



SEPTEMBER 2003 AGENDA

| SUBJECT   | X | ACTION         |
|---|---|----------------|
| Territory Transfer Appeal: From San Lorenzo Valley Unified School District in Santa Cruz County to Los Gatos-Saratoga Joint Union High School District and Lakeside Joint School District in Santa Clara County |   | INFORMATION    |
|   |   | PUBLIC HEARING |

**Recommendation:**

Based solely on the administrative record: (1) reverse the decision of the Santa Clara County Committee on School District Organization (SDO) and support the decision of the Santa Cruz County on SDO; (2) approve the territory transfer appeal; and (3) establish the area of election as that of the petition area by adopting the proposed resolution. (Attachment 2)

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

The State Board of Education (SBE) has not heard this issue previously.

**Summary of Key Issue(s)**

This is an appeal by the chief petitioners (hereinafter appellants) under *Education Code* Section 35710.5 of the Santa Clara Committee on SDO’s action to deny a petition to transfer a single parcel of land at 19707 Bear Creek Road in Santa Cruz County. The petition proposes the transfer of territory from the San Lorenzo Valley Unified School District (USD) in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District (JUHSD) and the Lakeside Joint School District (JSD) in Santa Clara County. The San Lorenzo Valley USD and the Los Gatos-Saratoga JUHSD oppose the proposed transfer, while the Lakeside JSD supports the transfer.

The Santa Cruz County Committee on SDO concluded that the petition substantially complied with the nine criteria of *Education Code* Section 35753(a) and unanimously approved the transfer of territory. However, the Santa Clara County Committee on SDO denied the transfer of territory, concluding that this petition substantially complied with the nine criteria of *Education Code* Section 35753(a) with the exception of *Education Code* Section 35753(a)(2), which states, “The districts are each organized on the basis of a substantial community identity.”

The chief petitioners are appealing the Santa Clara County Committee on SDO’s action, stating that they have met all nine criteria of *Education Code* Section 35753(a). They allege that the Santa Clara County Committee on SDO has denied due process through rubber-stamping its denial, as it does with all petitions.

California Department of Education (CDE) staff concurs with Santa Cruz County Committee on SDO’s and the appellants’ conclusion that all provisions of *Education Code* Section 35753(a) have been substantially met. Staff finds no evidence in the administrative record to support the

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### **Summary of Key Issue(s)**

Santa Clara County Committee on SDO's finding that Criterion 2 of *Education Code* Section 35753 is not substantially met. Staff findings are consistent with the findings of the Santa Clara COE and the Santa Cruz COE feasibility reports; both county offices also found all nine criteria of Section 35753(a) were met. Staff also finds validity to the claim that the appellants see themselves more a part of the Lakeside JSD and Los Gatos-Saratoga JUHSD than the San Lorenzo Valley USD on the basis of shared community centers, workplace, and social situations, and the fact that appellants' two children have attended Lakeside JSD on inter-district transfers since kindergarten.

CDE staff disagrees with the Santa Clara County Committee on SDO's action to deny the petition. Accordingly, staff recommends the SBE, following a review based solely on the administrative record, reverse the action of the Santa Clara County Committee on SDO by granting the appeal and approving the transfer of territory.

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### **Fiscal Analysis (as appropriate)**

There are no significant state level fiscal effects to be considered.

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### **Attachments**

- Attachment 1: Report of Required Conditions for Reorganization (Pages 1-8)
- Attachment 2: Proposed Resolution (Page 1-1)
- Attachment 3: Feasibility Report of the Proposed Transfer of Territory Prepared by the Santa Clara Office of Education (Pages 1-15) (This attachment is not available on the web.)
- Attachment 4: "Appeal of Decision of County Committee on School District Organization of July 30, 2002 – Bear Creek Transfer" (Pages 1-4) (This attachment is not available on the web.)
- Attachment 5: Map of the Proposed Transfer Area (Page 1-1) (This attachment is not available on the web.)
- Attachment 6: Alternative Resolution (Page 1-1)

**TERRITORY TRANSFER APPEAL  
SAN LORENZO VALLEY UNIFIED SCHOOL DISTRICT TO  
LOS GATOS-SARATOGA JOINT UNION HIGH AND  
LAKESIDE JOINT SCHOOL DISTRICTS**

**REPORT OF REQUIRED CONDITIONS FOR REORGANIZATION**

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**1.0 RECOMMENDATION**

California Department of Education (CDE) staff recommends that the State Board of Education (SBE) reverse the action of the Santa Clara County Committee on School District Organization (SDO) and support the action of the Santa Cruz County Committee on SDO by granting the appeal and adopting the proposed resolution in Attachment 2.

**2.0 BACKGROUND**

The chief petitioners (hereinafter appellants) have appealed the Santa Clara County Committee on SDO's disapproval of a petition to transfer the property at 19707 Bear Creek Road in Santa Cruz County from the San Lorenzo Valley Unified School District (USD) in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District (JUHSD) and the Lakeside Joint School District (JSD) in Santa Clara County. The area proposed for transfer is one parcel; the total acreage is estimated to be 4.5 acres. There are two school-aged children that reside at the above address and have attended the Lakeside JSD on inter-district transfers since kindergarten.

The Santa Cruz County Committee on SDO concluded that this petition substantially complies with *Education Code* Section 35753(a) and unanimously approved the transfer of territory. However, the Santa Clara County Committee on SDO unanimously denied the transfer of territory after finding that the petition did not substantially meet the community identity criterion of *Education Code* Section 35753(a).

**3.0 POSITIONS OF AFFECTED SCHOOL DISTRICTS**

The district in which the property is currently located, the San Lorenzo Valley USD, and one of the two districts that would have received the property, the Los Gatos-Saratoga JUHSD, both oppose the proposed transfer. However, the governing board of the Lakeside JSD, where the appellants' two children currently attend school, unanimously consented to the transfer.

**4.0 REASONS FOR THE APPEAL**

Section 35710.5 limits appeals of the county committee decisions on 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 reorganize school districts.

The appellants have requested the transfer for the following reasons:

1. Property is located directly on the boundary line between the two school districts.
2. Children have attended Lakeside JSD since kindergarten. All of the children they go to school with will continue on to Los Gatos schools for middle and high school (Fisher Middle School and Los Gatos High School, respectively).
3. Appellants identify with Lakeside JSD and the general Los Gatos area. Work, business, and other activities are oriented in the direction of Los Gatos and Santa Clara County.
4. Appellants state that it would be a great hardship to transport the children to Redwood Elementary School (9 miles from the house in the opposite direction of daily travel), and San Lorenzo Valley Junior High and High Schools in Felton (both over 11 miles from the house and in the opposite direction of daily travel, all of which is a single lane and heavily traveled route each day on Highway 9 from Boulder Creek to Felton). Travel to Lakeside Elementary, Fisher Middle School, and Los Gatos High School is less travel time and miles. The appellants' house is the last in Boulder Creek before the Los Gatos border.
5. There is no public transportation near the property for transporting the children to the San Lorenzo Valley schools. There are bus stops near the house for service to Lakeside School and several neighbors whose children go to Lakeside School, Fisher Middle School, and Los Gatos High School for carpooling.
6. When the house was purchased, the multiple listing stated that it was part of the Lakeside/Los Gatos school district. But, when enrolling the first child into kindergarten, appellants discovered that the home lies outside the boundary of that school district.

The appeal alleges that the Santa Clara County Committee on SDO was not objective in judging the petition. Although staff of the Santa Clara County Office of Education (COE) found that all nine criteria of *Education Code* Section 35753 were met, the Santa Clara County Committee on SDO found that Criterion 2 (community identity) was not met and denied the petition. The appeal asserts that Criterion 2 has been met and alleges that the Santa Clara County Committee on SDO has denied due process through rubber-stamping its denial, as it does with all petitions, rather than objectively evaluating each case on its merits.

## **5.0 SECTION 35753 CRITERIA**

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

In evaluating the appellants' arguments, CDE staff reviewed the full administrative record as provided by the Santa Clara COE, and other miscellaneous documents provided by the Santa Cruz COE. Using the conditions set forth in Section 35753 and Title 5, staff found

all nine criteria of Section 35753(a) were substantially met. Staff findings are consistent with the findings of the Santa Clara COE and the Santa Cruz COE feasibility reports; both county offices also found all nine criteria of Section 35753(a) were met. Based on its findings, staff agrees with the Santa Cruz County Committee on SDO's decision to approve the transfer of territory. Staff disagrees with the Santa Clara County Committee on SDO's determination that Criterion 2 of Section 35753(a) was not met and its subsequent action to deny the petition. Staff's analysis of Criterion 2 follows:

**Criterion 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 Santa Clara COE feasibility report indicates that there is validity to the claim that residents of the area proposed for transfer see themselves more a part of the Lakeside JSD and the Los Gatos-Saratoga JUHSD than the San Lorenzo Valley USD. On the basis of shared community centers, workplace, social situations, and the fact that the appellants' two children attend the Lakeside JSD on inter-district transfers, the Santa Clara COE report indicates that the appellants' interests are oriented in the direction of Los Gatos and Santa Clara County. Because of this community identity and the finding that there are no demonstrated issues of geographic isolation or unreasonable distances to the social centers or school centers, the Santa Clara COE concludes that Criterion 2 is met.

However, contrary to the Santa Clara COE's conclusion, the Santa Clara County Committee on SDO concludes that Criterion 2 is not substantially met. Specifically, one member of the committee disagrees with Santa Clara COE report, and believes that the area proposed for transfer is closer to Boulder Creek in Santa Cruz County, rather than Los Gatos in Santa Clara County. The Santa Clara COE feasibility report indicates that the area proposed for transfer is located approximately halfway between downtown Boulder Creek and downtown Los Gatos. For students of all grade levels, the travel times and distances to schools in either the San Lorenzo Valley USD or Los Gatos-Saratoga JUHS and Lakeside JSD are approximately the same.

The committee member also believes that the area proposed for transfer is not contiguous to the school district boundary lines and therefore, not eligible for the territory transfer. The Santa Cruz County Office of Education has validated the petition through the County Assessor's Office and determined that the property is on the boundary line.

The Santa Clara County Committee on SDO voted unanimously (8-0) that this criterion is not substantially met.

#### Appellants' Statement

The appellants claim that the Santa Clara County Committee on SDO resorts to “rubber-stamping” the denial of all petitions submitted rather than objectively evaluating each case on its merits. The appellants further claim that this appears to be a trend, since the Santa Clara County Committee on SDO has not approved a territory transfer from Santa Cruz County since March 1996. At that time, the county committee approved the transfer of twenty-three parcels located adjacent to the area proposed for transfer. The residents of the twenty-three parcels claimed that, since the homes in this area had been built, the school children of the families residing there had attended school in the Lakeside JSD and the Los Gatos-Saratoga JUHSD. These residents believed that they had always been a part of the Lakeside JSD and the Los Gatos-Saratoga JUHSD, noting that a resident of this area served as a member of the Board of Education for the Lakeside JSD.

#### Staff Findings/Conclusion

The Santa Clara County Committee on SDO found that the petition did not substantially meet Criterion 2 of *Education Code* Section 35753, even after both the Santa Clara COE and Santa Cruz COE feasibility reports, and the Santa Cruz County Committee on SDO found this criterion substantially met. Staff finds no evidence in the administrative record to support the Santa Clara County Committee on SDO’s finding and concludes that Criterion 2 of *Education Code* Section 35753 is substantially met for the following reasons:

- (a) Strong community identity exists between the petition area and Santa Clara County. Staff finds that there is validity to the claim that the appellants see themselves more a part of the Los Gatos-Saratoga JUHSD and the Lakeside JSD, than the San Lorenzo Valley USD. The appellants’ work, business, and other activities are oriented in the direction of the Santa Clara County.
  
- (b) Historically, the issue of “community identity” has been a common concern for Santa Cruz County residents along the Santa Clara County school districts’ boundary lines. Many residents perceive themselves as part of the Santa Clara community. Because of the strong ties to the Santa Clara County schools, workplaces, and communities, many petitions requesting transfers of territory between the Santa Cruz County school districts and the Santa Clara County school districts have been filed. Staff found that prior to 1998, the county committees from both Santa Clara County and Santa Cruz County supported these transfers. Since 1998, the Santa Clara County Committee on SDO has consistently denied transfers into the Los Gatos-Saratoga JUSD. Many of these denials subsequently resulted in appeals that have been brought forward to the SBE. CDE staff has determined the appellants’

reasons for the transfers to be compelling and supported their community identity claims in all appeals.

- (c) The appellants' parcel is adjacent to the twenty-three parcels that both the Santa Clara County Committee on SDO and the Santa Cruz County Committee on SDO approved for transfer in March 1996. The appellants' reasons for the transfer of territory are identical to the reasons given by the homeowners involved in the 1996 territory transfer.

In approving the transfer of the twenty-three parcels, both the Santa Clara County Committee on SDO and the Santa Cruz County Committee on SDO found that the area proposed for transfer has strong historical and current ties with the Santa Clara County schools, work places, and communities, and concluded that this sense of community identity by the residents is not present for schools or communities in Santa Cruz County. Prior to the approval, one resident from the transfer area served as a member of the Board of Education for the Lakeside JSD. In addition, real estate multiple listings inaccurately identified properties in this community as being part of the Santa Clara County school districts.

- (d) The appellants' children currently attend the Lakeside JSD on inter-district transfers. The appellants indicated that they have volunteered many hours to the Lakeside JSD and would like to continue their support of the public school system. Their desire to have their children continue on to the Los Gatos middle and high schools with the same children they have attended school with since kindergarten has merit.

## **6.0 AREA OF ELECTION**

### **6.1 Area of Election Legal Principles**

The Local Agency Formation Commission (LAFCO)<sup>1</sup> court decision provides the 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.

Attachment 1

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<sup>1</sup>*BOARD OF SUPERVISORS OF SACRAMENTO COUNTY, ET AL., v. LOCAL AGENCY FORMATION COMMISSION (3 CAL. 4TH 903, 1992)*

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).

## 6.2 Recommended Area of Election

The residents of 19707 Bear Creek Road wish to transfer to the Los Gatos-Saratoga JUHSD and the Lakeside JSD, while the remaining voters in the Santa Cruz district would likely be indifferent to the proposal. The transfer will not negatively impact the quality of education provided to children attending the San Lorenzo Valley USD, since the two students affected by the transfer already attend the Lakeside JSD. Finally, the petition does not promote segregation or discrimination. Thus, exclusion of the San Lorenzo Valley USD from the vote meets the LAFCO court decision's rational basis test.

Based on the Department's analysis, the impact of the petitions on the receiving districts would be insignificant since the public school students in the area already attend the Lakeside JSD. Thus, it is our opinion that voters in the Los Gatos-Saratoga JUHSD and the Lakeside JSD would also be relatively unaffected by the proposal, and exclusion of the districts from the vote would meet the LAFCO court decision's rational basis test.

Therefore, if the SBE reverses the action of the Santa Clara County Committee on SDO and approves the transfer, staff recommends the SBE establish the territory proposed for transfer as the area of election

## 7.0 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 territory proposed for transfer as the area of election if the SBE should choose to approve the petition.

The SBE may approve the proposal if it determines all the criteria in Section 35753(a) have 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 the SBE from rejecting proposals for other concerns.

## 8.0 RECOMMENDED ACTION

Staff recommends that the SBE review the appeal solely on the administrative record and reverse the action of the Santa Clara County Committee on SDO by adopting the proposed resolution provided as Attachment 2 for the following reasons:

- (a) Consistent with the findings of the Santa Clara COE and the Santa Cruz COE feasibility reports, staff determined that all nine criteria listed in *Education Code* Section 35753(a) are met.
- (b) The Santa Clara County Committee on SDO denied the transfer of territory after finding that the petition did not substantially meet Criterion 2 of *Education Code* Section 35753(a). Staff finds no evidence in the administrative record to support the Santa Clara County Committee on SDO's finding that Criterion 2 of *Education Code* Section 35753 is not substantially met, and agrees with the Santa Cruz County Committee on SDO's determination that Criterion 2 is substantially met.
- (c) Staff finds validity to the claim that the appellants see themselves more a part of the Lakeside JSD and Los Gatos-Saratoga JUHSD, than the San Lorenzo Valley USD on the basis of shared community centers, workplace, and social situations,

and has determined that school districts would be organized on the basis of a substantial community identity if the petition were approved.

- (d) Historically, community identity has been an issue for Santa Cruz County residents residing along the Santa Clara school district's boundary lines. Prior to 1998, the county committees from both Santa Clara County and Santa Cruz County have recognized this concern and supported transfers of territory bordering these school districts. Since 1998, the Santa Clara County Committee on SDO has consistently denied such transfers into the Los Gatos-Saratoga JUSD. CDE staff has always supported the Santa Cruz County residents' community identity claims that have been brought forward to the SBE through the appeals process.
- (e) The appellants' reasons for the transfer of territory are identical to the reasons given by the residents of the adjacent twenty-three parcels that both Santa Clara County Committee on SDO and Santa Cruz County Committee on SDO approved for transfer in March 1996.
  - (e) The appellants' children currently attend the Lakeside JSD on inter-district transfers. Their desire to have their children to continue on to the Los Gatos middle and high schools with the same children they have attended school with since kindergarten has merit.

If the SBE affirms the Santa Clara County Committee on SDO's decision, that 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 territory proposed for transfer. An alternative proposed resolution that affirms the Santa Clara County Committee on SDO's action and sets the area of election is provided as Attachment 6.

*PROPOSED RESOLUTION*

(Approval of Appeal)

Appeal by the Chief Petitioners regarding the Santa Clara County Committee on School District Organization's Disapproval of a Transfer of Territory from the San Lorenzo Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Lakeside Joint School District in Santa Clara County

RESOLVED, that under the authority of *Education Code* Section 35710.5, the appeal, filed on or about August 13, 2002, by chief petitioners from an action of the Santa Clara County Committee on School District Organization disapproving a transfer of territory from the San Lorenzo Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Lakeside Joint School District in Santa Clara County is hereby granted; and be it

RESOLVED further, that the Santa Clara County Superintendent of Schools and the Santa Clara County Committee on School District Organization be informed that, under Section 35710.5 of the *Education Code*, the County Committee's action to deny such petition is reversed by the State Board of Education; and be it

RESOLVED further, that the State Board of Education has determined the area of election to be that of the petition area; and be it

RESOLVED further, that the Santa Cruz County Superintendent of Schools call an election on the transfer of territory within the boundaries of the petition area, to be conducted at the next regular election, and be it

RESOLVED further, that the Secretary of the State Board of Education notify, on behalf of said Board, the Santa Clara County Committee on School District Organization, the Santa Cruz County Committee on School District Organization, the chief petitioners, and the affected school districts of the action taken by the State Board of Education.

September 2003

**ALTERNATIVE RESOLUTION**  
(Denial of Appeal)

Appeal by the Chief Petitioners regarding the Santa Clara County Committee on School District Organization's Disapproval of a Transfer of Territory from the San Lorenzo Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Lakeside Joint School District in Santa Clara County

RESOLVED, that under the authority of *Education Code* Section 35710.5, the appeal, filed on or about August 13, 2002, by chief petitioners from an action of the Santa Clara County Committee on School District Organization disapproving a transfer of territory from the San Lorenzo Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Lakeside Joint School District in Santa Clara County is hereby denied; and be it

RESOLVED further, that the Secretary of the State Board of Education notify, on behalf of said Board, the Santa Clara County Committee on School District Organization, the Santa Cruz County Committee on School District Organization, the chief petitioners, and the affected school districts of the action taken by the State Board of Education.