

MARIN COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

Special Meeting

*Marin County Office of Education
1111 Las Gallinas Avenue, Board Room
San Rafael, CA 94903*

Monday, November 28, 2022

5:30 pm

The meeting of the Marin County Committee on School District Organization (CCSDO) will be held on **Monday, November 28, 2022 beginning at 5:30 p.m. at the Marin County Office of Education (1111 Las Gallinas Avenue, San Rafael, CA 94903) in the Board Room.**

A G E N D A

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| 1. Call to Order | Ms. Butler |
| 2. Attendance / Introductions | Ms. Butler |
| 2a. Committee Members by Roll Call | Ms. Mares |
| Committee Member Stephanie O'Brien will be participating in the meeting via videoconference from the following address:
721 Cliff Drive, Santa Barbara, CA 93109 | |
| 3. Consider Approval and Adoption of Agenda | Ms. Butler |
| 4. Consider Approval of Minutes, CCSDO Meeting of November 7, 2022 | Ms. Butler |
| 5. Interviews and Appointment to Supervisorial District #4, due to Resignation of Committee Member A.J. Brady, effective November 6, 2022 | Ms. Mares |

Nominations

- Laura H. Anderson
- Amos Klausner
- Tara Evans

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| 6. Administer Oath of Office to Appointed CCSDO Member | Ms. Mares |
| 7. Temporary Special Committee Discussion, 2.4 of the Bylaws: | |

The Chairperson may appoint such temporary and special committees as deemed necessary or advisable and the Chairperson shall be, ex officio, a member of each committee. The duties of the special committee shall be outlined at the time of appointment, and the committee shall be considered dissolved when its final report has been made. Temporary special committees may be convened for the purpose of holding public hearings.

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| 8. Adjournment | Ms. Butler |
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Agenda Item #4

Consider Approval of Minutes,
CCSDO Meeting of November 7, 2022

MARIN COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

Annual Organizational Meeting November 7, 2022 | 5:30 p.m.

Meeting Minutes

The Annual Organizational Meeting of the Marin County Committee on School District Organization (CCSDO) was held on Monday, November 7, 2022 at 5:30 p.m. at the Marin County Office of Education (1111 Las Gallinas Avenue, San Rafael, CA 94903) in the Board Room.

AGENDA ITEM 1: Call to Order

Chairperson Debbie Butler called the meeting to order at 5:31 pm.

AGENDA ITEM 2: Attendance/Introductions

Secretary Designee Terena Mares conducted Roll Call of Committee Members. Members present/absent:

Committee Member	Present (Y)/Absent (A)
Debbie Butler	Y
Karen Crockett	Y
Derek Knell	Y
Robin Moses	Y
Stephanie O'Brien	A
Kathy Ohm	Y
Elizabeth Robbins	Y
Richard Sloan	A
Stuart Tanenberg	Y
Raoul Wertz	Y

A roll call vote indicated that a quorum was present.

Staff members present: Terena Mares, Secretary Designee of the CCSDO and Senior Deputy Superintendent of the Marin County Office of Education; Jon Lenz, Deputy Superintendent of the Marin County Office of Education; Mary Jane Burke, County Superintendent of Schools for Marin County; Robert J. Henry, Counsel for the Marin County Office of Education.

AGENDA ITEM 3: Consider Approval and Adoption of Agenda

Chairperson Butler called for a motion to approve the amended November 7, 2022 Agenda.

M/s/c Crockett and Tanenberg; to approve the November 7, 2022 Agenda as amended.

Motion carried:	Aye:	No:	Abstain:	Absent:
	8			2

AGENDA ITEM 4: Administer Oath of Office to Elected CCSDO Members

Secretary Designee Terena Mares administered the Oath of Office to newly elected Members.

Oath of Office administered to:

- Mr. Derek Knell, Supervisorial District 5

Secretary Designee Terena Mares informed the committee that A.J. Brady, newly elected member of the county committee, resigned on November 6, 2022.

AGENDA ITEM 5: Election of Officers

Chairperson Butler called for a motion to nominate a Chairperson for the County Committee on School District Organization

M/s/c Robbins and Tanenberg; to approve Debbie Butler as the new Chairperson.

Motion carried:	Aye: 8	No:	Abstain:	Absent: 2
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Chairperson Butler called for a motion to nominate a Vice Chairperson for the County Committee on School District Organization

M/s/c Moses and Ohm; to approve Raoul Wertz as the new Vice Chairperson.

Motion carried:	Aye: 8	No:	Abstain:	Absent: 2
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AGENDA ITEM 7: Consider Approval of Meeting Minutes

Chairperson Butler called for a motion to approve the December 1, 2021 Minutes of the Annual Organizational Meeting.

M/s/c Tanenberg and Knell; to approve the December 1, 2021 Meeting Minutes as submitted.

Motion carried:	Aye: 8	No:	Abstain:	Absent: 2
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AGENDA ITEM 8: Territory Transfer Petition Process Presentation

Secretary Designee Terena Mares presented on the territory transfer petition review process.

AGENDA ITEM 9: Status Update on Pending East Corte Madera Territory Transfer Petition

County Superintendent of Schools for Marin County, Mary Jane Burke, provided an update on the pending East Corte Madera territory transfer petition.

Secretary Designee Terena Mares provided an update on the pending East Corte Madera territory transfer petition. 12 members of the public addressed the committee.

AGENDA ITEM 10: Status Update on Tennessee Glen Territory Transfer Petition

Secretary Designee Terena Mares provided an update on the Tennessee Glen territory transfer petition. Two public hearings will be held in each affected school district.

- Monday, December 5, 2022 within the Mill Valley School District
- Wednesday, December 14, 2022 within the Sausalito Marin City School District

Notice of the public hearings will be provided at least 10 days in advance.

AGENDA ITEM 11: Report of Secretary Designee

Legal Counsel for the Marin County Office of Education, Robert J. Henry, provided an overview of the process to fill a vacancy on the County Committee on School District Organization.

AGENDA ITEM 12: Filing of the 2020 Census Redistricting Legal Descriptions

Secretary Designee Terena Mares provided information for the 2020 Census Redistricting Legal Descriptions.

AGENDA ITEM 13: LAFCO Notices

Secretary Designee Terena Mares provided LAFCO Notices which were received from December 2, 2021 through November 7, 2022.

AGENDA ITEM 14: Report of County Committee Members

Chairperson Butler opened the floor for reports from Committee members.

No reports were shared.

AGENDA ITEM 6: Identification of persons wishing to address the Committee on items not on the agenda

Chairperson Butler asked if there was anyone who wished to address the Committee on items not listed on the agenda.

No one wished to address the committee.

ADJOURNMENT

Chairperson Butler called for a motion to adjourn the November 7, 2022 Meeting.

M/s/c Robbins and Ohm; to approve the adjournment of the November 7, 2022 Meeting.

Motion carried:	Aye: 8	No:	Abstain:	Absent: 2
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Chairperson Butler adjourned the meeting.

Agenda Item #5

Interviews and Appointment to Supervisorial District #4,
due to resignation of committee member A.J. Brady,
effective November 6, 2022

Nomination Forms

NOMINATION FOR MEMBERSHIP
MARIN COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

Date: 11/21/22

I hereby nominate Laura H. Anderson as a candidate for election to the Marin County Committee on School District Organization for the following vacancy:

☒ Supervisory District #4

The above-stated nominee resides at the following address:

Address: [REDACTED] *Candidate lives at a qualified address*
City: [REDACTED] State: [REDACTED] Zip: [REDACTED]
Phone: [REDACTED] Email: [REDACTED]

I further verify that the nominee has given approval for their nomination.


Signature
[REDACTED]
Address
[REDACTED] [REDACTED]
City Phone

The county superintendent of schools requests the nominee to submit this form, along with a brief written statement, no later than **Wednesday, November 23, 2022 at 12:00 noon** on why they wish to serve on the committee. The nominee should plan to attend the next meeting of the Marin County Committee on School District Organization (CCSDO), which will be held on Monday, November 28, 2022 at the Marin County Office of Education, to be interviewed by the CCSDO members. Voting will be announced at the meeting.

Please submit this form to: Marin County Office of Education
Attention: Terena Mares, CCSDO Secretary Designee
1111 Las Gallinas Avenue/P.O. Box 4925
San Rafael, CA 94913
tmares@marinschools.org | (415) 499-5805

November 21, 2022

Marin County Office of Education
Attention: Terena Mares, CCSDO Secretary Designee
1111 Las Gallinas Avenue
P.O. Box 4925
San Rafael, CA 94913
tmares@marinschools.org

RE: Nomination for Marin County Committee on School District Organization

Dear Deputy Superintendent Mares,

After learning of the opportunity to represent Supervisorial District #4 on the Marin County Committee on School District Organization, I would like to be considered for a spot on the committee.

Since moving to CA in 2003, I have been actively involved with the public schools in Marin. My qualifications for SDO membership include:

- Resident of Larkspur and registered voter since 2003
- Parent of three children educated at Neil Cummins Elementary, Hall Middle, and Redwood High
- PTA President, Neil Cummins Elementary, 2006-2008
- Co-Chair, Tamalpais Union High School District Parcel Tax Campaign, 2011
- Trustee, Tamalpais Union High School District, 2013-2018 (including Board President)

I believe I would be a thoughtful, prepared, engaged member of the SDO team. In particular, my experience as a former TUHSD trustee has heightened my awareness of the need for school district organization that benefits all students.

Thank you for your consideration,

Sincerely,


Laura H. Anderson

NOMINATION FOR MEMBERSHIP

MARIN COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

Date: Nov. 18, 2022

I hereby nominate Amos Klausner as a candidate for election to the Marin County Committee on School District Organization for the following vacancy:



Supervisory District #4

The above-stated nominee resides at the following address:

Address: [REDACTED] *Candidate lives at a qualified address*

City: [REDACTED] State: [REDACTED] Zip: [REDACTED]

Phone: [REDACTED] Email: [REDACTED]

I further verify that the nominee has given approval for their nomination.

Amos Klausner

Digitally signed by Amos Klausner
Date: 2022.11.18 16:24:47 -08'00'

Signature

[REDACTED]

Address

[REDACTED]

[REDACTED]

City

Phone

The county superintendent of schools requests the nominee to submit this form, along with a brief written statement, no later than **Wednesday, November 23, 2022 at 12:00 noon** on why they wish to serve on the committee. The nominee should plan to attend the next meeting of the Marin County Committee on School District Organization (CCSDO), which will be held on Monday, November 28, 2022 at the Marin County Office of Education, to be interviewed by the CCSDO members. Voting will be announced at the meeting.

Please submit this form to:

Marin County Office of Education
Attention: Terena Mares, CCSDO Secretary Designee
1111 Las Gallinas Avenue/P.O. Box 4925
San Rafael, CA 94913
tmares@marinschools.org | (415) 499 5805

November 22, 2022

Tarena Mares, Secretary Designee
Marin County Committee on School District Organization
c/o Marin County Office of Education
1111 Las Galinas Avenue
San Rafael, CA 94903

Dear Tarena.

Thank you for allowing me to provide a written statement regarding my self-nomination to the committee. I will also be providing answers to the interview questions that will be posted to the committee's web page on Wednesday.

I started in public service over thirty years ago when I joined my local volunteer fire department in Santa Fe, New Mexico. While learning a raft of new skills, I realized a newfound sense of self satisfaction in helping people who were struggling in difficult situations.

That need to be involved in my community traveled with me when I moved to Marin County, now over twenty five years ago. I immediately joined the boards of several non-profit organization in San Francisco including the Holocaust Center of Northern California. This had special meaning for me as my father was a US Army Chaplain during World War II and was there when the Dachau Concentration Camp was liberated.

I spent seventeen years living in San Rafael and nine years now in San Geronimo, the small hamlet in unincorporated Marin County and part of District 4. My time here in "the valley" has been an opportunity to participate in many important community issues including issues related to the school district as well as those focused on zoning and land use. I have been active in debating a local community sewer project, reuse of the former San Geronimo Valley Golf Course, and I led an effort that resulted in the scuttling of a medical marijuana storefront in nearby Forest Knolls. All of these have been a great introduction to the workings of both government and local communities as they work together (and sometimes separately) toward their goals.

I joined the board of San Geronimo Valley Community Center, a social services agency that provides valuable services and opportunities to valley residents. Embedded even deeper into my community, and with a daughter in the local public school, I ran for school board trustee and now represent the Lagunitas School District (but just for a few more weeks as I did not seek reelection). All of this has been a great learning experience.

After speaking with Richard Sloan, I now turn my attention to a county-wide view of our school districts. As you may know, the Lagunitas School District is unique in its history of providing parents with their choice of elementary school programs. Today, the option to receive a progressive education at either our Open or Montessori programs is unique to Lagunitas.

My main concern and the reason that I self-nominated for the open committee position is that I worry that as we look for long term “savings” in our county – financial or otherwise – we run the risk of causing further homogenization of the people, processes and curricula that define our different districts. I believe that local communities are best positioned to make decisions about their futures and I’m worried that we may slowly erode that ability for self-determination. If we aren’t careful, I believe we could end up with several large districts where minority communities like those in West Marin have little, if any, say in their children’s education. While the big picture fascinates me, I’m also interested in near term issues that come before the committee including territory transfers.

I believe that I have the track record of community involvement and experience within the county’s education system to be a successful member of the committee. I look forward to answering the upcoming interview questions and submitting those in writing. I wish I could address the committee in person and if that option does make itself available after November 28, I would certainly take advantage of that.

Best wishes,

Amos Klausner

NOMINATION FOR MEMBERSHIP

MARIN COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

Date: 11-22-22

I hereby nominate Tara Evans as a candidate for election to the Marin County Committee on School District Organization for the following vacancy:



Supervisory District #4

The above-stated nominee resides at the following address:

Address: [REDACTED] *Candidate lives at a qualified address*

City: [REDACTED] State: [REDACTED] Zip: [REDACTED]

Phone: [REDACTED] Email: [REDACTED]

I further verify that the nominee has given approval for their nomination.

Lisa Bennett

Digitally signed by Lisa Bennett
Date: 2022.11.22 09:38:27 -08'00'

Signature

[REDACTED]

Address

[REDACTED]

City

[REDACTED]

Phone

The county superintendent of schools requests the nominee to submit this form, along with a brief written statement, no later than **Wednesday, November 23, 2022 at 12:00 noon** on why they wish to serve on the committee. The nominee should plan to attend the next meeting of the Marin County Committee on School District Organization (CCSDO), which will be held on Monday, November 28, 2022 at the Marin County Office of Education, to be interviewed by the CCSDO members. Voting will be announced at the meeting.

Please submit this form to:

Marin County Office of Education
Attention: Terena Mares, CCSDO Secretary Designee
1111 Las Gallinas Avenue/P.O. Box 4925
San Rafael, CA 94913
tmares@marinschools.org | (415) 499-5805

Tara Evans

Statement of Purpose prepared for *Marin County Committee on School District Organization (MCCSDO)*

Five generations ago, my father's family came to Marin County fleeing persecution in their ancestral homeland. For three generations my immigrant family members dropped out of their local Marin public schools most commonly by ninth grade, entering work life having experienced very little academic achievement. My father was the first to graduate from San Rafael High School and attended College of Marin earning the very first college degree, an AA in Business, in our family. Throughout my life he worked seventeen-hour days to ensure I not only graduate high school, but eventually earn the units required to transfer from the College of Marin and become the first in our family to both attend and graduate from the University of California, Berkely with honors and go on to earn a graduate degree. My personal story has informed my interest in exploring equity issues in District 4 and throughout Marin County; ultimately leading my academic research and ongoing service of questioning and dismantling systemic oppressive policy and systems of inequality that shape how many families experience living and working in Marin County today.

One question that must be explored as Marin education leaders and committee member volunteers continue to shape overarching principles and values about diversity, equity, and inclusion across Marin's school communities, is where was the system that distributed the opportunity to equitably educate every Marin County student historically, and where is that system today? In a sense, the public education system in Marin runs contrary to providing every student the same dynamic and quality educational opportunity that disrupt cycles of poverty and injustice in our county. It is clear there is still challenge in seeing beyond expected education outcome stereotypes about family and student race, ethnic background, religion, sexual identity, undocumented citizenship status, wealth, and existing geographic barriers. This is evident in the intersecting relationship between school district composition and characteristics affecting Marin student performance and tracked outcomes by district.

I am passionate about looking beneath the hood of District 4 school districts, where some of the greatest disparities including curriculum and instruction inconsistency, is widening the trajectory of the student achievement gap. I am committed to studying the organization and identity of school districts including its nonprofit partnerships, listening and engaging community, and collaborating with Supervisor Rodoni and members of this committee to consider solutions that lead to greater educational access and alignment with the county's stated equity values and principles. Marin school districts are complicated for numerous reasons, yet I know my legacy understanding, former experience as the parent of a child in several Marin public school districts, and my service volunteering on both public and private Marin school boards and associations, has led me to the understanding that specific district factors can influence student outcomes and that size and composition also affects access for some, to the same quality education as their more affluent counterparts. I am ready to address the clear need to balance access to financial resources, division of property, and qualified educational professionals across District 4 schools, while assessing the ability to reorganize in a way that ensures an integrated school environment while honoring the identity of individual communities.

Agenda Item #5

Interviews and appointment to Supervisorial District
#4, due to resignation of committee member A.J.
Brady, effective November 6, 2022

Supplemental Documents

MARIN COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

*Special Meeting
Monday, November 28, 2022
5:30 pm*

Candidate Interview Questions

1. Why would you like to serve on the County Committee?
2. Please describe your qualifications for serving on the County Committee.
3. Describe your ability to remain objective and unbiased in your decision making.
4. What are your views on consolidating school districts?

MARIN COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

Supervisory District 4



2.1.2 Vacancies in Membership

A vacancy occurs upon any of the following events:

- The expiration of the term of office of a member of the County Committee. This vacancy shall be filled by the majority vote of the representatives of the governing boards of each of the school districts of Marin County at the annual election of the County Committee.
- The resignation of any County Committee member. Should a County Committee member choose to resign, the resignation will be in writing and submitted to the Secretary of the County Committee or his/her designee. The vacancy becomes an established fact upon the date indicated in the written resignation or upon receipt of the written resignation if no date is indicated. The Secretary or designee shall send written notification of said resignation to all County Committee members within 10 days of receiving the written resignation.
- Excessive absences by a County Committee member. If a member has three (3) consecutive unexplained absences, the member will be considered resigned. A vacancy shall be established upon the conclusion of the County Committee meeting during which this third consecutive unexplained absence occurs. After two (2) unexplained absences, the chair will send a letter to the member advising said member of the Bylaws and asking for a commitment or a resignation.

Vacancies created by the early resignation of a County Committee member, excessive absences, or for any reason other than expiration of term, shall be filled by the remaining members of the County Committee or, if they fail to fill such vacancies with qualified members within 70 days, by the County Superintendent of Schools. The County Superintendent of Schools may solicit County Committee recommendations regarding the filling of vacancies. Persons appointed to fill such vacancies shall hold office for the completion of the unexpired term.

Reference: Ed. Code 4006

2.2 County Committee Budget and Compensation

The County Committee has a budget for County Committee activities. This budget is maintained by and is part of the Marin County Office of Education budget. The County Committee budget will be brought before the Committee at the time of budget adoption. The members of the County Committee shall serve without compensation. However, they shall receive reimbursement for any actual and necessary travel expenses incurred in the performance of their duties. The expenses shall be allowed by the County Board of Education, and be paid out of the County School Service Fund.

Reference: Ed. Code 4010, 4298

2.2.1 Travel Reimbursement

a) Compensation and Expense Claims. Actual and necessary travel expenses incurred as a result of official County Committee activity shall be allowed.

From: Robert Henry <rhenryedlaw@gmail.com>

Sent: Wednesday, November 16, 2022 2:28 PM

To: Terena Mares <tmares@marinschools.org>; Mary Jane Burke <mjburke@marinschools.org>; Jon Lenz <jlentz@marinschools.org>

Subject: County Committee on SDO and Conflicts of Interest

Hello Terena--

This responds to your request that I provide guidance for the members of the Marin County Committee on School District Organization (SDO) on the issue of conflicts of interest.

In California there are four areas of potential conflicts of interest which apply to members of public boards, such as a county committee on school district organization.

1. The Fair Political Practices Act of 1974.

My prior advice has been that merely being a member of the governing board of a school district that is involved in a transfer of territory process does not prevent that member from considering and voting on SDO matters that involve the potential transfer. Indeed, in 2001 the Fair Political Practices Commission issued an advisory letter to two members of the then Marin County Committee on SDO concluding that they were not required to abstain from participating and voting on the unification issue then before the Committee, even though they were board members of the two districts involved in the proposed unification. A copy of that advisory letter is attached. Although the advisory letter deals with a proposed unification and the current proposal deals with a transfer of territory it is my opinion that the reasoning of the letter applies to the current SDO matter.

Cautionary note: the opinion set forth above is based on an assumption that the only material fact is that one or more Committee members may be on the governing boards of districts involved in the transfer. As noted in the attached advisory letter from the FPPC there may be unique economic interests (other than owning a personal residence) of one or more Committee members that could disqualify those members. If a Committee member believes there may be unique economic interests involved in this potential transfer legal counsel should be consulted.

2. Government Code section 1090

Government Code section 1090 applies to the making of "contracts" between a governing board and another party in which a board member may have a financial interest. Since the Committee on SDO is not making a contract section 1090 is not applicable.

3. Incompatible Offices

Government Code section 1099 codifies the "common law" rule that prohibits a member of one public board from serving on another public board if doing so could create divided loyalties. Of significance here is that the common law recognized that the doctrine of incompatibility can be abrogated by state law. With respect to school board members serving on county committees on school district organization it is clear that state law specifically provides that members of a school board may serve as members of a county committee on SDO, see Education Code section 4007. Thus, the common law doctrine of incompatibility of office does not apply to membership on a county committee on school district organization

4. Finally, there is also a common law doctrine on conflicts of interest. Most, if not all, of the common law doctrine was abrogated by the Fair Political Practices Act of 1974. But, opinions continue to refer to the common law doctrine of conflicts of interest where there is no economic interest involved. By way of example, a city planning commissioner was found to be in violation of the common law doctrine when he voted on a matter that involved a petition brought by a neighbor with whom the commissioner had a long term adversarial relationship, including acrimonious litigation. At this point I am unaware of any such circumstance that may exist between one or more members of the Marin County Committee

on SDO and any of the petitioners or board members of either district, but legal counsel should be consulted in the event any member of the Committee is concerned about this potential issue.

Please let me know if you or the Committee members have any questions about this matter.

Bob Henry



FAIR POLITICAL PRACTICES COMMISSION

P.O. Box 807 • 428 J Street • Sacramento, CA 95812-0807

(916) 322-5660 • Fax (916) 322-0886

April 27, 2001

Mark E. Reagan, Esq.
930 Idylberry Road
San Rafael, CA 94903

Re: Your Request for Advice
Our File No. A-01-088

Dear Mr. Reagan:

This letter is in response to your request for advice on behalf of yourself and Kathleen Ohm regarding the conflict of interest provisions of the Political Reform Act (the "Act").¹

QUESTION

May you and Kathleen Ohm participate in a decision regarding the formation of a new unified Dixie School District, where you both own your principal residences within the boundaries of the existing Dixie Elementary School District, as well as within the boundaries of the proposed unified Dixie School District?

CONCLUSION

Yes. Because the decision regarding the formation of a new unified Dixie School District will affect your economic interests in substantially the same manner as it will affect the public generally.

FACTS

You and Kathleen Ohm are members of the Marin County Committee on School District Organization ("SDO"). The SDO is an 11-member committee established pursuant to Education Code § 4000 *et seq.*, which considers matters related to the organization of school districts within Marin County. This consideration includes, but is

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18996, of the California Code of Regulations.

not limited to, making determinations on citizens' petitions seeking to transfer real property from one school district to another, as well as making recommendations to the State Board of Education concerning the proposed unification of school districts.

The SDO is comprised of two representatives from each of the five supervisorial districts in the county and one "at large" member (Ed. Code § 4008(a)). You and Ms. Ohm are the two committee members elected from the First Supervisorial District, an area that extends from the northern points of the City of San Rafael through the unincorporated areas of Santa Venetia, Lucas Valley and Marinwood.

According to the State Board of Education, in order to determine that any of the criteria established under state law for a petition for territory transfer or unification have been met, a majority of the entire SDO, namely six votes, is required. The SDO is currently considering a petition to create a new unified Dixie School District by transferring the administrative responsibilities for Terra Linda High School from the San Rafael High School District to the new unified Dixie District. Currently, all of the students residing within the boundaries of either the Dixie Elementary School District or the San Rafael Elementary School District are entitled to attend high school within the San Rafael High School District at either San Rafael High School or Terra Linda High School.

The petition to create a unified Dixie District would move the administrative control of Terra Linda High School from the San Rafael High School District to the new unified Dixie District. Under the petition, none of the physical sites of the districts would be relocated. Rather, the students from the new unified Dixie District would continue to attend Terra Linda High School, which would be operated by the new unified district rather than the San Rafael High School District. The SDO does not make the ultimate decision regarding the petition, but makes a recommendation to the State Board of Education, which makes a final decision on the matter.

According to the Marin County Registrar of Voters, there are approximately 28,888 registered voters living in the First Supervisorial District, 12,477 of which also live within the boundaries of the Dixie School District. According to the Marin County Auditor-Controller's Office, there are more than 6,400 developed residential parcels in the Dixie District and 15,223 developed residential parcels in the First Supervisorial District.

ANALYSIS

Section 87100 of the Act prohibits a public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest. In order to determine whether the prohibition in section 87100 applies to a given decision, Regulation 18700 provides the following eight-step analysis.

Step One: Is the individual a “public official?”

As members of the SDO, you and Ms. Ohm are “member[s], officer[s], employee[s] or consultant[s] of a state or local government agency” and, therefore, are “public official[s]” subject to the conflict of interest provisions of the Act. (Section 82048; Regulation 18701(a).)

Step Two: Is the public official making, participating in making, or influencing a governmental decision?

A public official “makes a governmental decision” when the official, acting within the authority of his or her office or position, votes on a matter, obligates or commits his or her agency to any course of action, or enters into any contractual agreement on behalf of his or her agency. (Regulation 18702.1.) A public official “participates in a governmental decision” when, acting within the authority of his or her position and without significant substantive review, the official negotiates, advises or makes recommendations to the decision-maker regarding the governmental decision. (Regulation 18702.2.) A public official is attempting to use his or her official position to influence a decision if, for the purpose of influencing, the official contacts or appears before any member, officer, employee, or consultant of his or her agency. (Regulation 18702.3.) For purposes of the conflict of interest provisions of the Act, a public official can avoid a conflict by abstaining from making, participating in making, and influencing a decision in which the official has a financial interest.

Because the SDO will make a recommendation regarding the petition to create the unified school district to the State Board of Education, the ultimate decision-making authority, you and Ms. Ohm are participating in making a governmental decision.

Step Three: Does the public official have economic interests?

The Act’s conflict of interest provisions apply only to conflicts of interest arising from economic interests. The “economic interests” from which conflicts of interest may arise are defined in Regulations 18703-18703.5. Identifying which, if any, of these economic interests you have is the third step in analyzing whether you have a conflict of interest under the Act. (See Regulation 18700(b)(3).) There are six kinds of economic interests:

- A public official has an economic interest in a business entity in which he or she has a direct or indirect² investment of \$2,000 or more (Section 87103(a); Regulation 18703.1(a));
- A public official has an economic interest in real property in which he or she has a direct or indirect interest of \$2,000 or more (Section 87103(b); Regulation 18703.2);

² An indirect investment or interest in real property means, among other things, any investment or interest owned by the official’s immediate family. (Section 87103.)

- A public official has an economic interest in any source of income, including promised income, which aggregates to \$500 or more within 12 months prior to the decision (Section 87103(c); Regulation 18703.3);
- A public official has an economic interest in a business entity in which he or she is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d); Regulation 18703.1(b));
- A public official has an economic interest in any source of gifts to him or her if the gifts aggregate to \$320 or more within 12 months prior to the decision (Section 87103(e); Regulation 18703.4);
- A public official has an economic interest in his or her personal finances (expenses, income, assets, or liabilities), as well as those of his or her immediate family. (Section 87103; Regulation 18703.5).

Because you and Ms. Ohm presumably have interests of \$2,000 or more in your personal residences, you each have economic interests in real property.

Step Four: Are the public official's economic interests directly or indirectly involved in the decision?

Real property in which a public official has an economic interest is directly involved in a governmental decision if that real property is the subject of the governmental decision, or if any part of that real property is located within 500 feet of the boundaries (or proposed boundaries) of the real property that is the subject of the governmental decision. (Regulation 18704.2(a).) Because your homes are within the boundaries of the proposed unified Dixie School District, you and Ms. Ohm both have property that is directly involved in the decision on the petition to form the new district.

Steps Five and Six: Will the financial effect of the decision on the official's economic interest be material and reasonably foreseeable?

Once a public official identifies his or her relevant economic interests, the official must evaluate whether it is reasonably foreseeable that the decision will have a material financial effect on any of those economic interests. This determination takes two steps. First, the official must find and apply the applicable materiality standard set forth in Commission regulations. (Regulation 18700(b)(5), Regulation 18705, et seq.)

The materiality standard applicable to an interest in real property that is directly involved with a governmental decision is set forth in Regulation 18705.2(a), which states:

“Real property, other than leaseholds. The financial effect of a governmental decision on the real property is presumed to be material. This presumption may be rebutted by proof that it is not reasonably foreseeable that

the governmental decision will have any financial effect on the real property.”

After finding the applicable materiality standard, the official must then decide whether it is reasonably foreseeable that the standard will be met. (Regulation 18700(b)(6).)

Regulation 18706 provides that “[a] material financial effect on an economic interest is reasonably foreseeable, within the meaning of Government Code section 87103, if it is substantially likely that one or more of the materiality standards (see Cal. Code Regs., tit. 2 §§ 18704, 18705) applicable to that economic interest will be met as a result of the governmental decision.” A financial effect need not be a certainty to be considered reasonably foreseeable. (*In re Thorner* (1975) 1 FPPC Ops. 198.) “When real property in which a public official has an economic interest is directly involved in a governmental decision, the materiality standard is strict: any reasonably foreseeable financial effect – even a penny’s worth – on the real property is deemed material.” (*Gutierrez Advice Letter*, No. I-00-050.)

Your letter states that “[i]t seems unlikely that approval of the petition will affect residential property values in any material manner.” However, you acknowledge that people, including yourself, do decide to buy their homes based on the reputation of the Dixie schools. Further, Bruce Raful, another SDO member, has provided several real estate listings which tout location of the properties within the Dixie district as a selling point for the homes. Therefore, it is reasonably foreseeable that the creation of a unified Dixie School District will have some financial effect on your property, as well as on Ms. Ohm’s property.

Because it is reasonably foreseeable that your property values will be affected, and because *any* effect on the value is material (Reg. 18705.2(a)), you and Ms. Ohm have a conflict of interest and may not participate in the decision regarding the formation of the new unified district unless an exception applies.

Step Seven: Public Generally Exception

The facts set forth in your letter require the consideration of the following exception to the conflict of interest rules:

“Notwithstanding a determination that the reasonably foreseeable financial effect of a governmental decision on a public official’s economic interests is material, a public official does not have a disqualifying conflict of interest in the governmental decision if the governmental decision affects the public official’s economic interests in a manner which is indistinguishable from the manner in which the decision will affect the public generally as set forth in Title

2, California Code of Regulations, sections 18707.1-18707.9."

The standard applicable to your situations is set forth in Regulation 18707.1:

"(a) Except as provided in Government Code sections 87102.6 and 87103.5, the material financial effect of a governmental decision on a public official's economic interests is indistinguishable from its effect on the public generally if both subdivisions (b)(1) and (b)(2) of this regulation apply.

"(b) Significant Segments and Indistinguishable Effects.

"(1) Significant Segment. The governmental decision will affect a 'significant segment' of the public generally if any of the following are affected as set forth below:

...

"(B) Real Property. For decisions that affect a public official's real property interest, the decision also affects:

"(i) Ten percent or more of all property owners or all homeowners in the jurisdiction of the official's agency or the district the official represents; or

"(ii) 5,000 property owners or homeowners in the jurisdiction of the official's agency.

...

"(2) Substantially the Same Manner: The governmental decision will affect a public official's economic interest in substantially the same manner as it will affect the significant segment identified in subdivision (b)(1) of this regulation."

(Reg. 18707.1(a)-(b).)

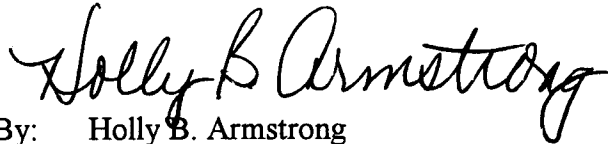
You have stated that there are more than 6,400 developed residential parcels in the Dixie District and 15,233 developed residential parcels in the First Supervisorial District, which you represent. Based on these figures, the decision regarding the petition to form the new unified Dixie School District will affect your economic interest, as well as Ms. Ohm's economic interest, in substantially the same manner as it will affect the

public generally. Therefore, neither you nor Ms. Ohm has a disqualifying conflict of interest, and you may participate in the decision regarding the petition.³

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
General Counsel



By: Holly B. Armstrong
Staff Counsel, Legal Division

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³ Step Eight is the "legally required participation" exception. Because the "public generally" exception applies to you and Ms. Ohm, and because you have presented no facts to indicate that the "legally required participation" exception might be applicable, we have omitted any analysis of Step Eight.

2022 ROSTER OF CCSDO COMMITTEE MEMBERS

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