

The Reorganization/ Territory Transfer Process

North Monterey County
Unified School District

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Background

- Throughout California, school districts have been organized through a variety of formations and mergers of prior entities.
- As development and demographic shifts continue, it sometimes becomes necessary or desirable to alter the boundaries of existing educational entities to allow for more efficient schools.
- Modifications to school district boundaries can only be enacted by following State Education Code in alignment with nine criteria.
- On June 25, 2019, a petition was submitted by citizens representing 13 parcels within North Monterey County Unified School District, seeking to transfer those properties to the Lagunita Elementary School District.
- With the submission of the petition, a fairly defined calendar of “next steps” commences as defined in the Education Code.
- This presentation will review the process and provide a brief preliminary analysis of potential impacts which may result from the petition.

Preliminary Petition Analysis

The Petition

- While the petition seeks to relocate 13 existing parcels, it will have impacts on North Monterey County USD.
- Those impacts fall into three broad categories, some with immediate and lasting impact, and others that may be more reflective of lost opportunities in the future:
 - Reduction of operational funding
 - Reallocation of tax base generated tax revenues
 - Loss of development related fees from the territory

Preliminary Petition Analysis

- While the number of existing homes is only 8, there are opportunities for as many up to 15 homes to ultimately develop within the proposed transfer territory under current zoning standards.
- At full development, the territory could generate up to 9.6 students.
- As an LCFF funded district, North Monterey County USD receives funding from the State for each student.
- At the average per pupil funding level under the LCFF formula, (approx. \$8,600) an estimated \$3.2 million in LCFF funding would be lost over 30 years.
- This amount grows each year as funding levels rise and may impact criteria 1, 4, 5, 6 and 9 (criteria to be discussed later in this presentation).
- It may be viable to arrive at a financial agreement to mitigate such impacts.

Preliminary Petition Analysis

- Currently, the 13 parcels proposed for transfer have a taxable value (which is limited by provisions of Prop 13 and typically less than market value) of \$8.8 million.
- This taxable value generates property taxes for both operational and facilities purposes.
- Operationally, the District receives a portion of the 1% annual property tax revenues for a portion of LCFF funding, with the State providing the balance to achieve minimum funding levels.
- As is often required, General Obligation bonds apply a discrete property tax for repayment of bonds issued to complete facilities projects.
- Furthermore, State limitations of GO Bonds are a function of a district's tax base, and statutory bonding capacity of \$220,000 could be lost.
- If the territory is transferred, both of these revenue streams will cease and the capacity provided by the properties will be lost, potential impacting criteria 5, 6, 7 and 9 (criteria to be discussed later in this presentation).

Preliminary Petition Analysis

- Within the territory proposed for transfer, there appear to be five undeveloped parcels.
- However, two parcels are of sufficient size to allow for subdivision within zoning standards, allowing for as many as 15 total residences.
- Developed parcels within this territory have an average taxable value of over \$850,000 (the Districtwide average is roughly 50% of this value).
- When a building permit is issued for new construction, developer fees are assessed which include fees for impacts on schools.
- These fees are based on square footage and if the remaining lots were to be developed, an estimated \$67,000 or more would be generated.
- If the transfer of territory occurs prior to this development, the fees would not be collected by North Monterey County USD and may impact criteria 7.

Impacts and Mitigations

- While the impacts may seem to be small in comparison to total budgets, the potential territory transfer is not without impact.
- This is especially true if such “small” territory requests are part of an extended larger trend where each individual request appears “reasonable” – but in aggregate, the territory transfers are not.
- Districts faced with a petition to transfer territory can opt to allow it to:
 1. Proceed without input,
 2. Seek mitigation for impacts or
 3. Oppose the petition.
- Seeking mitigations and pursuing opposition will generally require a dual-effort, both analyzing and communicating the rationale for mitigations or opposition.
- Unfortunately, due to a severe State backlog, in reality the efforts will require several years to reach a resolution.
- Consistent messaging and defensible analysis will be key to achieving the ultimate outcome as directed by the Board and community.

Projected Territory Transfer Fiscal Impacts

Loss of Operational Revenues - LCFF	\$ 4,361,333
Loss of Operational Revenues - Other	TBD
Loss of GO Bond Taxes	158,630
Loss of Developer Fees	67,678
Total Projected Fiscal Impact Estimate	\$ 4,587,641

The projections reflect cumulative impacts over a 30 year period under certain demographic and development assumptions.

Projected Territory Transfer Bonding Capacity Impact

Bonding capacity would be reduced by approximately 2.5%; at current valuations this equates to \$220,000. This figure would grow over time.

Legal Requirements of a Petition

Legal Requirements

Analysis of Criteria (Ed. Code § 35753)

Criterion 1 – Adequate number of pupils

- Guidance from Section 18573 of Title 5 of California Code of Regulations (CCR) stipulates that a resulting unified school districts should have an enrollment of at least 1501 students. Resulting elementary school districts must have a minimum of 901 student. Resulting high school district must have 301 students or more.

Legal Requirements

Analysis of Criteria (Ed. Code § 35753)

Criterion 2 – Community identity

- Guidance from Section 18573 of Title 5 of CCR indicates that in reviewing the new district factors such as isolation, geography, and distances between social centers and schools should be considered, along with community school and social ties.

Legal Requirements

Analysis of Criteria (Ed. Code § 35753)

Criterion 3 – Equitable division of property and facilities

- When a district splits, everything must be divided, including property, financial reserves, assets, and liabilities. If no agreement is reached, disputes go to arbitration.

Legal Requirements

Analysis of Criteria (Ed. Code § 35753)

Criterion 4 – Discrimination/Segregation

- Education Code, Section 35753, requires that the results of the petition “will not promote racial or ethnic discrimination or segregation.” Further, local educational agencies have a constitutional and statutory obligation to prevent racial and ethnic segregation and to alleviate the harmful effects of segregation. Guidance from Section 18573 of Title 5 of CCR indicates that the percentage of students in each racial and ethnic group is a consideration in analyzing this issue.

Legal Requirements

Analysis of Criteria (Ed. Code § 35753)

Criterion 5 – Substantial increase in state costs

- Education Code, Section 35753, requires that the results of the petition will not lead to an “increase in costs to the state as a result of the proposed reorganization.”

Legal Requirements

Analysis of Criteria (Ed. Code § 35753)

Criterion 6 – Promoting educational performance/disruption of educational program

- Education Code, Section 35753, requires that the results of the petition “will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.” Thus, this criterion is focused not only on the educational performance of the resulting districts, but also on the educational opportunities that can be provided at the newly organized districts.

Legal Requirements

Analysis of Criteria (Ed. Code § 35753)

Criterion 7 – Increase in school facilities costs

- Education Code, Section 35753, requires that any “increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.”

Legal Requirements

Analysis of Criteria (Ed. Code § 35753)

Criterion 8 – Property values

- Education Code, Section 35753, requires that the petition be “primarily designed for purposes other than to significantly increase property value.”

Legal Requirements

Analysis of Criteria (Ed. Code § 35753)

Criterion 9 – Sound fiscal management/negative effect

- Education Code, Section 35753, requires that the “proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.”

Legal Requirements

Analysis of Criteria (Ed. Code § 35753)

Criterion 10 – State Board of Education

- Education Code, Section 35753, provides that the Board of Education may prescribe additional criteria by regulation. At this time, there are no known additional criteria.

Addressing the Nine Criteria

Addressing the Nine Criteria

- Petition language is generally broad and relies on subsequent studies and negotiations to define details.
- Analysis of the proposal must be conducted in alignment with the nine criteria, but satisfying all criteria is not required for approval.
- Because recommendation at the County Committee level are subsequently forwarded to the State (and potentially the electorate within the affected area), it can be important to:
 - Analyze all criteria
 - Define impacts on resulting entities
 - Negotiate mitigations for impacts
- Decisions about school district organization can become very political and may take years to enacts.
- Establishing a complete record early can be important to future steps in the process.

Addressing the Nine Criteria

- While the current petition is for a limited area, it does not impact the requirements, but can impact perception of the matter.
- While a limited territory transfer can appear to have limited impacts, if it is part of a larger long-term trend, the true impact can be obscured.
- History and trends matter.
- Establishing a consistent record matters.

The Affected Area

The Affected Area

- The affected area is at a minimum the territory proposed for transfer.
- More broadly, it can include the entire territory of the resulting districts, especially when proposed realignments have material impacts.
- The definition of the affected area is a responsibility of the County Committee.

The Process

The Process

1. Initiation of Proposals for Unification (*EC 35700*)

- a) Petition signed by the owner(s) of uninhabited territory; or,
- b) Petition signed by at least 25 percent of the registered voters in the inhabited territory proposed to be reorganized (if the territory proposed for reorganization is located within two or more school districts, the signatures of at least 25 percent of the registered voters from that territory in each school district are required); or,**
- c) Petition signed by a majority of the members of the governing boards of all affected districts; or,
- d) Petition signed by at least 8 percent of registered voters who cast votes in the last gubernatorial election to reorganize a district with over 200,000 ADA into two or more districts.

The Process

2. Determination of Sufficiency and Transmittal of Petition Within 30 Days of Receipt (EC 35704)

- a) County superintendent must determine sufficiency of petition within 30 days.
- b) A 25 percent or 8 percent petition must be verified by the county department of elections.
 - This verification has occurred
- c) The county committee and the State Board of Education must be notified when a valid petition is received.

The Process

- 3. Public Hearings (EC 35705, 35705.5). A public hearing in each affected district must be held by the county committee within 60 days of receipt of a valid petition.**
- a) Notice of the public hearing shall be given at least ten days in advance of the hearing.
 - NMCUSD hearing is set for September 17, 2019 @ 6:30 pm at Prunedale Elementary
 - Lagunita hearing is set for September 17, 2019 @ 3:30 pm at Lagunita School
 - b) County committee may add to the petition any of the appropriate provisions specified in Education Code sections 35730 through 35738.

The Process

- 4. Notice to Local Agency Formation Commission (EC 35700.5).** Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.
- 5. County Committee Study of the Unification (EC 35753).** The county committee must determine the impact of the territory transfer on the conditions listed in Education Code Section 35753.

The Process

6. Approval Process (EC 35706, 35707, 35752 through 35755)

- a) Within 120 days of the first public hearing, the county committee must make a recommendation to approve or disapprove the petition.
- b) The county committee may make a recommendation regarding the area of election.
- c) The county committee transmits the petition, report, and recommendations to the State Board of Education.
- d) The State Board of Education complies with the requirements of CEQA.
- e) The State Board of Education holds required public hearings.
- f) The State Board of Education approves or disapproves the petition.
- g) If approval is given and an election is required, the county superintendent calls an election in an area determined by the State Board of Education.

Questions / Discussion / Feedback