

## **CHAPTER 5**

# **REORGANIZATION OF SCHOOL DISTRICTS IN CALIFORNIA**

This chapter describes step by step the process of forming or abolishing school districts, consolidating school districts, transferring territory from one district to another, and unifying school districts. Anyone involved in school district organization, from petitioners to members of the State Board of Education, will find this chapter useful in understanding legal requirements.

The complete process is outlined, including reorganization proposals initiated by:

- A 25 percent petition (or a governing board resolution)
- A 10 percent petition (or a resolution from certain local agencies)
- County committee plans and recommendations

Following each chart, the major requirements of reorganization proposals and the review and approval process are discussed in detail. Section A provides a concise overview of the procedures used in reorganizing school districts. At the end of the chapter are lists of tasks to aid county office staff and county committees in tracking the recommended and required tasks associated with district reorganization.

### **NOTES:**

The guidance in this handbook is not binding on local educational agencies or other entities. Except for statutes, regulations, and court decisions that are referenced herein, the handbook is exemplary, and compliance with it is not mandatory (see California *Education Code* Section 33308.5).

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## A. Introduction

### 1. Definition of Reorganization

An "action to reorganize districts" (*Education Code* Section [EC] 35111) means either of the following:

- a. An action to form a new school district, which is accomplished through any of, or any combination of, the following:
  1. Dissolving two or more existing school districts of the same kind and forming one or more new school districts of that same kind from the entire territory of the original districts.
  2. Forming one or more new school districts of the same kind from all or parts of one or more existing school districts of that same kind.
  3. Unifying school districts, including the consolidation of all or part of one or more high school districts with all or part of one or more component school districts into one or more new unified school districts.
  4. Deunifying a school district, including the conversion of all or part of a unified school district into one or more new high school districts, each with two or more new component districts.
- b. An action to transfer territory, including the transfer of all or part of an existing school district to another existing school district.

Lapsations of school districts are local actions to dissolve a school district and annex its territory to one or more adjacent districts. Districts are required to lapse because of low student enrollment, low numbers of voters residing in the district, or other issues that the district and the county superintendent of schools determine will threaten the district's long-term viability. Although lapsation is a reorganization of school districts, it is not included in the *Education Code* Section 35511 definition for the following reasons:

- Lapsations are not initiated through the same processes as are the *EC* Section 35511 defined actions to reorganize districts.
- Lapsations are not subject to the same timelines, hearing requirements, and local processes as are the actions defined in *EC* 35511.
- Lapsations are handled entirely at the local level and are not subject to review or action by the State Board of Education.

Lapsations, however, are subject to certain laws governing the *EC* 35111 defined actions to reorganize districts (see *EC* 35787).

Certain changes to school district boundaries are not considered reorganizations of districts. These changes are merely corrections and relocations of boundary lines that conflict or are incorrectly described or that are indefinite or conflict with lines of assessment because of the resubdivision of land or other property change. In these cases the board of supervisors may correct and relocate the boundaries to follow definite, established property lines. These changes must conform as nearly as practicable to the general location of the former boundaries and must be made in such a manner that most of the affected parcel or property determines the district in which the parcel or property will be located. (*EC 2600*) (When such changes are made, local, county, and state government agencies are required to be notified. See Section C, item 8.)

## **2. Basic Types of Reorganization**

Four types of reorganization are most common:

- a. Territory transfers: Transfer of a portion (or portions) or all of one district to another.
- b. Formations of new school districts: Typically, these are unifications that involve (1) reorganizing entire elementary and high school districts or portions of them into unified districts serving kindergarten through grade twelve or (2) reorganizing or splitting an existing unified district into two or more new unified school districts. Although unification is the most frequent new district formation, new elementary or high school districts also may be formed from combinations of existing districts.
- c. Unifications with components (i.e., Thompson unifications): Unifications where one or more of the feeder elementary school districts are completely within a high school district and are excluded from action to unify the portion of the high school district in which it is contained. The governing board of the elementary school district must receive approval for exclusion from the agency approving the unification (either the county committee on school district organization or the State Board of Education). (*EC 35542*)
- d. Lapsations of districts: Lapsations of school districts are local actions to dissolve a school district and annex its territory to one or more adjacent districts.

## **3. Overall Process**

This chapter discusses the major requirements and procedures of the reorganization proposal, review, and approval process. It describes the ways in which proposals may be initiated, reviewed by the county committee, and presented at public meetings and the steps involved in bringing an action to approval with or without State Board of Education involvement.

Section B, “Process: Quick-Reference Charts,” provides a succinct reference for readers to learn quickly what is involved in the various types of reorganization proposals. Each type of proposal is summarized in an outline that identifies the necessary steps of the process, including important legal references. The Reference Charts depict the sequence of those necessary steps. The seven types of reorganization proposals described in these Reference Charts are:

- a. Territory transfers initiated by owners of uninhabited territory, by a 25 percent petition, or by a district governing board. A 25 percent petition process is used when the owners of uninhabited territory or the district governing board or 25 percent of the registered voters in the affected area petition to transfer territory or when registered voters equaling 8 percent of the number of votes cast in the last gubernatorial election petition to reorganize a district with over 200,000 ADA into two or more districts.
- b. Territory transfers initiated by a 10 percent petition, certain local agencies (e.g., county board of supervisors, city council, local agency formation commission), or county committee. A 10 percent petition process is used when county committees, certain local agencies, or 10 percent of the registered voters in an entire school district wish to transfer territory or when 5 percent of the registered voters petition to reorganize a district with over 200,000 ADA into two or more districts.
- c. Unifications initiated by owners, a 25 percent petition, district governing boards, or an 8 percent petition in districts with over 200,000 ADA.
- d. Unifications initiated by a 10 percent petition, certain local agencies, a county committee, or a 5 percent petition in districts with over 200,000 ADA.
- e. Reorganizations (unifications or territory transfers) initiated by the county committee or under the direction of the State Board of Education.
- f. Unifications under circumstances allowing approval by the county committee.
- g. Lapsations of school districts by a county committee. Because of the relative simplicity of this process, there is no corresponding flowchart.

Note that the terms “unifications” and “formations of new school districts” are used interchangeably throughout this handbook. Formations of new elementary and high school districts also are “formations of new school districts.” However, such reorganizations historically have been quite rare; so the term “unification,” over time, has come to be synonymous with “formation of a new school district.”

The “minimum threshold” (*EC 35753*) conditions for approval of reorganization proposals are presented in Chapter 6.

Section C, “Process: Expanded Details,” presents a more detailed description of the reorganization process.

Section D, “Environmental Concerns,” provides information on the responsibilities of any public agency undertaking a project that could potentially have an impact on the environment (CEQA requirements).

#### **4. Reorganization Involving Two or More Counties**

In any action to reorganize school districts that are located in more than one county, the same procedures are required and shall take place in both counties. Hearings may be conducted in each county or jointly in either county, as it appears most convenient and practical. Any action regarding the reorganization may be taken during or after a joint hearing. If separate hearings are held, action may be taken only after findings of the hearings in each county have been transmitted to the other counties. (*EC* 35520 through 35524)

If county committee plans and recommendations for district reorganization (pursuant to *EC* 35720 et seq.) involve territory under the jurisdiction of the superintendent of an adjacent county, the county committee of the adjacent county is requested to concur with the plans and recommendations. Regardless of concurrence, or after 60 days’ notice of nonconcurrence, the plans and recommendations must be submitted to the State Board of Education for a decision. (*EC* 35723, 35724)

See Appendix C for further details of the procedures that must be followed when two or more counties are involved.

#### **5. State Board of Education Waiver Authority**

As noted in Chapter 4, the State Board of Education has authority to waive many provisions of the *Education Code* and accompanying regulations (*EC* 33050 et seq.). Almost all school district organization procedures described in this chapter may be waived if the State Board of Education approves a properly completed local request for waiver. Historically, the most common requests by districts are to waive required elections, effective dates of reorganizations, and the conditions to initiate lapsation. However, legislation approved in 2021 (Section 17 of Assembly Bill 130 [Chapter 44, Statutes of 2021]) provides greater local control over lapsation conditions and requirements and should eliminate much of the local need for State Board of Education waivers related to the lapsation process.

## **B. Process: Quick-Reference Chart 5.1**

### **TERRITORY TRANSFERS INITIATED BY OWNERS OF INHABITED TERRITORY, A 25 PERCENT PETITION, OR DISTRICT GOVERNING BOARDS (See Flowchart A)**

#### **1. Initiation of Proposals for Territory Transfer (*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.

#### **2. Determination of Sufficiency and Transmittal of Petition within 30 Days of Receipt (*EC 35704*)**

- a. County superintendent must determine the sufficiency of the petition.
- b. The County Superintendent typically works with county elections officials to determine the sufficiency of voter petitions.
- c. The county committee and the State Board of Education must be notified when a valid petition is received.

#### **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.

- b. County committee may add to the petition any of the appropriate provisions specified in *EC* sections 35730 through 35738.

#### **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. CEQA Review (*Public Resources Code* sections 21000 through 21177)**

The county committee must comply with the requirements of CEQA.

#### **6. County Committee Study of the Territory Transfer (*EC* 35753)**

The county committee study must determine the impact of the territory transfer on the conditions listed in *EC* 35753.

#### **7. Approval Process (*EC* 35706, 35709, 35710, 35710.1)**

- a. If all the conditions of *EC* 35753 are substantially met, the county committee may approve or disapprove the petition to transfer territory within 120 days of the first public hearing or within 120 days of complying with CEQA if the county committee determines that the territory transfer is a project under CEQA.
- b. If any of the following three conditions exist, the county committee may approve the territory transfer without an election:
  - i. The territory is uninhabited, the majority of the owners of the territory consent to the transfer, and the governing boards of all affected school districts consent to the transfer.
  - ii. The territory is inhabited; the territory constitutes less than 10 percent of the assessed valuation of the original district from which the territory is being transferred, and the governing boards of all affected districts consent to the transfer.
  - iii. The election area for the territory transfer, as determined pursuant to *EC* 35732, is uninhabited territory as described in *Education Code* Section 35517.

- c. For all other territory transfers, if the county committee approves the transfer, the county superintendent must call an election in an area determined by the county committee.

## **8. Appeals**

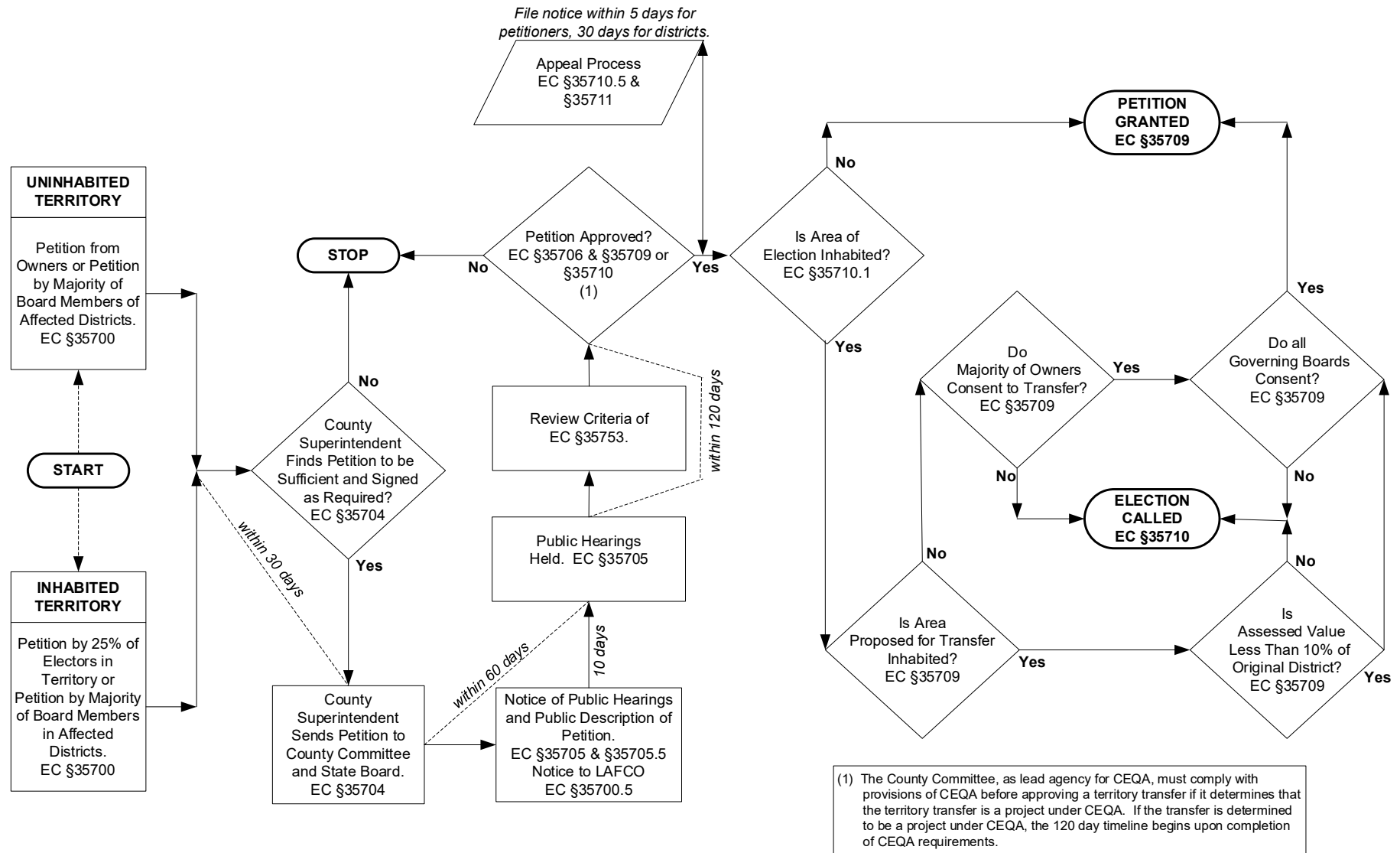
An action by the county committee approving a petition to transfer territory may be appealed to the State Board of Education by the chief petitioners or one or more affected school districts. (*EC 35710.5*)

- a. Appellants, except for affected school districts, shall file with the county committee a notice of appeal within five days after the final action of the county committee.
- b. Affected school districts shall file with the county committee a notice of appeal within 30 days after the final action of the county committee.
- c. Within 15 days after filing the notice of appeal, the appellants shall file with the county committee a statement of reasons and factual evidence.
- d. Within 15 days of receipt of the statement of reasons and factual evidence, the county committee shall send to the State Board of Education the statement and the complete administrative record of the county committee proceedings, including minutes of the oral proceedings.

## **9. Appeals regarding an adverse effect on racial or ethnic integration**

Any person questioning the finding of the county committee that the proposed reorganization will not adversely affect the racial or ethnic integration of the schools of the districts affected may appeal a decision based on that finding to the State Board of Education within 30 days after the final action of the county committee. (*EC 35711*)

# TERRITORY TRANSFER INITIATED BY OWNERS, 25% PETITION, OR DISTRICT GOVERNING BOARDS



## **B. Process: Quick-Reference Chart 5.2**

### **TERRITORY TRANSFER INITIATED BY 10% PETITION OR LOCAL AGENCY (See Flowchart B)**

#### **1. Initiation of Proposals for Territory Transfer (*EC 35720, EC 35721*)**

- a. Petition signed by at least 10 percent of the registered voters of the entire school district; or,
- b. Petition signed by at least 5 percent of the registered voters to reorganize a district with over 200,000 ADA into two or more districts; or,
- c. Resolution approved by a majority of the members of a city council, county board of supervisors, governing body of a special district, or local agency formation commission.

#### **2. Preliminary Hearing (*EC 35721*)**

- a. A preliminary hearing of the petition shall be held at a regular or special meeting. Following the hearing, the county committee must grant or deny the petition.
- b. If the petition is granted, the county committee must adopt a tentative recommendation and may add to the petition any of the appropriate provisions specified in *EC* sections 35730 through 35738.

#### **3. Public Hearing (*EC 35720.5, 35721*)**

A public hearing in the area proposed for reorganization must be held by the county committee. The public hearing should be held no later than 60 days after the committee's adoption of a tentative recommendation.

#### **4. Notice of Hearing (*EC 35705, 35705.5, 35720.5*)**

The county committee shall send a notice to the governing board of each school district involved and to the chief petitioners as appropriate at least ten days prior to the hearing. The notice must contain information about the time, place, and purpose of the hearing. The notice of the public hearing must be either:

- a. Posted at three public places in the school districts involved and at every school in each school district involved, or
- b. Published in a newspaper of general circulation published within the school district, or, if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district.

## **5. Notice to Local Agency Formation Commission (*EC 35721.5*)**

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.

## **6. CEQA Review (*Public Resources Code* sections 21000 through 21177)**

The county committee must comply with the requirements of CEQA.

## **7. County Committee Study of the Territory Transfer (*EC 35722, 35709, 35710*)**

The county committee study must determine the impact of the territory transfer on the conditions listed in *EC 35753*.

## **8. Approval Process (*EC 35709, 35710, 35710.1, 35722*)**

- a. Within 120 days of the first public hearing or within 120 days of complying with CEQA, if the county committee determines that the territory transfer is a project under CEQA, the county committee should adopt a final recommendation.
- b. If any of the following three conditions exist, the county committee may approve the territory transfer *without* an election:
  - i. The territory is uninhabited, the majority of the owners of the territory consent to the transfer, and the governing boards of all affected school districts consent to the transfer.
  - ii. The territory is inhabited, the territory constitutes less than 10 percent of the assessed valuation of the district from which the territory is being transferred, and the governing boards of all affected districts consent.
  - iii. The election area for the territory transfer, as determined pursuant to *EC 35732*, is uninhabited territory as described in *Education Code* Section 35517.

- c. For all other territory transfers, if the county committee approves the transfer, the county superintendent must call an election in the area determined by the county committee.

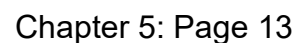
## **9. Appeal**

An action by the county committee approving a petition to transfer territory may be appealed to the State Board of Education by the chief petitioners or one or more affected school districts. (*EC 35710.5*)

- a. Appellants, except for affected school districts, shall file with the county committee a notice of appeal within five days after the final action of the county committee.
- b. Affected school districts shall file with the county committee a notice of appeal within 30 days after the final action of the county committee.
- c. Within 15 days after filing the notice of appeal, the appellants shall file with the county committee a statement of reasons and factual evidence.
- d. Within 15 days of receipt of the statement of reasons and factual evidence, the county committee shall send to the State Board of Education the statement and the complete administrative record of the county committee proceedings.

## **10. Appeals regarding an adverse effect on racial or ethnic integration**

Any person questioning the finding of the county committee that the proposed reorganization will not adversely affect the racial or ethnic integration of the schools of the districts affected may appeal a decision based on that finding to the State Board of Education within 30 days after the final action of the county committee. (*EC 35711*)



## **B. Process: Quick-Reference Chart 5.3**

### **UNIFICATIONS INITIATED BY OWNERS OF UNINHABITED TERRITORY, A 25 PERCENT PETITION, OR DISTRICT GOVERNING BOARDS (See Flowchart C)**

#### **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.

#### **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.
- c. The county committee and the State Board of Education must be notified when a valid petition is received.

#### **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.

- b. County committee may add to the petition any of the appropriate provisions specified in *Education Code* sections 35730 through 35738.

#### **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.

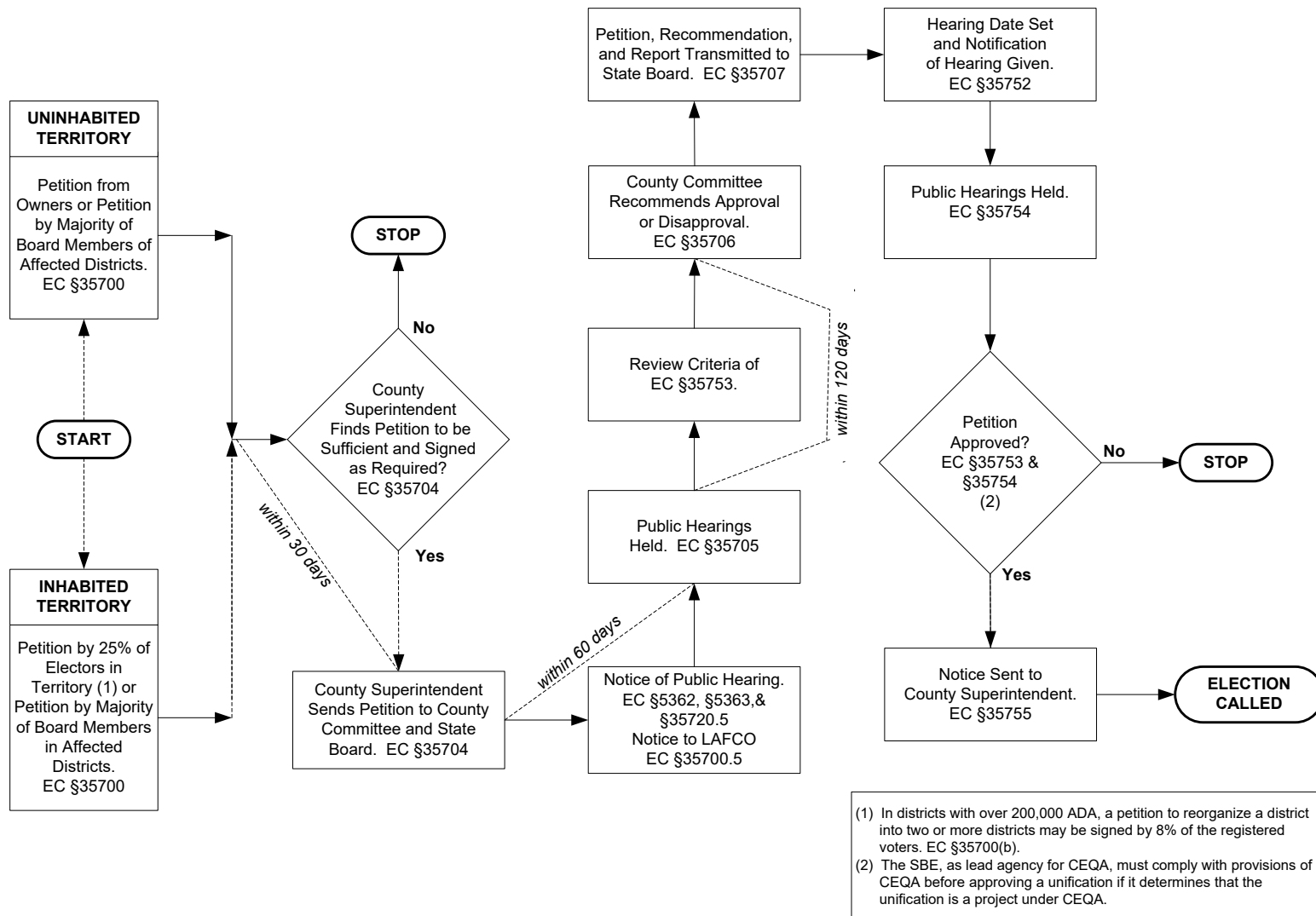
#### **5. County Committee Study of the Unification (EC 35753)**

The county committee must determine the impact of the unification on the conditions listed in *Education Code* Section 35753.

#### **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.

# UNIFICATION INITIATED BY OWNERS, 25% PETITION, OR DISTRICT GOVERNING BOARDS



## **B. Process: Quick-Reference Chart 5.4**

### **UNIFICATION INITIATED BY 10% PETITION OR LOCAL AGENCY (See Flowchart D)**

#### **1. Initiation of Proposals for Unification (*EC 35720, EC 35721*)**

- a. Petition signed by at least 10 percent of the registered voters of the entire school district; or,
- b. Petition signed by at least 5 percent of the registered voters to reorganize a district with over 200,000 ADA into two or more districts; or,
- c. Resolution approved by a majority of the members of a city council, county board of supervisors, governing body of a special district, or local agency formation commission.

#### **2. Preliminary Hearing (*EC 35721*)**

- a. Following the hearing, the county committee must grant or deny the petition.
- b. If the petition is granted, the county committee must adopt tentative plans and recommendations and hold one or more public hearings.

#### **3. Public Hearing (*EC 35720.5, 35721*)**

The county committee is required to hold a public hearing in the area proposed for reorganization. The public hearing should be held no later than 60 days after adopting a tentative recommendation.

#### **4. Notice of Hearing (*EC 35705, 35705.5, 35720.5*)**

The county committee shall send a notice to the governing board of each school district involved and to the chief petitioners as appropriate at least ten days prior to the hearing. The notice must contain information about the time, place, and purpose of the hearing. The notice of the public hearing must be either:

- a. Posted at three public places in the school districts involved and at every school in each school district involved, or

- b. Published in a newspaper of general circulation published within the school district, or, if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district.

A description of any additions and amendments to the petition be made available to the public and to the governing boards affected by the petition at least ten days before the public hearing. The county committee may add to the petition any of the appropriate provisions specified in *Education Code* sections 35730 through 35738.

## **5. Notice to Local Agency Formation Commission (EC 35721.5)**

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.

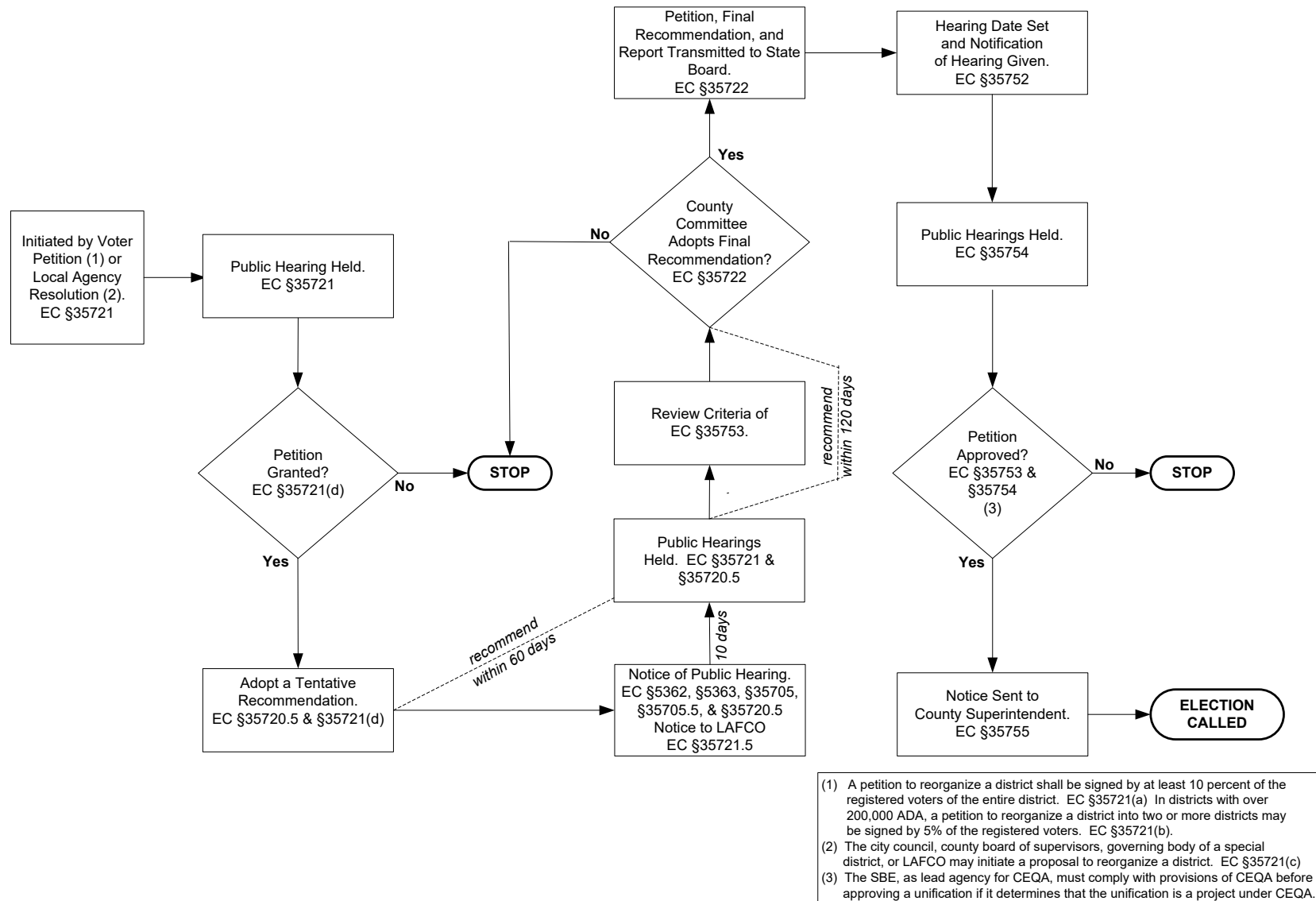
## **6. County Committee Study of the Unification (EC 35706, 35709, 35710, 35722)**

The county committee study must determine the impact of the unification on the conditions listed in *Education Code* Section 35753.

## **7. Approval Process (EC 35722, 35752 through 35755)**

- a. Within 120 days of the first public hearing, the county committee shall make a final 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 petition, reports 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.

# UNIFICATION INITIATED BY 10% PETITION OR LOCAL AGENCY



## **B. Process: Quick-Reference Chart 5.5**

### **COUNTY COMMITTEE PLANS AND RECOMMENDATIONS FOR REORGANIZATION (See Flowchart E)**

#### **1. Proposal formulated under the direction of SBE (*EC 35720*)**

#### **2. Public Hearing (*EC 35720.5, 35721*)**

The county committee is required to hold a public hearing in the area proposed for reorganization. The public hearing should be held no later than 60 days after adopting a tentative recommendation.

#### **3. Notice of Hearing (*EC 35705, 35705.5, 35720.5*)**

The county committee shall send a notice to the governing board of each school district involved and to the chief petitioners as appropriate at least ten days prior to the hearing. The notice must contain information about the time, place, and purpose of the hearing. The notice of the public hearing must be either:

- a. Posted at three public places in the school districts involved and at every school in each school district involved, or
- b. Published in a newspaper of general circulation published within the school district, or, if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district.

A description of any additions and amendments to the petition must be made available to the public and to the governing boards affected by the reorganization at least ten days before the public hearing. The county committee may add to the petition any of the appropriate provisions specified in *Education Code* sections 35730 through 35738.

#### **4. Notice to Local Agency Formation Commission (*EC 35721.5*)**

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.

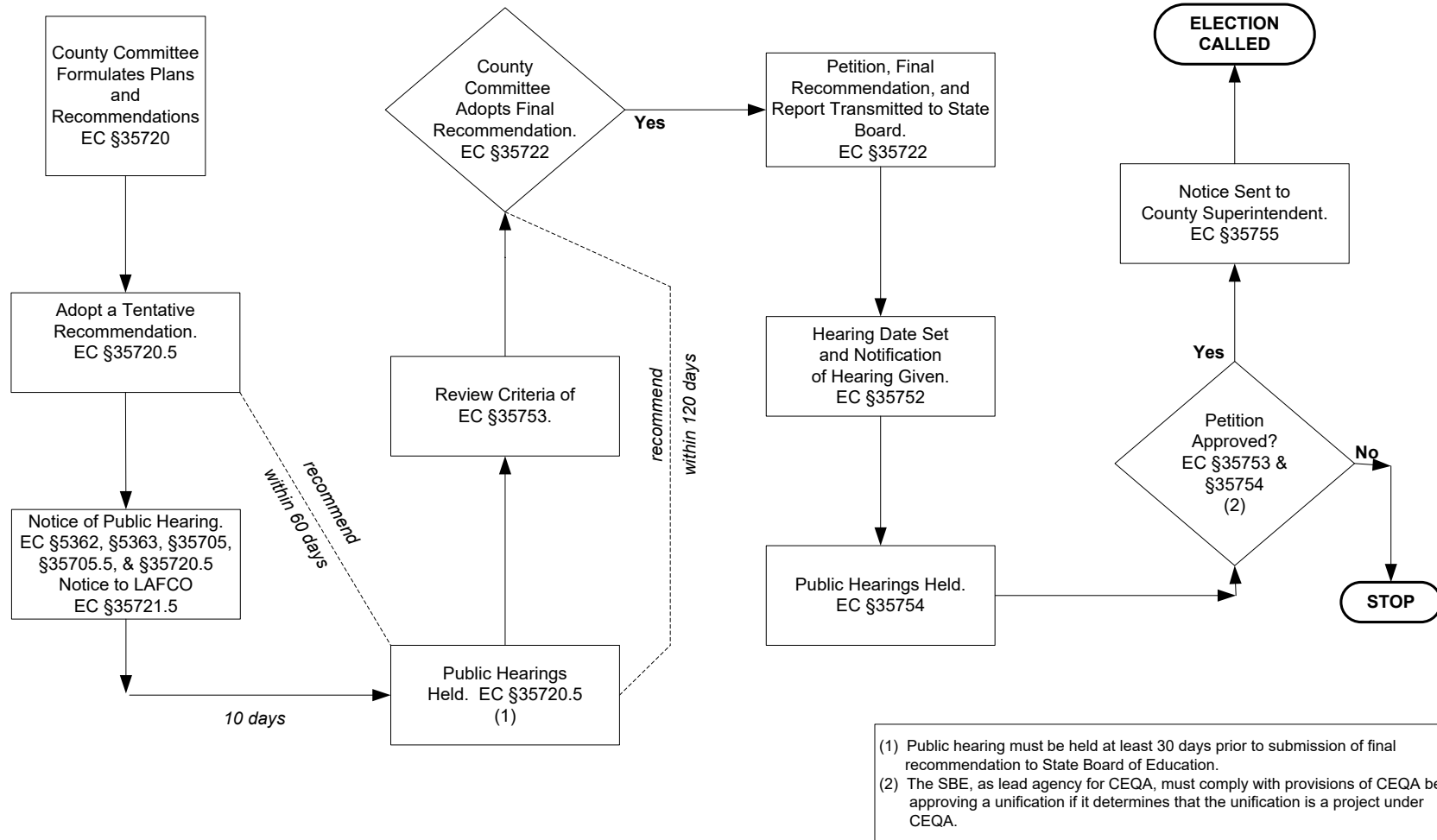
## **5. County Committee Study of the Reorganization (EC 35706, 35709, 35710, 35722)**

The county committee study must determine the impact of the reorganization on the conditions listed in *Education Code* Section 35753.

## **6. Approval Process (EC 35722, 35752 through 35755)**

- a. Within 120 days of the first public hearing, the county committee should make a final recommendation to approve or disapprove the plan or petition.
- b. The county committee may make a recommendation regarding the area of election, if required.
- c. The county committee transmits reports 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 plan or 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.

# COUNTY COMMITTEE PLANS AND RECOMMENDATIONS



## **B. Process: Quick-Reference Chart 5.6**

### **UNIFICATION APPROVED BY THE COUNTY COMMITTEE (See Flowchart F)**

#### **1. Proposals Eligible for Approval by County Committee**

- a. Petitions for unification under *EC* 35700 (see Quick Reference Chart 5.3, step 1); or
- b. Tentative recommendation adopted by the county committee pursuant to *EC* 35721 (see Quick Reference Chart 5.4, step 2[b]).

#### **2. Conditions Required for Approval by County Committee (*EC* 35710[b])**

- a. County superintendent grants approval authority to the county committee.
- b. The governing board of each affected school district consents to the petition.
- c. The secretary of the county committee enters into an agreement for all affected districts to share costs of complying with the California Environmental Quality Act.

#### **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.
- b. County committee may add to the petition any of the appropriate provisions specified in *EC* sections 35730 through 35738.

#### **4. Notice to Local Agency Formation Commission (*EC* 35700.5, 35721.5)**

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 LAFCO for the affected area.

## **5. CEQA Review (*Public Resources Code* sections 21000 through 21177)**

The county committee must determine the impact that the reorganization may have on the environment prior to approving the unification.

## **6. County Committee Study of the Unification (*EC 35753*)**

The county committee study must determine the impact of the unification on the conditions listed in *Education Code* Section 35753.

## **7. Approval Process (*EC 35710*)**

- a. If the conditions of *Education Code* Section 35710 are met, the county committee may approve or disapprove the unification within 120 days of the first public hearing or within 120 days of CEQA compliance if CEQA is required.
- b. If the county committee disapproves the unification, the petition is transmitted to the State Board of Education pursuant to *Education Code* Section 35707(a) and heard by the State Board of Education pursuant to *Education Code* Section 35708. The approval process then follows steps 6(d) through 6(g) of Quick-Reference Chart 5.3. In such cases, the State Board of Education becomes the lead agency for purposes of CEQA.
- c. If the county committee approves the unification, the county superintendent must call an election in an area determined by the county committee.

## **8. Appeals**

An action by the county committee approving a petition for unification may be appealed to the State Board of Education by the chief petitioners or one or more affected school districts. (*EC 35710.5*)

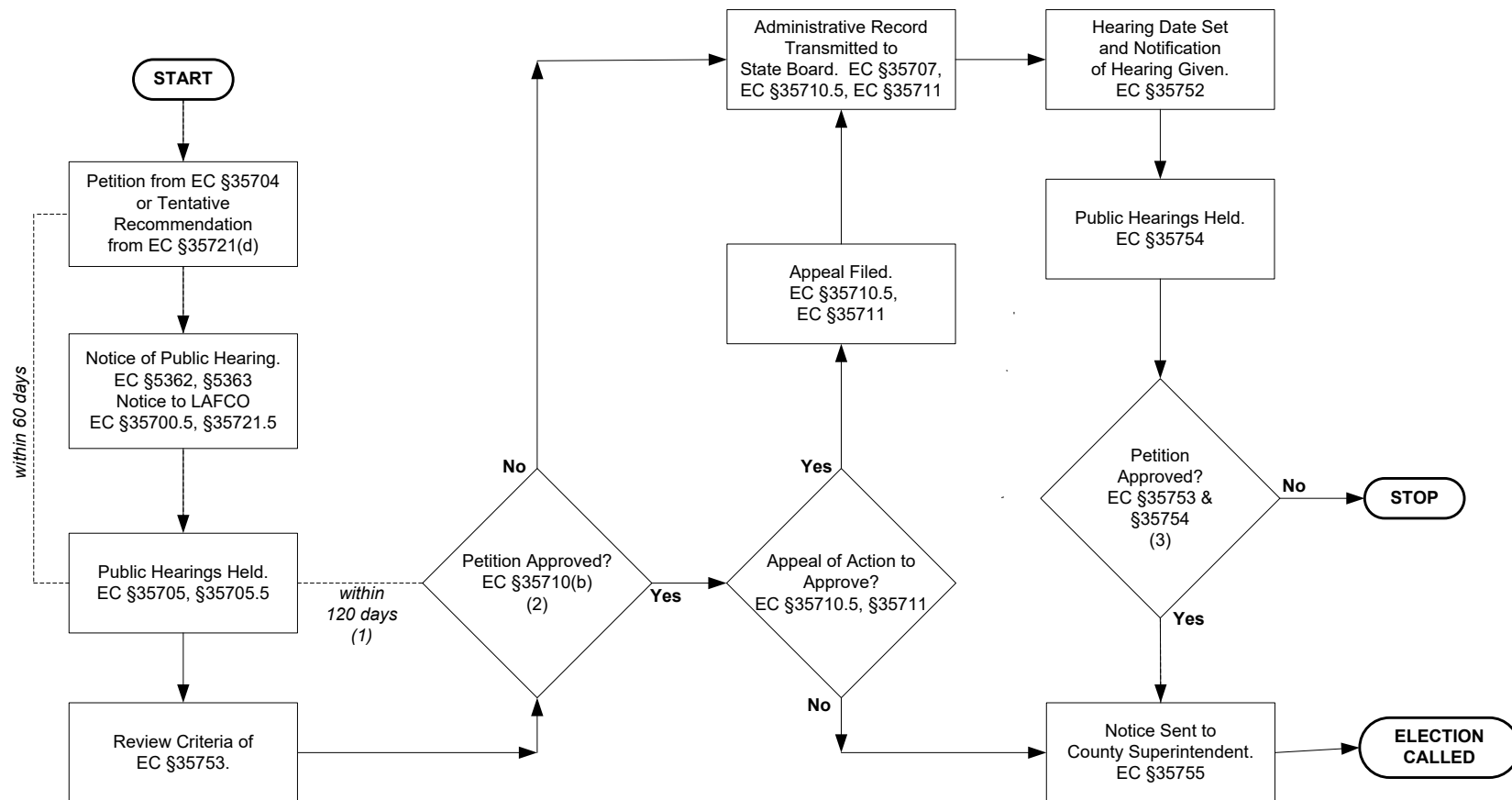
- a. Appellants, except for affected school districts, shall file with the county committee a notice of appeal within five days after the final action of the county committee.
- b. Affected school districts shall file a notice of appeal within 30 days after the final action of the county committee.
- c. Within 15 days after filing the notice of appeal, appellants shall file a statement of reasons and factual evidence.
- d. Within 15 days of receipt of the statement of reasons and factual evidence, the county committee shall send to the State Board of Education the

statement and the complete administrative record of the county committee proceedings.

## **9. Appeals regarding an adverse effect on racial or ethnic integration**

Any person questioning the finding of the county committee that the proposed reorganization will not adversely affect the racial or ethnic integration of the schools of the districts affected may appeal a decision based on that finding to the State Board of Education within 30 days after the final action of the county committee. (*EC 35711*)

# UNIFICATION APPROVED BY COUNTY COMMITTEE



- (1) If compliance with CEQA is required, the 120 day period commences after CEQA compliance (EC §35706[b]).
- (2) The County Committee must comply with CEQA requirements prior to approval of petition.
- (3) The State Board of Education must comply with CEQA requirements prior to approval of petition when petition was disapproved by the County Committee.

## B. Process: Quick-Reference Chart 5.7

### LAPSATION OF SCHOOL DISTRICTS

#### 1. Conditions for lapsation of districts (*EC 35780[a]*)

- a. The number of registered electors in the district is below six; or
- b. The average daily attendance of students in the school or schools maintained by the district<sup>1</sup> is less than six<sup>2</sup> in kindergarten through grade 8; or
- c. The average daily attendance of students in the school or schools maintained by the district<sup>1</sup> is less than 11<sup>2</sup> in grades 9 to 12.
- d. The county board of education may defer lapsation of any school district for one year upon resolution of the governing board of the school district and written concurrence from the county superintendent of schools. The *Education Code* contains no limitation to the number of times a county board of education may approve a one-year lapsation deferment for any school district—it is the opinion of the California Department of Education that no such limit should be assumed.

#### 2. Other conditions for lapsation of districts (*EC 35780[b], [c], and [d]*)

- a. A newly organized school district that has been unable to provide schools necessary to provide instructional services of the district to all resident students within five years of the effective date of the reorganization (lapsation initiated upon direction of the State Board of Education).
- b. A school district that has no facilities or sites on which to maintain any school in the district may be lapsed.
- c. A school district also may be lapsed upon resolution approved by a majority of the members of the governing board of the district and written concurrence of the county superintendent.

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<sup>1</sup> When there are charter schools in the district, the County Committee will need to determine if the charter school is a school “maintained by the district.”

<sup>2</sup> *EC* Section 46303 addresses fractional units of average daily attendance (i.e., “rounding”).

### **3. Lapsation process**

Any school district meeting one of the conditions in the above sections 1 and 2 shall be lapsed by the county committee as follows:

- a. Within 30 to 45 days prior to the end of the school year, the county committee will conduct a public hearing to consider the conditions related to lapsation.
- b. Following the public hearing, and at least 30 days before the end of the school year, the county committee will order the territory of the lapsed district annexed to one or more adjoining school districts, as determined by the county committee to be in the best interests of the adjoining districts and residents of the lapsed district.
- c. The order of the county committee to lapse the district may contain any of the appropriate provisions specified in *EC* sections 35730 to 35738.
- d. The lapsation and subsequent annexation(s) will be effective on the July 1 following the order of the county committee (the first day of the next school year).

### **4. Actions following lapsation**

The lapsation and subsequent annexation(s) are effective without the required filing of maps and boundary descriptions of the reorganized districts with the California State Board of Equalization (*Government Code* Section 54900). As such, the county office of education will need to work with the county assessor and/or controller during the initial school year to ensure that collected property taxes are assigned to the appropriate school districts. Maps and boundary descriptions must be filed with the Board of Equalization by December 1<sup>st</sup> following the county committee's lapsation order. Such filing will ensure that property tax rolls are updated for the second school year following lapsation. It also is recommended that the boundary changes be filed with the agencies listed in the following Section C (paragraph 8).

## C. Process: Expanded Details

### 1. Initiation of Reorganization Proposals

#### a. County Committee Plans and Recommendations

A proposal for reorganization may begin at the county committee level. On its own initiative or under the direction of the State Board of Education, a county committee may formulate plans and recommendations for the reorganization of the districts in the county, or any portion of it, including adjacent areas in other counties. Under *California Code of Regulations*, Title 5, Section 18570, all plans and recommendations formulated by a county committee, including those for transfer of territory, must be submitted to the State Board of Education for approval or disapproval.

#### b. Reorganizations Initiated by 10 Percent Petition or by Resolution of Certain Local Agencies.

After a public hearing, the county committee must recommend for or against reorganization proposals brought before the committee by a petition of 10 percent of an entire district's voters or by resolution of certain local agencies (e.g., county board of supervisors, city council, local agency formation commission). For purposes of this handbook, a petition of 5 percent of the qualified electors in a school district with over 200,000 ADA in which the petition is to reorganize the district into two or more districts is considered in the same manner as a 10 percent petition. If any of these petitions are granted pursuant to *Education Code* Section 35721(d), the county committee will take on the petition as its own recommendation.

#### c. Reorganizations Initiated by Petitions, Owners of Uninhabited Territory, or Governing Boards

The county committee on school district organization and the county superintendent of schools may be petitioned to initiate reorganization actions under Section 35700 of the *Education Code*. A petition for reorganization may be signed by (1) the majority of owners of uninhabited territory; (2) 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); (3) the majority of board members in *each* of the affected districts for both inhabited and uninhabited territory; or (4) registered voters equaling 8 percent of the number of votes cast in the last gubernatorial election for a petition to reorganize a district with over 200,000 ADA into two or more districts. The petition must first be submitted

to the county superintendent of schools for determination of sufficiency (see item 4 of this section, “*Determination of Sufficiency of Electorate Petitions*”).

- d. Boundary Issues to Be Considered When Initiating a Reorganization
  - i. Boundary Change Reorganization. An action to transfer territory of a school district is an action to reorganize districts; it thus requires the approval of the county committee on school district organization. (*EC 35511*)
  - ii. Relationship of Elementary School District Boundaries to the High School Districts. The boundaries of the component elementary school district must be coextensive with the boundaries of the high school district in which it is included. Changes in any of the districts’ boundaries must not alter this condition. (*EC 35540, 35541*) Whenever the boundaries of an elementary and a high school district become coterminous, the districts are considered merged into one unified district. (*EC 35542*)
  - iii. Elementary School District Exclusions to Unification. The *Education Code* allows an elementary school district completely within the boundaries of a high school district to be excluded from an action to unify the portion of the high school district in which it is contained. The request for the State Board of Education to approve this exclusion may be made prior to local evaluation of proposals or included in the unification proposal submitted to the State Board of Education. Appropriate staff from the California Department of Education should be consulted when this type of unification is considered. (*EC 35542*)
  - iv. Leapfrogging Prohibition. On or after January 1, 1981, no school district may be newly formed or reorganized so that any portion of it is completely separated by territory of another school district. (*EC 35543*)
  - v. Area Adjustments after Reorganization. Prior to the effective date of a reorganized district, the county committee may approve plans to subsequently reorganize any or all of the district. However, during the first five years after a district’s formation, no territory may be removed from it without the consent of its governing board. (*EC 35545*)

## **2. Contents of Plans, Petitions, and Recommendations**

Certain information is required in a petition for reorganization, but very little is required of a county committee plan or recommendation.

- a. Three items of basic information that should be included in both a petition or a county committee plan or recommendation are:

- i. A reasonable description of the territory to be covered by the proposed action. (*EC 35700.3*)
- ii. A list of school districts affected by the proposal.
- iii. The reasons for a proposed reorganization.

Note: It is the opinion of the California Attorney General (80 Ops. Cal. Atty. Gen. 264 [1997]) that legal descriptions and maps of the affected territory are required only after a reorganization has been approved. Obviously, the area to be reorganized must be described in order for a determination to be made that 25 percent of the voters residing in that area have signed the petition. County offices of education in the state have varying policies regarding what constitutes reasonable description of territory. The county committee secretary at the county office of education should be consulted.

b. The following items must be part of any petition filed under *EC 35700*:

- i. A designation of no more than three of the petitioners as chief petitioners for the purpose of receiving notification of public hearings and other pertinent information. This applies to any person(s) or entities signing a petition pursuant to *Education Code* Section 35700. (*EC 35701*)
- ii. An affidavit that all signatures on the petition are genuine signatures and were obtained in the presence of the petition circulator. (*EC 35702*)

c. The items of information listed below are suggested for inclusion in the county committee's plans and recommendations. Any of these items may come from the petition as submitted or may be included or amended by the county committee. (*EC 35705.5*)

- i. Whether the district's governing board(s) will be a city board of education controlled by a city charter or a separate board governed by general laws. (If not stated, it will be a general law district.) (*EC 35730*)
- ii. Whether there shall be a seven-member board. (If not stated, there will be five members.) (*EC 35731*)
- iii. The territory in which the election to reorganize the school districts will be held. (*EC 35732*)
- iv. If the recommendation involves splitting an existing district into two or more districts, whether they will be voted on as a single issue. (*EC 35733*)
- v. Whether the trustee areas are to be designed according to general or specific population and geographic factors. Any such provision must also specify the trustee area boundaries and whether board members will be

elected at large or only by voters from that respective trustee area. (In the absence of any provisions, the proposed district must have members elected at large.) (EC 35734)

- vi. A computation of the LCFF allocation per average daily attendance (ADA) for the proposed new district(s). This must be included in a county committee recommendation. (EC 35735, 35735.1) (EC 35735)
- vii. A proposal for dividing the property (other than real property) and obligations. (EC 35736)
- viii. When a new school district is being formed, whether the first governing board will be elected at the same election as the reorganization proposal and, if so, a method for determining the length of the terms of the initial members. (If not specified, the first governing board will be elected at the first regular election after the passage of the reorganization proposal.) (EC 35737)
- ix. A method of dividing the bonded indebtedness other than the method specified in the *Education Code*. (EC 35576, 35738) The advice of bond counsel is recommended.
- x. Whether each new district created in the reorganization of a school district with more than 500,000 pupils meets the following conditions (EC 35730.1):
  - (a) Socioeconomic diversity
  - (b) Geographical compactness
  - (c) Equity of resource distribution
  - (d) Compliance with *Crawford v. Board of Education* and the terms of the consent decree in *Rodriguez v. Los Angeles Unified School District*.
  - (e) Preservation of the policies used by magnet schools, charter schools, site-based management initiatives, and the LEARN program.
  - (f) Compliance with the Individuals with Disabilities Education Act.
  - (g) Compliance with the federal Voting Rights Act of 1965.
  - (h) The formation of the new school districts does not result in the diminution of minority protections.
  - (i) The maintenance of the conditions of all collective bargaining agreements until their expiration.

- (j) Recognition of the existing retiree health, dental, and vision care benefits.

Note: The nine items in *EC 35705.5(b)* are not required to be in the plan but must be made available to the public and governing boards of affected districts at least ten days before a public hearing.

### **3. Signing the Petition**

The signatures to the petition need not all be appended to one page. If the territory included in the petition is situated in more than one county, the signatures on each page of a petition must be those of residents of only one of the counties. Of the signatures appended to such pages, only the signatures of the voters of the county designated will be valid. In addition to signing the petition, each signer must include his or her printed name and place of residence, giving street address and city. (*Elections Code* Section 104) If no street or number exists, the place of residence must be designated so that the location can be readily ascertained. A space of at least one inch must be left blank after each name for the use of the clerk in verifying the petition. The spaces for signatures must be numbered consecutively. *Elections Code* Section 104(a)(3) contains additional requirements regarding recording of dates of the signatures.

Where the petition is to reorganize territory in two or more school districts, it is recommended that the signatures on each page of a petition be those of residents of only one of the districts. Such organization provides greater efficiency when the petition is submitted to the county department of elections and records for verification of signatures.

Each section of the petition must have a declaration attached to it. The affidavit must state that the person securing the signatures to the petition is a registered voter, that all persons who signed the petition did so in the presence of the circulator, and that each signature is the genuine signature of the person whose name it purports to be. The circulator of the petition must also state the date and place of execution immediately upon signing the petition. (*EC 35702* and *Elections Code* sections 102 and 104)

A sample petition is included in Appendix E. A petition valid in one county may or may not meet the requirements for valid petitions in all counties. The county committee secretary and/or county clerk, recorder, or registrar of voters should be consulted to determine requirements for valid petitions in a particular county.

Petition circulators may register voters as they collect signatures. (*Elections Code* Section 2158) Generally, the following conditions apply to this registration of voters:

- a. If the petition circulator collects the new registrations, he or she must submit them to the county clerk, recorder, or registrar of voters within three days. (*Elections Code* Section 2138)
- b. If the newly registered voters submit their own registrations, the registrations must be received by the county clerk, recorder, or registrar of voters prior to the petition being submitted for validation.
- c. Signatures of newly registered voters should be identified on the petition. The county clerk, recorder, or registrar of voters should be consulted to determine how these conditions and/or others apply in a particular county.

#### **4. Determination of Sufficiency of Electorate Petitions**

The county superintendent of schools has 30 days after the petition for reorganization has been filed to examine the petition and determine whether it is sufficient and signed as required by law. (*EC* 35704) The county superintendent of schools transmits any petition signed by registered voters to the county department of elections and records for verification of signatures. The county clerk, recorder, or registrar of voters examines the signatures and, from the records of registration, ascertains whether the petition is signed by the requisite number of valid registered voters. Then the county clerk attaches his or her certificate to it showing the results of the examination. If the number of verified signatures is insufficient, no further action is taken.

If the territory included in the petition is situated in more than one county, each petition must be presented to the county superintendents of schools concurrently in each county. The sufficiency of the petition must be determined jointly by the county superintendents who have jurisdiction over the districts in which any petitioner resides. (*EC* 35521)

Upon determining the sufficiency of the electorate petition, the county superintendent of schools must transmit the petition simultaneously to the county committee and the State Board of Education. (*EC* 35704)

On January 18, 1997, the Shasta County Superior Court issued a Memorandum of Decision on a number of questions concerning a petition from 25 percent of the electorate pursuant to *Education Code* Section 35700(a) (*Shasta Union High School District v. Shasta County Superintendent of Schools, et al.* No. 131103). Although this decision cannot be cited as precedent, the issues raised are novel and the opinion may serve as a guideline with the assistance of the county committee's attorney. These issues are discussed in more detail in the following sections.

#### **a. “Revival” of a Resubmitted Petition**

In this instance, the petition for reorganization of the district was originally submitted for sufficiency more than a year earlier. It was found to be lacking in the number of required signatures and was rejected. Additional signatures were obtained, and the same petition, as augmented, was resubmitted. There is no authority that either prohibits a resubmission of a petition or authorizes it. The court is of the view that the petition, once submitted and rejected, was not “extinguished” or “invalidated.” Accordingly, no act to “revive” it was necessary before it could be resubmitted with the added signatures.

#### **b. Staleness of Signatures**

Unlike other petition proceedings authorized by the *Education Code* that call for a specific time period within which signatures might be gathered, the procedure for petitioning to reorganize one or more districts set forth within *Education Code* Section 35700 et seq. contains no time limitation. None should be inferred. The absence of such a time limit is justified because the petition procedure itself does not result in an immediate submission to the electorate, but, rather, it triggers an extensive hearing process during which the petition can be carefully scrutinized before it is ever allowed to go to election. Moreover, because the Legislature, in its establishment of other types of petition procedures, specifically set time limits but chose not to do so in connection with petitions for reorganization, no time limit was intended.

#### **c. Date on Which Persons Signing the Petition Were Registered Voters**

In considering a petition as submitted for its sufficiency pursuant to *Education Code* Section 35704, the date that the petition is submitted is the date to be used to determine (1) the number of registered voters in the subject territory upon which the 25 percent is calculated; and (2) whether the persons who signed the petition remain registered voters residing in the territory. This conclusion is supported by reason of (1) the absence of a time line for the gathering of signatures concerning petitions for reorganization; and (2) the potential for a distortion, with the passage of time, in the number of registered voters within a district who actually support a reorganization proposal.

#### **d. Sufficiency of the Petition for Reorganization**

*Education Code* Section 35704 states that once the petition is received by the county superintendent of schools, it is to be examined and the superintendent is thereafter to transmit the petition to both the county committee and to the State Board of Education, provided that the petition is found by the superintendent “to be sufficient and signed as required by law.”

One argument may be that a petition to reorganize may not be found to be “sufficient” if it violates substantive law, even though it may otherwise meet the procedural specifications set forth within *Education Code* Section 35700 (pertaining to the percentage of registered voters who must sign the petition), Section 35701 (pertaining to the requirement that no more than three of the petitioners shall be designated as chief petitioners for notice purposes), Section 35702 (requiring an attached affidavit concerning the genuineness of the signatures of those signing the petition), and Section 35703 (allowing certain matters to be included on the petition). The more reasonable interpretation is that it is only these procedural requirements that must be considered by the county superintendent in determining whether such a petition is “sufficient” to be passed on to the county committee and the State Board of Education. Were it otherwise, the extensive process for a review, both at the county and state levels, would be unnecessary in any case in which a dispute arose concerning the lawfulness of the proposed activity.

There are points in the process during which the county committee can recommend against the reorganization petition and the State Board of Education can disapprove it. Within this broad scheme, it does not seem logical that the county superintendents of schools were intended by the Legislature to be placed in the role of being substantive law “gatekeepers.” Rather, it appears that the involvement of the superintendent is established to ensure the existence of support amongst the citizens in the affected territory in the proposed action. The illegality of the proposed reorganization is not an issue that the county superintendent must decide in determining the sufficiency of a petition for school district reorganization.

## **5. County Committee Review**

### **a. Adoption of Tentative Recommendations by the County Committee**

The county committee, on its own volition or under the direction of the State Board of Education, may adopt a tentative recommendation for reorganization of an area. Following adoption of a tentative recommendation, the county committee must hold one or more hearings in the area proposed for reorganization and may adopt a final recommendation for reorganization of the area. If a final recommendation is adopted, it must be transmitted to the State Board of Education pursuant to *California Code of Regulations*, Title 5, Section 18570. The State Board of Education is responsible for the CEQA process for these reorganization proposals. It is suggested that the time lines for the portion of the review process following the adoption of the tentative recommendation correspond with the time lines of the review process for a 25 percent petition as outlined in item 5c of this

section. (*EC* 35720.5, 35721, 35722, and *Public Resources Code* sections 21000 through 21177)

#### **b. 10 Percent Petition Review Process**

If the proposal is a 10 percent petition (pursuant to item 1b of this section), the county committee shall hold a public hearing on the proposal at a regular or special meeting. Following this hearing, the county committee may approve the proposal and adopt it as its own tentative recommendation. If, after the hearing, the county committee does *not* approve the proposal, further action on the proposal is halted.

#### **c. 25 Percent Petition Review Process**

After a 25 percent petition (pursuant to item 1c of this section) has been received by the county committee, the committee has a maximum of 60 days within which to hold public hearings in each affected school district and 120 days after the first public hearing to recommend approval or disapproval of a unification petition to the State Board of Education or to disapprove or approve a proposal to transfer territory. The county committee must determine the impact that a territory transfer will have on the environment. (Except for proposals that meet the conditions of *EC* 35710[b], the State Board of Education is responsible for the CEQA process for unification proposals.) (*EC* 35705, 35706, and *Public Resources Code* sections 21000 through 21177)

#### **d. Substituting a 10 Percent Petition for 25 Percent Petition**

It may be that a petition circulated for signature by 25 percent of the registered voters will fail to reach that percentage but does include signatures of at least 10 percent of the voters. The opinion of the Legal Office of the California Department of Education is that the petition cannot be filed as a 10 percent petition because the voters signed the petition in reliance of what was represented, specifically that it was a 25 percent petition. It cannot be concluded that any one or more of those voters would have signed a 10 percent petition.

#### **e. Public Description of the Petition**

Ten days prior to holding public hearings, the county committee must make available a public description of the petition that includes all of the following (*EC* 35705.5[b]):

- i. Notice of the rights of the employees in the affected districts for continued employment.

- ii. The local control funding formula allocation for each affected district and the effect of the petition, if approved, on such allocation.
- iii. Whether the districts involved will be governed in part by provisions of a city charter and, if so, in what way.
- iv. Whether the governing boards of any proposed new district will have five or seven members.
- v. A description of the territory or districts in which the election, if any, will be held.
- vi. Where the proposal is to create two or more districts, whether the proposal will be voted on as a single proposition.
- vii. Whether the governing board of any new district will have trustee areas and, if so, whether the trustees will be elected by only the voters of that trustee area or by the voters of the entire district.
- viii. A description of how the property, obligations, and bonded indebtedness of existing districts will be divided.
- ix. A description of when the first governing board of any new district will be elected and how the terms of office for each new trustee will be determined.

At this time, the county committee need not provide an analysis of other factors relevant to reorganization, such as the ethnic and racial effects, if any, resulting from such a reorganization. The committee may wish to include an analysis of all other conditions for approval of a reorganization proposal by the State Board of Education, including a description of the effects on ethnic and racial integration. (See *Education Code* Section 35753 and *CCR*, Title 5 Section 18573 in Appendix A for a description of the conditions.)

#### **f. Public Hearings**

See Section A, “Public Hearings,” in Chapter 7.

### **6. Approval of the Proposal**

Within 120 days after holding the first public hearing on the proposed reorganization, the county committee must recommend approval or disapproval of a proposal for unification or approve or disapprove a territory transfer. (*EC* 35706) It is recommended that the county committee, at least ten days before its meeting to recommend approval or disapproval of a proposal for unification or approve or disapprove a territory transfer, make available to the public its analysis of the conditions listed in *EC* 35753.

Notwithstanding the above paragraph, a county committee may approve a unification proposal if the following conditions are met (*EC 35710[b]*):

- County superintendent grants approval authority to the county committee.
- The governing board of each affected school district consents to the petition.
- The secretary of the county committee enters into an agreement for all affected districts to share costs of complying with the California Environmental Quality Act.

For all proposals or petitions that are not petitions to transfer territory or that do not meet the conditions of *EC 35710(b)*, the petition and county committee recommendations must be transmitted by the county committee to the State Board of Education. If the proposal is solely for the purpose of a territory transfer between or among districts or meets the conditions of *EC 35710(b)*, the issue will be settled at the local level.

#### **a. Local Approval Method**

In cases of the transfer of uninhabited territory where the majority of owners of the territory agree or inhabited territory that constitutes less than 10 percent of the assessed valuation of the original district, and all the involved governing boards agree, the county committee may approve the petition provided it finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of *Education Code* Section 35753 are substantially met. In such cases there would be no election. (*EC 35709*)

For all other cases involving territory transfer and for unification proposals that meet the conditions of *EC 35710(b)*, if the county committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of *Education Code* Section 35753 are substantially met, the county committee may approve the proposal and, if approved, must notify the county superintendent of schools, who must call an election in the territory of the districts as determined by the county committee. It is recommended that the area of the election be determined at the time the committee approves the petition. (*EC 35710*) Note that no election is required if the area of election is uninhabited territory. (*EC 35710.1*)

Although the county committee has no local approval authority over unification proposals (except for those that meet the conditions of *EC 35710[b]*), it is required to consider all such proposals and make a recommendation to the State Board of Education. In its consideration of the unification proposal, the county committee must consider whether the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a)

of *Education Code* Section 35753 are substantially met. Following this consideration, the county committee must recommend approval or disapproval of the unification proposal (*EC* 35706) and transmit the proposal, its recommendation, and a report of its findings to the State Board of Education. (*EC* 35707) The county committee also may include a recommendation for the area of election in the event the State Board of Education approves the proposal.

Whenever the county committee applies the conditions of *Education Code* Section 35753 to any proposal under review, it is recommended that the county committee take a separate vote on each condition.

## **b. State Board of Education Review**

Upon receiving the plans and recommendations for a proposal from the county committee, the State Board of Education will hold a public hearing on the petition. (*CCR*, Title 5 Section 18570)

The State Board of Education may also review a petition for any reorganization (including a territory transfer) upon an appeal by the chief petitioners or the affected school districts. (*EC* 35710.5) Appeals of decisions by county committees to the State Board of Education are also allowed under the provisions of *Education Code* Section 35711. (*CCR*, Title 5 Section 18570)

The State Board of Education may approve proposals for the reorganization of districts if the board has determined that certain conditions with respect to the proposal and the resulting districts are substantially met. (*EC* 35753) Those conditions, the statutes and regulations governing the conditions, and guidelines to evaluate the conditions are found in Chapter 6, "Legal Criteria Governing Reorganization Proposals."

The State Board of Education may prescribe other criteria by regulation and may also decide that the conditions of *Education Code* Section 35753(a) cannot be applied literally and that circumstances are sufficiently exceptional to justify the proposal on other grounds. (*EC* 35753[b]) (For more detail, see State Board of Education conditions in Appendix A.)

## **7. Elections**

See Chapter 7, Section B, "Elections."

## **8. Notifications to Local, County, and State Governmental Agencies (*EC* 35765)**

The county board of supervisors must file a copy of the order and a map or plat of the reorganized territory conforming to State Board of Equalization

requirements with the appropriate local, county, and state government agencies upon any successful reorganization of school districts (See Appendix D.) Those agencies usually include:

- a. Affected school districts
- b. County superintendent of schools
- c. County board of supervisors
- d. County assessor
- e. County auditor
- f. County registrar of voters
- g. County counsel
- h. County treasurer
- i. State Board of Education
- j. State Board of Equalization Tax Area Services Section (See *Government Code* Section 54903.1 and Appendix D for Schedule of Processing Fees.)

A fee generally is required to be submitted when filing with the State Board of Equalization. The county committee secretary at the local county office of education should be consulted to determine who has fiscal responsibility for this fee.

Current State Board of Equalization procedures require filing to be completed prior to December 1 for a reorganization to be effective for all purposes on the subsequent July 1. This filing deadline may be difficult to meet when a November election is involved. It may be possible to file with the State Board of Equalization prior to final certification of election results. The Tax Area Services Section supervisor should be consulted regarding this possibility and for further details.

- k. State Superintendent of Public Instruction
- l. Office of Public School Construction (if the reorganization affects outstanding bonds and state loans for building purposes)
- m. State Allocation Board
- n. Local Agency Formation Commission

*Education Code* sections 1043 and 1080 allow the transfer of responsibilities of the county board of supervisors to the county board of education. In those

counties in which such action has resulted in the responsibilities for school district organization being transferred to the county board of education, notification of a school district reorganization to the agencies listed in (a) through (n) above may be the responsibility of the county office of education. Failure to notify the State Board of Equalization by December 1 of the calendar year prior to the year in which the reorganization is scheduled to be effective for all purposes will delay the effective date of the reorganization for a year. (EC 35534)

## **9. School District Acquisition of Property outside its Boundaries**

The *Education Code* allows a school district to acquire property outside of its boundaries under certain conditions. *Education Code* Section 17217 provides that a school district governing board may acquire a site for a school building contiguous to the district's boundaries if the following conditions are met:

- a. A majority of the members of the governing board approve a petition requesting the acquisition.
- b. The petition is filed with the county superintendent of schools who must notify all affected school districts within 10 days.
- c. The county committee approves the petition. If the county committee does not approve the petition, it may be submitted to the State Superintendent of Public Instruction for approval. Both the county committee and the State Superintendent must consider certain conditions listed in *Education Code* Section 17217 prior to approving or disapproving the petition.

*Education Code* Section 17217 further provides that the site, once acquired, becomes part of the acquiring district. As such, the notification process (as outlined in section E [8] above) should be followed.

Pursuant to *Education Code* Section 35271, a school district also may acquire real property outside its boundaries, but adjacent to a school site within its boundaries, for purposes of constructing school buildings and maintaining classes. However, unlike the site acquisition process described in *Education Code* Section 17217, the code does not specify that a site acquired pursuant to Section 35271 becomes part of the district upon acquisition.

## **D. Environmental Concerns**

This section provides a general overview of the California Environmental Quality Act (CEQA). It is not intended to be comprehensive in describing the CEQA process, or all laws and regulations that may apply. Consultation with legal counsel experienced in CEQA is strongly recommended.

In *Fullerton Joint Union High School District v. State Board of Education* (1982), 32 C. 3d 779, 187 Cal. Rptr. 398, the Supreme Court held that reorganization of school district boundaries is a project within the scope and meaning of CEQA and that the State Board of Education, as the state agency making the ultimate decision prior to the election for the formation of a new school district, is the lead agency. Similarly, the county committee is the lead agency for territory transfers and proposals to form districts pursuant to *Education Code* Section 35710(b). As such, both are required to consider the impact of reorganization on the environment.

There are three basic components for complying with CEQA. (*Public Resources Code* Section 21000 et seq.) First, the lead agency must determine if the reorganization is exempt from CEQA. Second, the lead agency must conduct an initial study to determine whether the proposed project (i.e., reorganization) may have a significant impact on the environment. Third, the lead agency files a negative declaration of environmental impact or completes an environmental impact report (EIR) depending on the findings of the initial study.

If no substantial evidence exists in the initial study to indicate the project would have such a significant effect on the environment, the agency must provide public notice of its intention to prepare a negative declaration. See Appendix F for a sample notice. The notice describing the project, the intention to prepare a draft negative declaration, and a copy of the initial study must be posted for 30 days in the office of the county clerk. Before reaching a final determination, the lead agency must consider any comments submitted during the public review period.

If the lead agency determines that there may be a significant effect on the environment, it must prepare or have prepared an EIR before it considers the proposed project. See also the *CEQA Guidelines* in *California Code of Regulations (CCR)*, Title 14, Section 15000 et seq. The lead agency may approve a project in spite of a significant effect on the environment, but it must consider those implications in making its decision.

When the State Board of Education considers a proposed reorganization, it conducts an initial study to consider the factors listed in the Environmental Checklist Form in Appendix G. When it concludes that those factors will not adversely affect the environment, it adopts a resolution of negative declaration before proceeding to consider the merits of the plan or petition. When the initial study is conducted for proposals on transfers of territory or district formations pursuant to *Education Code* Section 35710(b), an initial study based on the Environmental Checklist Form in Appendix G should be completed.

In 1998, the California Resources Agency amended CCR, Title 14, Section 15378, to remove reorganizations of a school district from the definition of a project. Filing of CEQA documents was not required under this amendment. However, in October 2002, the Third District Court of Appeals invalidated the 1998 regulation amendment. (*Communities for a Better Environment v. California Resources*

*Agency 103 CAL.App.4<sup>th</sup> 98, 125.*) In July 2003, the invalidated regulation was repealed. Therefore, filing of CEQA documents is again required on school district reorganization actions.

Internet links to an overview of the CEQA process, including applicable statutes (*Public Resources Code*); guidelines (*California Code of Regulations*, Title 14); and a CEQA process flowchart are in Appendix H.

## **E. Lists of School District Organization Tasks**

The lists on the following pages are provided to help county office of education staff and county committees track the necessary tasks associated with school district organizations. Two lists are included: one for the territory transfer process and one for the unification process.

County office of education staff may turn these lists into checklists, adding columns for timelines and responsible staff, to help ensure that the tasks are completed on time.

## List 5.1

### Territory Transfers (and unifications pursuant to *EC 35710[b]*)

#### Petition (Complete all items within 30 days of receipt)

| Action                                                                                                                                                        | Code Reference                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| Verify petition—Contains a reasonable description of the territory and a list of districts affected. (maximum of three chief petitioners)                     | <i>EC 35700.3;</i><br><i>EC 35701;</i><br><i>EC 35703</i> |
| Verify—Coextensive boundaries.                                                                                                                                | <i>EC 35540</i>                                           |
| Verify—Territory in petition is contiguous                                                                                                                    | <i>EC 35543</i>                                           |
| For unifications, check for SBE approval of elementary school district exclusions.                                                                            | <i>EC 35542</i>                                           |
| Examine previous reorganization history of territory. During first five years of a district's formation, territory may not be removed without board approval. | <i>EC 35545</i>                                           |
| Verify signatures on petition (within 30 days of receipt)—typically through county registrar, elections clerk.                                                | <i>EC 35704</i>                                           |
| Notify—Transmit copy of petition to county committee and SBE; provide written notice of proposed action to LAFCO.                                             | <i>Elections Code</i><br>105                              |

#### Public Hearings (Complete all items within 60 days of verification of petition)

| Action                                                                                                          | Code Reference                        |
|-----------------------------------------------------------------------------------------------------------------|---------------------------------------|
| Schedule public hearings in affected school districts within 60 days of verification of petition.               | <i>EC 35720.5;</i><br><i>EC 35721</i> |
| Calculate LCFF allocation of proposed new district.                                                             | <i>EC 35735;</i><br><i>EC 35705.5</i> |
| Provide notice of regular public hearing ten days prior to public hearing. Include description of the petition. | <i>EC 35705.5</i>                     |

| Action                                                               | Code Reference |
|----------------------------------------------------------------------|----------------|
| Review guidelines for holding public hearings with county committee. | No reference   |
| Hold regular public hearing.                                         | EC 35705       |

## County Committee Action

(Complete all items within 120 days of first public hearing or completion of CEQA if CEQA is required [EC 35706])

| Action                                                                            | Code Reference          |
|-----------------------------------------------------------------------------------|-------------------------|
| Conduct study of reorganization proposal addressing each condition in EC 35753.   | EC 35753                |
| Prepare written report of results of study.                                       | EC 35753                |
| Schedule county committee meeting for approval/disapproval of petition.           | No reference            |
| Send notification of county committee meeting.                                    | No reference            |
| County committee determines if each of EC 35753 conditions are substantially met. | EC 35709;<br>EC 35710   |
| County committee approves/disapproves petition.                                   | EC 35709;<br>EC 35710   |
| If transfer approved and election is required, determine area of election.        | EC 35710                |
| Notify county committee and affected parties of appeal time lines.                | EC 35710.5;<br>EC 35711 |

## California Environmental Quality Act (CEQA)

(Must be completed prior to county committee approval of territory transfer). CEQA Guidelines are in *California Code of Regulations*, Title 14, Chapter 3, (CCR 14) Sections 15000-15387.

| Action                       | Code Reference     |
|------------------------------|--------------------|
| Complete CEQA Initial Study. | CCR 14 15063-15065 |

| <b>Action</b>                                                                                           | <b>Code Reference</b>      |
|---------------------------------------------------------------------------------------------------------|----------------------------|
| If intent is to adopt a negative declaration, follow Negative Declaration Process in <i>CCR 14</i> .    | <i>CCR 14 15070-15075</i>  |
| If intent is to conduct an Environmental Impact Report (EIR), follow EIR Process in <i>CCR 14</i> .     | <i>CCR 14 15080-15097</i>  |
| File for appropriate public review period.                                                              | <i>CCR 14 15105</i>        |
| Hold CEQA public hearings—may be held in conjunction with county committee approval meeting.            | <i>CCR 14 15202</i>        |
| Adopt appropriate CEQA documentation—may be held in conjunction with county committee approval meeting. | <i>CCR 14 15074, 15090</i> |
| File Notice of Determination.                                                                           | No reference               |

## **Election (if required)**

| <b>Action</b>                                                                                                                                                 | <b>Code Reference</b>                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| Determine if election is required.                                                                                                                            | <i>EC 35709, EC 35710.1</i>          |
| Notify Office of Public School Construction and State Allocation Board of election.                                                                           | No reference                         |
| County superintendent calls election.                                                                                                                         | <i>EC 35710</i>                      |
| Maintain contact with registrar of voters.                                                                                                                    | No reference                         |
| Prepare statement of official information and statistics relating to proposed reorganization.                                                                 | <i>EC 35757</i>                      |
| Prepare/distribute arguments for/against ballot measure.                                                                                                      | <i>EC 35758</i>                      |
| Affected districts and petitioners and other interested parties are made aware of their rights and the process to file arguments for and against the measure. | <i>EC 35758; Elections Code 9501</i> |
| Notification of election results.                                                                                                                             | <i>EC 35763</i>                      |

## Actions Following Approval (*EC* and *Government Code* [GovC])

| Action                                                                                                                                                                  | Code Reference                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| File proof of county committee approval, map, and description of reorganized area with State Board of Equalization (include required fees)                              | GovC 54900                                         |
| File copy with affected school districts                                                                                                                                | No reference                                       |
| File copy with county superintendent                                                                                                                                    | No reference                                       |
| File copy with board of supervisors                                                                                                                                     | No reference                                       |
| File copy with county assessor                                                                                                                                          | GovC 54900                                         |
| File copy with county auditor                                                                                                                                           | GovC 54900                                         |
| File copy with county elections officer                                                                                                                                 | No reference                                       |
| File copy with county treasurer                                                                                                                                         | GovC 54900                                         |
| File copy with State Board of Education                                                                                                                                 | No reference                                       |
| File copy with county counsel                                                                                                                                           | No reference                                       |
| File copy with State Superintendent                                                                                                                                     | GovC 54903.1                                       |
| File copy with State Allocation Board                                                                                                                                   | No reference                                       |
| File copy with Office of Public School Construction                                                                                                                     | No reference                                       |
| File copy with Local Agency Formation Commission                                                                                                                        | No reference                                       |
| When a basic aid district is involved, districts determine exchange of property tax revenue. If districts don't agree, the county board of education determines amount. | <i>EC 35566; Revenue &amp; Taxation Code 99(i)</i> |

## List 5.2

### Unification (conditions of *EC 35710[b]* are not met)

#### Petition (Complete all items within 30 days of receipt)

| Action                                                                                                                                                        | Code Reference                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| Verify petition—Contains a reasonable description of the territory and a list of districts affected. (3 chief petitioners)                                    | <i>EC 35700.3</i> ;<br><i>EC 35701</i> ;<br><i>EC 35703</i> |
| Verify—Coextensive boundaries.                                                                                                                                | <i>EC 35540</i>                                             |
| Verify—Territory in petition is contiguous                                                                                                                    | <i>EC 35543</i>                                             |
| Check for SBE approval of elementary school district exclusions.                                                                                              | <i>EC 35542(b)</i>                                          |
| Examine previous reorganization history of territory. During first five years of a district's formation, territory may not be removed without board approval. | <i>EC 35545</i>                                             |
| Verify signatures on petition (within 30 days of receipt)—typically through county registrar, elections clerk.                                                | <i>EC 35704</i>                                             |
| Notify—Send copy of petition to county committee and SBE; provide written notice of proposed action to LAFCO.                                                 | <i>Elections Code</i><br>105                                |

#### Public Hearings (Complete all items within 60 days of verification of petition)

| Action                                                                                                          | Code Reference                         |
|-----------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Schedule—Public hearings in affected school districts within 60 days of verification of petition.               | <i>EC 35720.5</i> ;<br><i>EC 35721</i> |
| Calculate LCFF allocation of proposed new district.                                                             | <i>EC 35735</i> ;<br><i>EC 35705.5</i> |
| Provide notice of regular public hearing ten days prior to public hearing. Include description of the petition. | <i>EC 35705.5</i>                      |
| Review guidelines for holding public hearings with county committee.                                            | No reference                           |
| Hold regular public hearing.                                                                                    | <i>EC 35705</i>                        |

## County Committee Action (Complete all items within 120 days of first public hearing)

| Action                                                                                          | Code Reference                       |
|-------------------------------------------------------------------------------------------------|--------------------------------------|
| Conduct study of reorganization proposal addressing each condition in <i>EC 35753</i> .         | <i>EC 35753</i>                      |
| Prepare written report of results of study.                                                     | <i>EC 35753</i>                      |
| Schedule county committee meeting for approval/disapproval of petition.                         | No reference                         |
| Send notification of county committee meeting.                                                  | No reference                         |
| County committee determines if each of <i>EC 35753</i> conditions are substantially met.        | <i>EC 35709</i> ;<br><i>EC 35710</i> |
| County committee recommends approval/disapproval of petition.                                   | <i>EC 35706</i>                      |
| Submit report of county committee action with all documentation (administrative record) to SBE. | <i>EC 35707</i>                      |

## Election (upon notification by State Board of Education)

| Action                                                                                                                                                        | Code Reference                                  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| County superintendent calls election.                                                                                                                         | <i>EC 35756</i>                                 |
| Notify Office of Public School Construction and State Allocation Board of election.                                                                           | No reference                                    |
| Maintain contact with registrar of voters.                                                                                                                    | No reference                                    |
| Prepare statement of official information and statistics relating to proposed reorganization.                                                                 | <i>EC 35757</i>                                 |
| Prepare/distribute arguments for/against ballot measure.                                                                                                      | <i>EC 35758</i>                                 |
| Affected districts and petitioners and other interested parties are made aware of their rights and the process to file arguments for and against the measure. | <i>EC 35758</i> ;<br><i>Elections Code 9501</i> |
| Notification of election results.                                                                                                                             | <i>EC 35763</i>                                 |

## Actions Following Approval (*EC* and *Government Code* [GovC])

| Action                                                                                                                                                                  | Code Reference                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| File proof of county committee approval, map, and description of reorganized area with State Board of Equalization (include required fees)                              | GovC 54900                                         |
| File copy with affected school districts                                                                                                                                | No reference                                       |
| File copy with county superintendent                                                                                                                                    | No reference                                       |
| File copy with board of supervisors                                                                                                                                     | No reference                                       |
| File copy with county assessor                                                                                                                                          | GovC 54900                                         |
| File copy with county auditor                                                                                                                                           | GovC 54900                                         |
| File copy with county elections officer                                                                                                                                 | No reference                                       |
| File copy with county treasurer                                                                                                                                         | GovC 54900                                         |
| File copy with State Board of Education                                                                                                                                 | No reference                                       |
| File copy with county counsel                                                                                                                                           | No reference                                       |
| File copy with State Superintendent                                                                                                                                     | GovC 54903.1                                       |
| File copy with State Allocation Board                                                                                                                                   | No reference                                       |
| File copy with Office of Public School Construction                                                                                                                     | No reference                                       |
| File copy with Local Agency Formation Commission                                                                                                                        | No reference                                       |
| When a basic aid district is involved, districts determine exchange of property tax revenue. If districts don't agree, the county board of education determines amount. | <i>EC 35566; Revenue &amp; Taxation Code 99(i)</i> |