD to the Woodside ESD may result in added costs to

Attachment 1  
Page 11 of 17

the state when there are insufficient ERAF monies to backfill the Redwood City ESD's loss in taxes and fund the state aid portion of special education. Historically, ERAF monies have not been sufficient to fully satisfy the special education

entitlement. Thus, any shift of ERAF monies from special education to the Redwood City ESD's revenue limit would result in an additional dollar-for-dollar cost to the state. However, the San Mateo County Office of Education has indicated that the amount of ERAF monies has grown in 2001-02 and 2002-03 because property values and, thus, property tax collections, have continued to increase despite the current state of the economy. As a result, if the transfer of territory is approved, ERAF monies are currently available to satisfy the Redwood City ESD's revenue limit entitlement and the special education programs, with no additional costs to the state.

Staff cannot speculate on the level of ERAF monies that will be available in the future. Although it has been determined that the increased cost to the state is over \$500,000 if the transfer of territory occurred in 2000-01, evidence indicates that there would be no additional cost to the state if the transfer of territory occurred in 2002-03. Based on current information, staff disagrees with the SMCC's finding and concludes that this criterion is substantially met.

**5.6 The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue to promote sound education performance in those districts.**

Standard of Review

*The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition, and 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. (Section 18573(a)(5), Title 5, California Code of Regulations)*

County Committee Evaluation/Vote

The SMCC focused on the number of additional students that could be expected to enroll in the Woodside ESD if the proposal were approved, and how the increased population would affect the district's program. The San Mateo County Office of Education report indicates that the proposed transfer of territory would increase total K-8 enrollment from 442 students in 2001 to 576 students by 2011. The SMCC considered the Woodside ESD's desire to determine the characteristics and strengths of their instructional program, including class size and the use of classroom space for specialty programs. The SMCC also considered the Redwood City ESD's concern that the loss of another area containing predominately white students could harm the success of the district's magnet school program.

The SMCC voted 8-1 that this criterion is not substantially met.

Attachment 1  
Page 12 of 17

Staff Findings/Conclusion

The Woodside ESD is concerned that the increase in enrollment as a result of the proposed transfer of territory threatens the district's basic structure and class size

reduction efforts. Even if a handful of students entered the district, the Woodside ESD feels that new classrooms would need to be established to avoid the risk of losing class size reduction funding.

The Redwood City ESD stated that the proposed transfer would interfere with the growing success of the district's magnet program. The Redwood City ESD is concerned that the proposed transfer will remove a substantial number of white students with higher socio-economic backgrounds from participation in the magnet program and the district's schools. This will reduce the opportunities for the district's students to attend racially and socio-economically diverse schools.

The Evaluation Unit in the CDE's Policy and Evaluation Division (PED) provides support in reviewing the educational implications of school district reorganization proposals. To assess the educational impacts of the proposed reorganization, PED staff reviewed materials submitted by the appellants and districts. A report prepared by the PED (Attachment 8) finds that based on the number of students currently attending Woodside Elementary School, and the projection of approximately 21 students that would be transferred to the school should the transfer of territory occur, the proposed reorganization will not significantly disrupt the education program in the affected districts. There are a number of other factors that could be taken into consideration, such as the legal parameters surrounding class size reduction and enrollment growth, but they would all be speculative, at best. Contrary to SMCC's findings, staff finds that this criterion is substantially met.

#### **5.7 The proposed reorganization will not result in a significant increase in school housing costs.**

##### County Committee Evaluation/Vote

Although the San Mateo County Office of Education does not see a compelling argument that additional school housing costs would necessarily be caused if this transfer were approved, the SMCC felt that significant housing cost could result due to the additional students that could enroll over time.

The SMCC voted 7-2 that this criterion is not substantially met.

##### Staff Findings/Conclusion

The Woodside ESD feels that even a modest increase in student enrollment could require the district to open additional classes. In recent years, the Woodside Elementary School has been expanding to accommodate the growing student population from within the existing district boundaries. The Woodside ESD is

Attachment 1  
Page 13 of 17

concerned that new classrooms would have to be built or additional portables ordered to accommodate the influx of students from Woodside Hills.

The Redwood City ESD is concerned that the transfer of territory will reduce their

total assessed valuation by approximately 2.4 percent, which will make it more difficult to pass a future bond measure that is needed to fund their facilities needs.

The CDE's School Facilities Planning Division (SFPD) provides support to the CDE review of reorganization proposals. The SFPD's report (Attachment 9) assumes that the transfer would add 21 students to the Woodside Elementary School. After examination of student enrollment and existing school capacity, staff finds that the Woodside Elementary School has the capacity to accommodate 467 students, without adding new facilities or encroaching on the field areas. Staff has determined that the student capacity level exceeds the school's 2002-03 enrollment of 437 students by 30 students, and concludes that the Woodside Elementary School can accommodate the 21 additional students from the transfer area. Contrary to SMCC's findings, staff finds that this criterion is substantially met.

**5.8 The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.**

County Committee Evaluation/Vote

The SMCC felt that although there were some questions whether the proposed transfer might result in an increase in property values, this was not the primary motivation of the appellants.

The SMCC voted 8-0 that this criterion is substantially met.

Staff Findings/Conclusion

Although there are no regulations governing this criterion, the *School District Organization Handbook* states the following: "If the petitioner's 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." Staff believes that although property values might increase, increased property values are not the primary reason for the petition and agrees with the SMCC's finding that this criterion is substantially met.

**5.9 The proposed reorganization will not cause a substantial negative effect on the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.**

County Committee Evaluation/Vote

The SMCC acknowledged that, although the proposal carries substantial costs to the state, neither school district would be harmed fiscally. The Redwood City ESD's lost

tax revenue would be replaced by ERAF. The Woodside ESD would receive the additional tax revenue as a result of the transfer of the assessed valuation of the territory.

The SMCC voted 8-1 that this criterion is substantially met.

#### Staff Findings/Conclusion

The Redwood City ESD is concerned that the proposed transfer would reduce the district's total assessed valuation by about \$217 million. This large reduction in the district's assessed valuation would reduce the chances that the Redwood City ESD will obtain basic aid status in the foreseeable future. The Redwood City ESD is also concerned that if the petition is approved, the district will lose about \$22,300 in revenue limit funding per year for the five students from Woodside Hills that attend the Redwood City ESD.

Staff feels that the loss of five students out of over 7,700 pupils district-wide would have a minimal impact on the Redwood City ESD. Although this represents a loss of \$22,300 in revenue limit funding per year, the Redwood City ESD would not have the expense of educating these pupils.

Staff agrees with the SMCC's finding that this criterion is substantially met.

## **6.0 AREA OF ELECTION**

### **6.1 Area of Election Education Code Provisions**

Section 35756 indicates that, should the SBE approve the proposal, the SBE must determine the area of election. A provision specifying the territory in which the election to reorganize the school districts must be held, appears in Section 35756.5 as follows:

“In the case of the transfer of territory from one district to another, if the transfer is opposed by the governing boards of one or more of the districts affected with an average daily attendance of 900 or less, the territory in which the election is held shall include the entire territory of the districts opposing the transfer. Each district with an average daily attendance of 900 or less which is included in an election because of the objection of its governing board to the transfer shall bear the additional cost of holding the election in that portion of its territory not otherwise included in the election. When a majority of the votes cast in the school district opposing the transfer and a majority of the votes cast in the entire territory in which the election is held are in favor of the reorganization, the proposal carries.”

Attachment 1  
Page 15 of 17

### **6.2 Area of Election Legal Principles**

The Local Agency Formation Commission (LAFCO)<sup>2</sup> court decision provides the

---

<sup>2</sup>BOARD OF SUPERVISORS OF SACRAMENTO COUNTY, ET AL., v. LOCAL AGENCY FORMATION

most current legal interpretations to be followed in deciding the area of school district reorganization elections. This decision upheld a limited area of election on a proposal to create a new city, citing the "rational basis test." The rational basis test may be used to determine whether the area of election should be less than the total area of the district affected by the proposed reorganization unless there is a declared public interest underlying the determination that has a real and appreciable impact upon the equality, fairness, and integrity of the electoral process, or racial issues. If so, a broader area of election is necessary.

In applying the rational basis test, a determination must be made as to whether:

- (a) There is a genuine difference in the relevant interests of the groups, in which case an enhancement of the minority voting strength is permissible.
- (b) The reduced voting area has a fair relationship to a legitimate public purpose. The fair relationship to a legitimate public purpose is found in *Government Code* Section 56001, which expresses the legislative intent "to encourage orderly growth and development," such as promoting orderly school district reorganization statewide that allows for planned, orderly community-based school systems that adequately address transportation, curriculum, faculty, and administration. This concept includes both:
  - (1) Avoiding the risk that residents of the area to be transferred, annexed, or unified might be unable to obtain the benefits of the proposed reorganization if it is unattractive to the residents of the remaining district; and
  - (2) Avoiding islands of unwanted, remote, or poorly served school communities within large districts.

However, even under the rational basis test, a determination to reduce the area of election would, according to LAFCO, be held invalid if the determination constituted an invidious discrimination in violation of the constitutional Equal Protection Clause (e.g., involving a racial impact of some degree).

### **6.3 Recommended Area of Election**

The Woodside ESD's average daily attendance is less than 900. The Woodside ESD's governing board opposes the transfer. If the SBE reverses the action of the SMCC and approves the transfer, contrary to staff's recommendation, SBE must determine that the election be held in the territory of the entire Woodside ESD as mandated by Section 35756.5. In addition, it is the opinion of the CDE that, under LAFCO and the

Attachment 1  
Page 16 of 17

*Education Code*, the election area also must include the petition area of Redwood City ESD. However, the SBE may, in its discretion, expand the area of election to include any or all remaining the territory of the Redwood City ESD.

Although the SBE may expand the area of election to include the territory of the entire Woodside ESD and Redwood City ESD, staff recommends that the election be held in the petition area of the Redwood City ESD and the territory of the entire Woodside ESD.

## **7.0 APPELLANTS' STATEMENT**

The appellants allege that the county committee did not comply with the mandate of sections 35710 and 35753 in evaluating the petition, applied an erroneous standard in reviewing the petition, and based its ruling on speculation, not on the evidence.

The appellants provided no evidence that substantiates their allegations. Staff found that the county committee judged and disapproved the petition based on the evidence presented. The SMCC is not required to approve the transfer, even if all conditions are met. Their ability to approve or disapprove a proposal is a value judgment on the proposal that is given by the county committee. Thus, the county committee has the ability to consider other local issues or concerns when exercising their discretionary authority. Staff concludes, in opposition to the appellants' allegations, that the SMCC complied with the mandate to determine whether the conditions of reorganization were substantially met with respect to the proposal and the affected districts.

## **8.0 STATE BOARD OF EDUCATION OPTIONS**

Sections 35710.5(c) and 35753 outline the SBE's options:

- (a) The SBE may summarily deny review of the appeal (thus ratifying the county committee's decision) *or*
- (b) Review the appeal for noncompliance by the county committee with the provisions of the specified *Education Code* sections, either on the administrative record or in conjunction with a public hearing. If the SBE elects to review the appeal, the Board, following the review, will:
  - (1) affirm or reverse the action of the county committee, and
  - (2) if the petition will be sent to election, determine the area of election. As previously discussed, staff recommends the SBE establish the petition area of the Redwood City ESD and the territory of the entire Woodside ESD as the area of election if the SBE should choose to approve the petition. However, the SBE may, in its discretion, expand the area of election from the Woodside ESD to include the territory of the entire Redwood City ESD.

The SBE may approve the proposal if it determines all the criteria in Section 35753(a) have

Attachment 1  
Page 17 of 17

been substantially met. The SBE may approve the proposal pursuant to Section 35753(b) if it determines that it is not practical or possible to apply the criteria literally, and that the circumstances with respect to the proposal provide an exceptional situation sufficient to justify approval of the proposal. However, Section 35753 is permissive, providing minimum standards, and does not preclude county committees (and the SBE) from

rejecting proposals for other concerns.

In *Hamilton v. State Board of Education*, 117 Cal.App.3d 132, the court held that “the clear language of these sections [*Education Code Section 35753*] states that the State Board [*of Education*] has the discretion, but is not compelled, to approve a petition which at least substantially complies with the conditions of the section.” (Hamilton, at pages 140 and 141) [Comments in brackets added]. Thus, the SBE and the county committee have the ability to consider other local issues or concerns when exercising their discretionary authority. Their ability to approve or disapprove a proposal is a value judgment on the proposal that is given by the SBE and the county committee in spite of the fact that all minimum criteria in Section 35753 are met.

## **9.0 RECOMMENDED ACTION**

Staff recommends that the SBE review the appeal solely on the administrative record and affirm the action of the SMCC by adopting the proposed resolution provided as Attachment 2 for the following reasons:

- (a) Staff finds that the SMCC complied with existing mandates for evaluating the proposal.
- (b) The appellants presented no new evidence to address decisions of the SMCC.
- (c) No compelling reason to transfer the territory exists.
- (d) All local educational agencies (i.e., SMCC and both affected school districts) have determined that the proposal does not meet the legal minimum standards and have found no reason to support the transfer of territory.
- (e) Although staff has determined that the proposed transfer will not result in any substantial increase in costs to the state (Criterion 5 of Section 35753) in 2002-03, the transfer of territory may result in an added cost to the state of over \$500,000 in subsequent years if ERAF monies are not available to fund the loss in property tax revenues and the special education programs.

If the SBE affirms the SMCC’s decision, as recommended, the county’s action denying the transfer stands. However, if the SBE reverses the action of the county committee and approves the transfer of territory, staff recommends that the SBE limit the area of election to the petition area of the Redwood City ESD and the territory of the entire Woodside ESD. An alternative proposed resolution that reverses the SMCC’s action and sets the area of election is provided as Attachment 11.

STATE BOARD OF EDUCATION  
July 2003

PROPOSED RESOLUTION  
(Denial of Appeal)

Appeal of the action of the San Mateo County Committee on School District Organization disapproving a transfer of territory from the Redwood City Elementary School District to the Woodside Elementary School District

WHEREAS, in accordance with *Education Code* Section 35710.5, the chief petitioners submitted an appeal to the State Board of Education regarding the action of the San Mateo County Committee on School District Organization on December 18, 2001, for the proposed transfer of territory from the Redwood City Elementary School District to the Woodside Elementary School District in San Mateo County; and

WHEREAS, pursuant to *Education Code* Section 35710.5, the State Board of Education finds that the San Mateo County Committee on School District Organization acted appropriately and exercised its legal authority to deny the petition; therefore, be it

RESOLVED, that the State Board of Education, pursuant to *Education Code* Section 35710.5 denies the appeal and affirms the action of the San Mateo County Committee on School District Organization; and be it

RESOLVED further, that the Secretary of the State Board of Education, on the Board's behalf, shall notify the San Mateo County Committee on School District Organization, the San Mateo County Superintendent of Schools, the superintendents of the affected school districts, and the chief petitioners of the State Board's action.

STATE BOARD OF EDUCATION  
July 2003

**ALTERNATIVE PROPOSED RESOLUTION**  
(Approval of Appeal)

Appeal of the action of the San Mateo County Committee on School District Organization disapproving a transfer of territory from the Redwood City Elementary School District to the Woodside Elementary School District

WHEREAS, in accordance with *Education Code* Section 35710.5, the chief petitioners submitted an appeal to the State Board of Education regarding the action of the San Mateo County Committee on School District Organization on December 18, 2001, for the proposed transfer of territory from the Redwood City Elementary School District to the Woodside Elementary School District in San Mateo County; and

WHEREAS, pursuant to *Education Code* Section 35710.5, the State Board of Education finds that the San Mateo County Committee on School District Organization acted inappropriately in denying the petition; therefore, be it

RESOLVED, that the State Board of Education, pursuant to *Education Code* Section 35710.5 approves the appeal and reverses the action of the San Mateo County Committee on School District Organization; and be it

RESOLVED further, that the State Board of Education shall direct the San Mateo County Superintendent of Schools to call for the election and sets the area of election to be that of the petition area of the Redwood City Elementary School District and the territory of the entire Woodside Elementary School District; and be it

RESOLVED further, that the Secretary of the State Board of Education, on the Board's behalf, shall notify the San Mateo County Committee on School District Organization, the San Mateo County Superintendent of Schools, the superintendents of the affected school districts, and the chief petitioners of the State Board's action.