

The Trustee Handbook: A Guide To Shared Governance For County Boards of Education

The Association of California County Boards of Education (ACCBE), is pleased to share with you **The Trustee Handbook: A Guide To Shared Governance For County Boards of Education**. The Trustee Handbook is an invaluable and comprehensive guide for county board of education trustees regarding their role and responsibilities. The Handbook is an essential resource for every county trustee; for new trustees just learning about their responsibilities to experienced trustees confronting new challenges that impact their roles.

The Trustee Handbook was created by the California County Boards of Education (CCBE). Lead authors, editors and contributors of the Trustee Handbook are ACCBE leaders and see the Handbook as a valuable resource for ACCBE members. In addition to sharing the Trustee Handbook, ACCBE is incorporating it into ACCBE's new trustees mentoring program and our member-to-member networking/learning events. ACCBE will continue to update and expand its coverage and the good governance tools it offers.

Bina Lefkowitz

President

January 14, 2025

ACCBE is an independent nonprofit organization dedicated to serving and empowering County Boards of Education. Founded by county trustees for county trustees, ACCBE is committed to amplifying the collective voice of county boards, strengthening board leadership, championing equity and excellence, and driving better outcomes for students with the greatest needs.



A GUIDE TO SHARED GOVERNANCE
FOR COUNTY BOARDS OF EDUCATION

THE TRUSTEE HANDBOOK

EDITORS: JOE E. ROSS, JD • DAVID PATTERSON, EDD • BRUCE DENNIS • BEVERLY GERARD •
MICHAEL TEASDALE • MICHELLE DE WERD • KATHRYN MEOLA, JD • KEITH BRAY, ESQ • STEPHENIE TESORO



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For the nearly six million students attending California schools.

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TABLE OF CONTENTS

- 5 PREFACE**
- 7 INTRODUCTION**
- 11 ORIGINS**
The Emergence of an Elected Office Unlike Any Other
- 17 ROLES & RESPONSIBILITIES**
What Must (and May) Boards & Superintendents Do?
- 35 WORKING TOGETHER**
The Imperative of Collaboration
- 43 SPECIAL TOPICS IN LAW & GOVERNANCE**
Frequently Asked Questions
- 53 CASE STUDIES**
Shared Governance Practices That Work
- 57 RESOURCES**
Tools for the Journey
- 58 APPENDIX A**
Common Education Acronyms
- 60 APPENDIX B**
History of County Offices of Education
- 63 ABOUT CCBE**
- 67 ABOUT THE EDITORS**

PREFACE

This Trustee Handbook, which you now possess, is something new. It takes a different approach than its predecessors published by **California County Boards of Education (CCBE)**. Anyone holding this Handbook in the year 2023 will know all too well that change can come swiftly and when you least expect it. Those in positions of leadership and influence must necessarily possess a willingness to adapt under novel and evolving circumstances. So think of this Handbook – and the different approach that brought about its writing – as a first offering in what will be an ongoing effort to match changing circumstances.

The pace of change is exactly what prompted CCBE to develop the Trustee Handbook. In the past decade, the context for governance has drastically evolved for county offices of education, county boards, and county superintendents. Three dynamics have recently fixed popular and policymaker attention upon us. The first dynamic is the trend towards “local control.” Trustees elected to county boards over a decade ago will recall a time when the federal government occupied center stage with No Child Left Behind. Subsequently attention shifted to state governments as the prime movers when it came to “accountability.” Then California in 2014 adopted the Local Control and Accountability Plan (LCAP), which not only invested in county boards responsibility for the county office LCAP, but also shifted an unprecedented level of district oversight responsibility to county offices of education. By 2017 the Legislative Analyst’s Office (LAO) opined, “we think COEs can perform district oversight more effectively and efficiently than a state entity.”¹

Innovation is the second dynamic. To be sure, county offices and superintendents, in partnership with elected trustees, have always been innovative. The California Education Code permissively leaves room for county boards of education to allocate available funds for purposes as they see fit. Across the state, this discretionary space has been used to launch a variety of innovative services for districts, educators, and families, including outdoor education programs, teacher training, and offerings in career/technical education. The pace of innovation has notably picked up since implementation of the Local Control Funding Formula (LCFF). According to the LAO, the LCFF was explicitly intended to permit county offices to offer optional services, and to let local districts choose whether or not to subscribe to them.

Finally: the pandemic and its aftermath. Popular attention – for better or worse – was fixed upon all county-level agencies as a result of their response to Covid-19. This dynamic continues to play out. On one hand, some observers believe county offices of education and superintendents gained a measure of respect from lawmakers in Sacramento for their leadership in response to the pandemic. On the other hand, the electoral and political verdicts remain uncertain. Public attendance at board meetings has certainly gone up. Also up: the number of contested elections for board members and superintendents alike.

Constituencies that care about education – citizens, parents, students, educators, and policymakers – have historically looked to the state or national government, on one hand, or to districts, on the other, as the prime movers and shakers in education policy. As county officials, we have long operated in an “intermediate” position between the state and local districts. The result: relative obscurity.

¹ Legislative Analyst’s Office, “Re-Envisioning County Offices of Education: A Study of Their Mission and Funding” (2017), available at <https://lao.ca.gov/Publications/Report/3547>.

Now, however, because of the dynamics discussed above, attention is focusing on us. Voters (or in some counties, elected officials on the behalf of voters) have placed their trust in county board members and county superintendents. They expect us to work together. They expect us to lead. It is in this context that we seek to provide guidance on shared governance. We seek to answer these questions: How can we best do our job? How can we best work together? How can we best serve students?

It should be reiterated that the Trustee Handbook is not a mere update of our prior volumes on governance. Instead, it represents the first edition of a new approach to the topic, incorporating elements of prior CCBE and CCSESA publications, to be sure, but also adding a lot of new content and commentary focused on the contemporary questions facing county board members and superintendents.

What specifically is new here? The historical narrative in Chapter 1, for example, provides an entirely fresh account of the origin story of the county board. The listing of board member duties in Chapter 2 is fully updated, summarizing – in less than two pages – all the Education Code provisions that vest the county board with its various powers, some discretionary and others mandatory. Chapter 3 provides a new perspective on the urgency of collaboration. Chapter 4 offers a set of newly authored FAQs focusing on contemporary questions of law and governance. Based on interviews conducted this year with county board members and superintendents, Chapter 5 presents case studies of successful shared governance. Finally, Chapter 6 provides a listing of available resources and tools.

We owe a debt of gratitude to those who contributed to the development of the Trustee Handbook. Thank you, first, to the CCBE members who served with me as editors and contributors: David Patterson (Placer County), Michael Teasdale (Ventura County), Bruce Dennis (Riverside County), Beverly Gerard (San Mateo County), and Michelle de Werd (Santa Barbara County). We were thrilled to be joined on our editorial team by legal professionals Kathryn Meola (a partner at Atkinson, Andelson, Loya, Ruud & Romo (AALRR)) and Keith Bray (general counsel and chief of staff of the California School Boards Association (CSBA)), and by our professional writer, Stephenie Tesoro. These experts in law, policy, and governance did much more than check for typos. Each provided commentary and counsel, and each put proverbial pen to paper. They wrote. A lot.

We also deeply appreciate the engagement of the California County Superintendents (formerly known as CCSESA) in reviewing an initial draft of the Handbook, and providing thoughtful, constructive feedback. We are grateful to Ron Wenkart and Mike Ambrose, colleagues of Ms. Meola at AALRR, for drafting and reviewing several of the most substantively important portions of the Handbook. Finally, a huge thanks to members of the CCBE Governance Initiative – a task force of elected county trustees from across the state – who devoted countless hours to reviewing the materials that follow. This group included Dr. Patterson, who served as chair, Mr. Teasdale, Mr. Dennis, Ms. Gerard, Ms. de Werd, and, critically, CCBE Program Manager Samantha Archey.

Joe E. Ross
President, California County Boards of Education

November 6, 2022

INTRODUCTION

“What is the Purpose of All This?” Kurt Vonnegut, Jr.

What is The Trustee Handbook?

The Trustee Handbook is a guide to shared governance.² It is intended to assist California’s 341 county boards of education members as they seek to contribute to the education of Californians in each county and throughout the state. Specifically, the purpose of the Handbook is to provide county trustees (sometimes also referred to as board members) with:

1. An understanding of the purpose of the county office of education.
2. Guidance on the authority of county board members and the county board.
3. Insight into the roles and responsibilities of the county board in connection with governance of the county office of education, as well as the roles and responsibilities of the county superintendent of schools.
4. Guidance on how a county board can best fulfill its roles and meet its responsibilities in collaboration with the county superintendent of schools.

How to Use It

The reader may choose to “Begin at the beginning, and go on till you come to the end: then stop,” as the King instructed the White Rabbit in *Alice’s Adventures in Wonderland*. While a thorough approach, it is not the only way to make use of the Handbook.

Another: skim the chapters, keep the Handbook handy, then break it out as needed.

Regardless of the approach you choose, the Handbook is meant to serve as a reference tool on your journey as a trustee.

2 How “shared governance” is defined depends on the context. In higher education (perhaps the closest analog for our context here), shared governance refers to structures and processes through which faculty, professional staff, administration, governing boards, and (sometimes) students participate in the development of policies and in decision-making that affect the institution.

Knowing Your Why

There are many reasons trustees choose to serve. The Handbook is based on the premise that, in order to be effective in our roles, we must ask ourselves: “What is our Why?”

In other words, why do we serve? Drawing from the work of Simon Sinek, what is “the compelling higher purpose that inspires us and acts as the source of all we do”? As each trustee reflects on this question and ponders how best to serve purposefully, we believe the Handbook will act as an essential resource and tool, first for individual trustees and also for boards collectively, along with their partner in this work – the county superintendent.

Sources & Methods

The Trustee Handbook is built on the experience of many county trustees as well as research and resources supporting high-quality board governance, including the county board version of CSBA’s Masters in Governance (MiG) training. The Handbook provides a comprehensive review of the governance role of county boards, including how the interplay of a governance system, county board, and county superintendent working together as a cohesive, unified team is critical to ensuring that all students receive an education that provides excellence, equity, and justice.

We also believe that good governance requires trustees to possess a solid understanding of the issues that come before county boards, an appreciation for the power of system-wide coherence, and a commitment to establishing and pursuing strategic goals. With these building blocks, we believe that county boards, working together with county superintendents, can accomplish significant system improvements in our services to children and families in our respective counties and throughout California.

What’s Inside?

The Trustee Handbook, consists of a preface, an introduction, six chapters, and supporting appendices.

CHAPTER ONE – Origins: The Emergence of an Elected Body Unlike Any Other details the unique history of the county board of education, the county office of education, and the county superintendent of schools. This historical narrative is animated by the fundamental belief underlying CCBE’s work as an association: “the California public education system must provide an education of excellence, equity and justice for all students.”

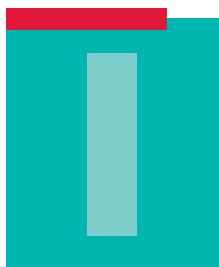
CHAPTER TWO – Roles & Responsibilities: What Must (and May) Boards & Superintendents Do? is divided into two sections, the first of which provides a review of the county board’s roles and responsibilities. The second section, which draws heavily on language from the January 20, 2020 CCSESA publication *Statutory Functions of County Superintendents & County Boards of Education*, provides a review of the county superintendent’s roles and responsibilities.

CHAPTER THREE – Working Together: The Imperative of Collaboration details how trustees and county superintendents must work collaboratively in a shared governance structure that ensures a county office operates effectively for the benefit of the districts, schools, students, families, and communities they serve. Additionally, it provides an overview of key areas of collaboration, including student outcomes, court and community schools, charter schools, community engagement, advocacy, and finally, the COE budget development and approval process.

CHAPTER FOUR – Special Topics in Law & Governance: Frequently Asked Questions addresses many important topics, some that are often characterized by controversy, confusion, or simple lack of awareness, pertaining to the statutory roles and responsibilities of the county board under California law, and how these roles and responsibilities interact with those of the county superintendent.

CHAPTER FIVE – Case Studies: Practices That Work uses the experiences of trustees and superintendents in three counties to reflect on best practices relating to shared governance, along with advice they would give to newly elected or appointed members.

CHAPTER SIX – Resources: Tools for the Journey provides information on the many available references and templates for county board members to use. Regardless of their size or setting, county boards of education and county superintendents may benefit from sample tools, policies, and approaches that have been helpful in assisting in developing effective shared governance structures.



CHAPTER I ORIGINS

The Emergence of an Elected Office Unlike Any Other

The role of a county board of education trustee is unique. While there are similarities to other elected offices, these similarities only go so far.

Like a legislative body, for example, county boards of education are composed of citizens who stand for elective office to represent a “home” district (or, when elected at large, an entire county); however, county trustees enact no laws. Like the county board of supervisors, the county board of education as a local education agency approves the agency budget; but unlike county supervisors, county trustees do not enact ordinances. Like a court of appeals, the county board decides certain cases between local entities and private petitioners, often with arguments presented by one or more opposing counsel; county trustees, however, are not judges (and most are not lawyers).

And, like a local school board, the county board has oversight authority over a local education agency in coordination with a full-time superintendent; but unlike school district trustees, county trustees neither act as the employer of record, nor (in most cases) hire the superintendent.

In short, the role of a county trustee is similar to but definitively not the same as that of a legislator, supervisor, judge, or school district trustee.

Meanwhile, little has been written about county boards, and as a consequence, few resources exist to help trustees fulfill their roles. Compared to the office of the county superintendent, the county board has received vanishingly little attention from scholars or journalists. What has been written about the county board role is generally confined to doctoral dissertations.

This chapter seeks to correct this gap by providing the origin story of county boards of education in California. Understanding what gave rise to this unique public office, it is hoped, will help those who occupy it better understand their role and better exercise their authority.

19th Century Origins: Boards of Examination

Before there were county boards there were county superintendents. Just two years after California was admitted to the Union, the state legislature enacted the Common Schools Act of 1852, which among other things created the then-appointed office of the county superintendent. Four years later, another law made the county superintendent an elected office.

In 1860, the legislature established the county board of examination, the predecessor of the modern county board of education. The primary function of the board of examination was to act as a kind of county-level commission on teacher credentialing in the absence of the state commission on teacher credentialing, which did not yet exist. Acting as an advisory body, the board of examination was comprised of three experienced teachers selected by the superintendent. Its role included examining and certifying teachers, and advising the county superintendent on educational matters. However, the county board was limited in its responsibility and authority; from the outset, the county board notably lacked the direct governing function of local school boards.³

The Constitutional Convention of 1879 and the Political Code of 1881

In 1879 the California state constitutional convention made the office of the county superintendent into a constitutional office. Two years later, the legislature passed the Political Code of 1881, creating county boards of education, each consisting of the county superintendent and four trustees (including two experienced teachers).⁴

With an amendment to the State Constitution in 1884, the boards of education acquired constitutional authority with the same prescribed powers that had been held by the predecessor boards of examination. For the next couple of decades, little changed legislatively to affect county boards.

Then, in 1929, the legislature created the State Commission of Credentials, the predecessor to the California Commission on Teacher Credentialing, centralizing the issuance of credentials and relieving county boards of education of what had until then been a core function.⁵

1950s: Emergence of an Elected Board

Over time, the legislature made gradual expansions to the authority of the county office,⁶ but for decades little changed for the county board. Then, in the early nineteen fifties, the legislature began making major changes in the structure of the county office and county board. Most notably, in 1955 the county board was transformed by the legislature into an elective office. The following year saw the first set of county board elections throughout the state.⁷

When the elected county boards took office in 1956, many of the county board trustees had previously served on local district boards. The more limited policy-making role of a county board, as compared to the role of school district boards, came at times as a surprise to county trustees with previous local board experience.

3 California County Boards of Education, "Historical Perspective: The County Office of Education and Changing Relationships," *CCBE Handbook—A Handbook for County Board Members* (California School Boards Association, West Sacramento, California, 1988), page 2 [hereinafter CCBE (1988)], quoted in James Richard Lowry, "Elected Board Members' and Superintendents' Perceptions of California County Boards of Education" (Ed.D. dissertation, The University of San Francisco, 1991).

4 Ibid.

5 California Association of County Superintendents of Schools, *County Offices of Education: The Connecting Link for Expanding the Vision for Excellence in Education in California*, (RDW Enterprises, Idyllwild, California, December, 1981), page xii.

6 For example, the legislature vested the county office with some responsibility for special education in the late 1940s, and for juvenile justice education in the late 1950s.

7 CCBE (1988), page 6.

Also new was the relationship between the board and superintendent. Then, as now, the superintendent was not an employee of the county board. Instead, the board and superintendent were both elected and accountable to the voters.⁸ Both authorities had to adjust to this new “separation of powers” – an uneasy dynamic that persisted. In the words of a Santa Clara County Board of Education member (and two-time CCBE president) who served in the 1960s and 1970s:

The roles of the county board of education and the county superintendent of schools are different than those of district boards and superintendents. Because the office of the county superintendent of schools existed as an independent constitutional office for more than one hundred years before the elected county board of education was created, it has distinct and separate responsibilities and mandates from those of the county boards of education. This is not the case in school districts.

The relationship between the county board of education and the county superintendent of schools is complex and controversial. Complex, because it has been established by more than one hundred twenty years of piecemeal legislation, and controversial because of the conflicts that arise from overlapping powers and responsibilities.

– Dr. George Muench, “County Board/County Superintendent: A Changing Relationship,” *California School Boards Journal*. (March 1977)

1970s: Expansion of Board Authority

Beginning in the 1970s, the legislature began to significantly alter the relationship between the county board of education and county superintendent. In the early seventies, the county board of education assumed responsibility for setting the superintendent’s salary. Then in 1974, a bill authored by State Senator Clare Berryhill and signed into law by Governor Ronald Reagan was enacted, vesting the county board with authority to approve the budget for the county office of education.⁹

Still, the legislature left a lot open to interpretation, sometimes leading to confusion about the roles of the superintendent vis-à-vis the board.¹⁰ Another source of confusion is the diversity in perspectives and practice across different counties. Despite similarities in responsibilities across California’s 58 county offices of education, the differences can be striking given the local context.

“The scope of activities engaged in by different offices of county superintendents varies depending upon the financial resources available, population, and county geography. It is these unique differences which make California’s educational system at the state, intermediate, and local levels responsive and workable.”¹¹

8 Ibid.

9 CCBE (1988), page 5

10 Ibid.

11 Gary Hoban, Editorial Coordinator, *A Reference Guide to the Laws and Regulations Relating to the Office of the County Superintendent of Schools; A San Diego Perspective*, San Diego County Superintendent of Schools, San Diego, California, 1975, page vi.

Adding to this dynamic: now some county superintendents may be appointed, rather than elected. In 1976, voters in each county were given the authority to determine whether the county superintendent would be elected by voters or appointed by the county board of education. Currently, the county board appoints the county superintendent in four counties – San Diego, Santa Clara, San Francisco, and Sacramento – and in a fifth county, Los Angeles, the county superintendent (and the county board) is appointed by the board of supervisors.

The County Office as the “Intermediate Unit”

“County offices of education exist in California as part of a three echelon school system with the county offices serving as the intermediate unit between the state and the local districts.”

– San Mateo County Superintendent Jean K. Holbrook¹²

Understanding the unique role of the county board of education must necessarily start with an understanding of the unique role of the county office of education. Operating out of that county office, both the county superintendent and in certain circumstances, the county board, play an “intermediate” role that stands between the California Department of Education (CDE) and the courts on one side, and local school districts on the other.

One year after the establishment of elected county boards of education in California, the county superintendent in Los Angeles, Dr. C.C. Trillingham, addressed this topic in 1957 at a national gathering of county and rural superintendents. His observations remain instructive today for county offices of education in California (and in many other states):

In most of our states, there are three levels or areas of educational responsibility – the State Department of Education, the County Superintendent’s office, and the local school district. Properly organized, these three agencies share responsibility and hold partnership status. Each has its own unique functions to perform. In general, the State Department of Education is a policy-making and leadership body; the local school district is the operating unit; the county [office] or intermediate unit is the coordinating and service agency.

The intermediate unit thus serves as a service agency to local school districts in improving their educational programs and assisting in the professional growth of personnel, and to the State Departments of Education in handling the legally required housekeeping functions in such matters as annual reports, certification, retirement and the like. In performing these latter functions, which are exceedingly important although somewhat removed from classroom instruction, the intermediate unit is actually serving as an arm of the state.

¹² Holbrook, J.K., “Instructional Support Services Provided by the County Office of Education as Perceived by District Curriculum Administrators in San Mateo County, California,” (Ed.D. Dissertation, University of San Francisco, May 1989), page 34.

Our job is to serve the school districts, not to run them. Our role is to strengthen and supplement, not compete with or supplant the program of the local district. We recognize that the center of gravity in the county or intermediate area is not in our offices but in the districts where the teachers work directly with children and youth.

In the words of former Commissioner Lawrence Derthick, we attempt to provide leadership without domination and assistance without interference. We realize that our services won't be effective unless they are wanted and they won't be wanted unless they are of high quality.¹³

County offices continue to play a critical service role for local districts. But that's not all. Since Dr. Trillingham spoke in 1957, the "intermediate" authority of county offices of education has significantly expanded to include some functions that may or may not be "wanted" by local districts, but nonetheless have become required by the legislature.

For example, county superintendents have the authority to review and approve both budgets and Local Control and Accountability Plans (LCAPs) for the districts in the county, and county boards play an intermediate appellate role for charter petitions and issuing temporary teaching certificates.¹⁴ These functions endow the county office, county superintendent, and the county board with explicit authority in specified circumstances over local school districts.¹⁵

Current-Day Composition & Operations of County Boards

The Education Code establishes a county board of education in each county which consists of five or seven members. Generally, each member is elected in a trustee area that the member represents. In chartered counties, the manner of selection of the county board of education shall be prescribed in the county charter, or by the county board of supervisors.

In a county unified school district or in a unified or elementary district that includes all of the territory over which a county superintendent of schools has jurisdiction, the governing board of the school district also serves as the county board of education. As a new addition to the Education Code, effective July 1, 2023, students may petition a county board of education that maintains at least one high school for the addition of a student trustee. If a petition is not submitted, the county board may appoint a student trustee attending one of the high schools in the county. (Education Code § 1000.)

13 C.C.Trillingham, Superintendent, Los Angeles County Schools, "The Case for Change—In the Functions of the Intermediate Unit." Speech, Sixteenth Annual National Conference, County and Rural Area Superintendents, Pittsburgh, PA, Oct. 2, 1961. <https://files.eric.ed.gov/fulltext/ED020054.pdf>

14 The county board may issue temporary teaching certificates for the purpose of issuing salary payments for credential applications being processed by the Commission on Teacher Credentialing. (Education Code § 44332.)

15 The Legislature recently reaffirmed the intermediate role of the county board in charter appeals by rejecting an attempt to eliminate the county-level appeal after a charter petition is denied by a district board. Early versions of Assembly Bill 1505 would have sent charter appeals directly to the SBE, thereby bypassing the county board. CCBE successfully advocated to retain in the final version of the bill the county board's role in charter appeals. (See Legislative History of Assembly Bill 1505, 2019-2020 Legislative Session.)

Any registered voter is eligible to be a member of the county board of education except the county superintendent of schools, a member of the county superintendent's staff, or any employee of a school district that is within the jurisdiction of the county board of education. (Education Code § 1006.)¹⁶

The county board of education or the residents of the county may propose term limits for the county board of education. Any such proposal is prospective only and must be approved by the voters of the county at a regularly scheduled election. (Education Code § 1006.)

Elections for the county board of education may be held on the same date as the elections for governing board members of school districts or consolidated with the direct primary election. Candidates elected on the date school district elections are held shall take office on the second Friday in December. Candidates elected in the direct primary election shall take office on the first day of July. (Education Code § 1007.)

Additionally, since the approval of AB 1200 in 1991, and additional legislation that has followed, the oversight role of county superintendents over the fiscal and academic affairs of school districts has expanded including approving district LCAPs and hiring a trustee and/or an administrator to run school districts that accept emergency loans from the state.

A Note on County Board Trustee Areas & Redistricting

Upon being so requested by the county board of education, the county committee on school district organization,¹⁷ by a two-thirds vote of its members, may either change the boundaries of any or all of the trustee areas or increase or decrease the number of members of the county board. Also, following each decennial census, the county committee shall adjust the boundaries of trustee areas as necessary to meet population requirements, as trustee areas must be nearly as equal in population as practicable. At the request of either the county board or the county committee, the State Board of Education may transfer authority of the county committee to the county board. (See Education Code § 4020 et seq.)

In counties where elections for county board and district board members are on the same day, the county committee establishes the boundaries of county board trustee areas, insofar as possible, to coincide with the boundaries of school districts in the county. Whenever the boundaries of trustee areas are changed to be coterminous with those of supervisorial districts of the county, the election of county board members is consolidated with the countywide election. (Education Code § 1002.)

¹⁶ 104 Ops. Cal. Atty. Gen. 66 (2021) (opining that, similar to employees of traditional public schools, executive directors and other charter school employees may not serve as members of the county board of education in the county where their employing school is located).

¹⁷ In the majority of counties where the county board does not serve as the county committee, the committee may consist of 11 members elected by representatives of the local boards of education. In counties with less than six school and community college districts, the county superintendent appoints the committee (which may be of any size and may include all or some members of the county board). In counties where the jurisdiction of the county superintendent of schools is included in one unified school district (e.g., San Francisco), the governing board of the unified school district acts as the county committee. (See Education Code § 4000 et seq.)



CHAPTER 2 ROLES & RESPONSIBILITIES

What Must (and May) Boards & Superintendents Do?

Overview

County offices of education provide a wide variety of critical services for students and school districts. Since shortly after the adoption of California's state constitution in 1849, county superintendents and county boards have been an integral part of California's public education system. These programs and services have evolved over time and vary from county to county. County offices of education have become an increasingly important part of fiscal accountability, educational support, and leadership of California's public education system.

The county board of education and the county superintendent have separate duties and responsibilities in fulfilling the mission of the county offices, yet must work collaboratively to ensure the activities of the county office are aligned with county office programs and services, as well as with the needs of students and educators throughout the county. This is true whether the superintendent is separately elected, as in most counties, or appointed, as in five counties.¹⁸

This chapter provides a general overview of the most important roles and responsibilities of county boards of education and county superintendents that arise from various provisions of the Education Code. Relevant code citations, with annotations as appropriate, are also provided.

"County offices are intermediate units linking state policy with local district programs and needs. They enable school districts to be more effective and efficient, link schools to county-based services, and provide a critical role in oversight and quality control."¹⁹

In the structure of the support provided under the California System of Support, county offices fulfill a critical role of assistance and coordination.

Chapter Acknowledgement: This chapter contains certain excerpts and adaptations of material previously published in California County Superintendents Educational Services Association, *Statutory Functions of County Superintendents of Schools & County Boards of Education* (2020).

18 Fifty-three out of 58 county superintendents of schools are elected by their voters in the gubernatorial election cycle. San Diego, Santa Clara, San Francisco, and Sacramento County Superintendents of Schools are all appointed by their respective county board of education. The Los Angeles County Superintendent of Schools is appointed by the Los Angeles Board of Supervisors along with the Los Angeles County Board of Education members.

19 California County Boards of Education, *A Guide to Effective Governance* (2015), p. I-3 [hereinafter CCBE (2015)].

The California System of Support

This graphic is intended to show the network of state-funded support providers under the System of Support.

LEVEL 1 SUPPORT FOR ALL

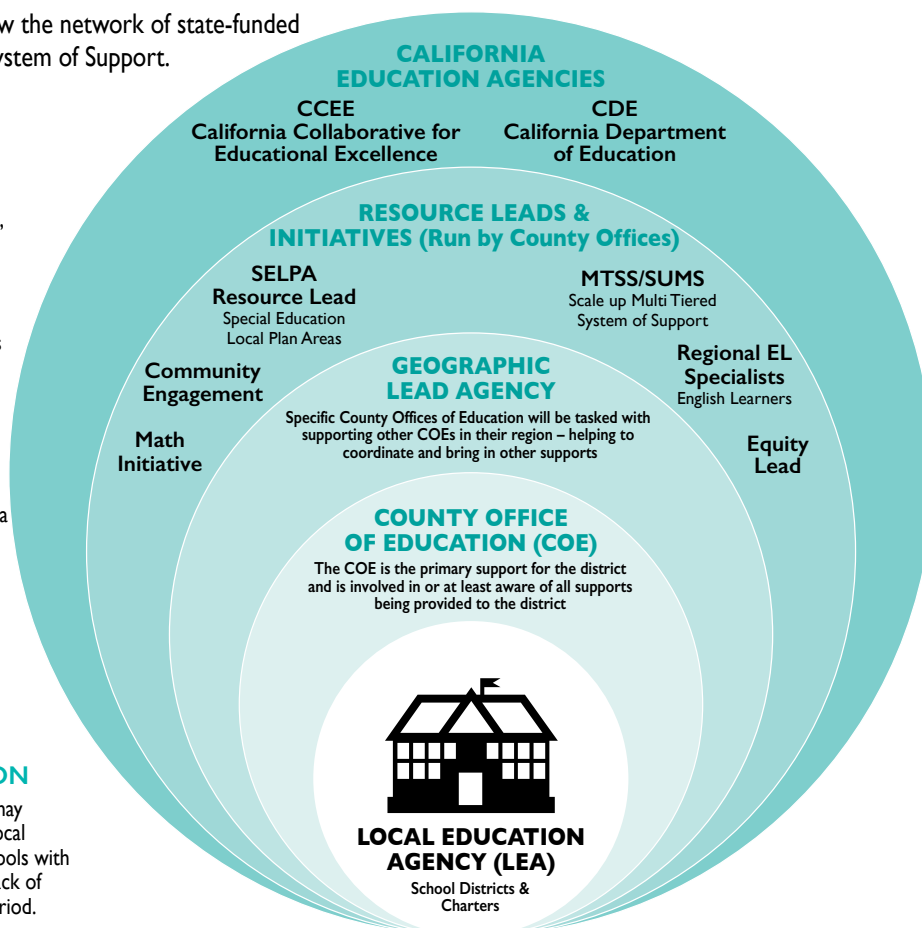
Various state and local agencies provide an array of support resources, tools, and voluntary technical assistance that all LEAs may use to improve student performance at the LEA and school level and narrow gaps in performance among student groups across the LCFF Priorities.

LEVEL 2 DIFFERENTIATED ASSISTANCE

County Superintendents, the California Department of Education, and the California Collaborative for Educational Excellence provide differentiated assistance by working with school districts to address identified performance gaps among student groups.

LEVEL 3 INTENSIVE INTERVENTION

Superintendent of Public Instruction may require more intensive supports for local education agencies (LEAs) and/or schools with persistent performance issues and a lack of improvement over a specified time period.



A diversity of practices and policies have emerged in the different counties to enable the county board and county superintendent to work cooperatively. In those counties where both offices are duly elected, each is directly accountable to the electorate. Regardless of whether superintendents are elected or appointed, open communication and mutual sharing of information facilitate the respective functions of the county superintendent and the board.²⁰

The county board of education plays an important role in the educational system in California. County school boards have an approval and oversight role in terms of the budget and LCAP for the county office of education, an appellate role for interdistrict transfers, expulsions, and most charter school petition denials, as well as a governance role for some key services and programs the county office offers.²¹ The county board of education does not have authority over the policies of local school districts or management of the county office's employees.

20 County superintendents appointed by the county board may have unique provisions in their contract or in a board policy or bylaw, but the legal authority established in the Education Code for county superintendents does not differ between elected and appointed superintendents.

21 Renewals of charter schools currently operating as a charter school authorized by the State Board of Education (SBE) before January 1, 2019, if denied by the district acting as the authorizer, are appealed directly to the SBE. (Education Code § 47650.9.)

County superintendents of schools are established pursuant to Section 3, Article IX of the California Constitution and are also considered county Constitutional officers (similar to a sheriff, district attorney, or assessor). (Government Code § 24000; Ca. Const. Art. XI, Sec. I (b).)²² The interaction between the county board and superintendent is entirely distinct from the relationship of a school district governing board and its employed superintendent. County superintendents of schools are the employer of the county staff and manage the execution of its budget, policies and programs. To serve our counties most effectively, the best practice is for the county board and the county superintendent to work collaboratively to develop a common vision, mission, and key strategic directions. The hiring and management of employees is the responsibility of the county superintendent. The county superintendent works directly with the school districts in the county to provide support and guidance for their operations. However, policy determinations are made by that district's superintendent and local governing board.

County Board of Education Meetings

Regular meetings of the county board shall be held at time as it may determine but not less than once per month. (Education Code § 1011.) Special board meetings may be called by the board president or upon the request of three trustees. (Education Code § 1012.) A majority of the members shall constitute a quorum for the transaction of business. (Education Code § 1013.) The county superintendent of schools is the ex officio secretary and executive officer of the county board. (Education Code § 1010.) As such, the common practice is for the county superintendent and staff to work with the board president to prepare, notice, and distribute the agenda and agenda packet.

COUNTY BOARD OF EDUCATION: ROLES & RESPONSIBILITIES

Duties and Powers

The duties and powers of the county board of education are set forth in several sections of the Education Code. The following list consolidates the typical functions of a county board of education. The functions fall into five categories: financial oversight; programmatic oversight; appeals; rulemaking; and real property. Some of the specific functions with each of these categories are mandatory and others are discretionary. Please note the discretionary duties listed below are marked by a double asterisk.

Financial Oversight

- Approve the annual budget of the county office of education. (Education Code § 1040 (c), (d).)
- Approve the LCFF budget overview for parents.²³ (Education Code § 52064.1.)
- Approve any short-term borrowing by the county office. (Government Code §§ 53881-53882.)
- Review interim budget reports. (Education Code § 1240 (l) (1) (A).)
- Review the annual audit report of the county superintendent. (Education Code § 1040 (e).)
- Approve the annual county school service fund budget of the county superintendent before its

22 30 Ops. Cal. Atty. Gen. 125 (1957).

23 The budget overview for parents includes information about the funds apportioned for unduplicated pupils and the total expenditures budgeted to implement the LCAP. It is adopted along with the LCAP and submitted to the SPI for approval.

submission to the Superintendent of Public Instruction (SPI). (Education Code §§ 1620-1622.)

- Approve any budget revision in excess of \$25,000 proposed by the county superintendent if the revision would change the overall size of the approved budget. (Education Code § 1280.)
- Approve any consultant contract of \$25,000 or more if the contract requires a budget revision that would change the overall size of the approved budget. (Education Code § 1281 (b).)
- Approve any increase in retirement benefits proposed by the county superintendent for any county office employee. (Education Code § 1302 (b).)
- Review (but not take action on) any salary increase or bonus for a county office employee of \$10,000 or more as brought to the board's attention by the county superintendent. (Education Code § 1302 (a).)
- Set the salary of the county superintendent.²⁴ (Calif. Const. Article IX, Sec. 3.1 (b).)

Programmatic Oversight

- Hold public hearings and approve the Local Control and Accountability Plans (LCAP) of the county office of education. (Education Code § 52068.)
- Establish charter schools to serve students whom the county office would otherwise be responsible to serve.** (Education Code § 47605.5.)
- Establish countywide charter schools.** (Education Code § 47605.6.)
- Ensure the oversight duties are performed for countywide and dependent charter schools operated by the county office. (Education Code § 47604.32.)
- Annually hold a public hearing on whether students in county office programs have sufficient textbooks and/or instructional materials aligned with state content standards. (Education Code § 60119.)
- Request the SBE to waive a section(s) of the Education Code or Title 5 regulation(s) that may adversely impact the county office.** (Education Code § 33050.)
- Govern and adopt courses of study for juvenile court schools and county community schools, and evaluate program effectiveness.²⁵ (Education Code §§ 1983, 48645.3.)
- Provide for the education of certain specified student populations as the governing board of a county's juvenile court school, community school, or charter school(s). (Education Code §§ 1981, 48645.1, 47605.5, 47605.6.)
- Annually certify that county office independent study courses are aligned with content standards, and are as rigorous and of the same quality as equivalent classroom-based courses. (Education Code § 51749.5.)
- Secure copyrights and receive royalties for copyrightable works developed by the board.** (Education Code § 1045.)

** Discretionary duties listed in this section are marked by a double asterisk.

24 In 1978, the Attorney General issued an opinion stating that although county boards of education have plenary power over the superintendent's salary, boards may not decrease a county superintendent's salary retroactively and thus deprive the superintendent of implied contractual rights for past services rendered. (61 Ops. Cal. Atty. Gen. 384 (1978).) In 1979, the Attorney General issued another opinion stating that county boards of education may prospectively change the salary of the county superintendent before and during the term for which the superintendent was elected. (62 Ops. Cal. Atty. Gen. 356, (1979).)

25 For the purposes of establishing and maintaining a county community school, the county board "shall be deemed to be a school district." (Education Code § 1984; 85 Ops. Cal. Atty. Gen. 167 (2002).)

Appeals

- Serve as the appellate body for student expulsions. (Education Code § 48919.)
- Serve as the appellate body for interdistrict transfers. (Education Code § 46601.)
- Serve as the appellate body for local district charter school petition denials and authorization revocations. (Education Code §§ 47605 (k), 47607 (i).)

Rulemaking

- Adopt rules and regulations for the board's own governance and keep a recording of their proceedings. (Education Code § 1040 (a), (b).)
- Adopt rules and regulations governing the administration of the office of the county superintendent.** (Education Code § 1042 (a).)

Real Property

- Acquire, lease, lease-purchase, hold, and convey real property.** (Education Code § 1042 (c).)
- Override city and county general plans and zoning codes restricting the location of community schools.** (101 Ops. Cal. Atty. Gen. 56 (2021); Government Code § 53094.)

Commentary on Education Code Sections 1040 and 1042

The Education Code has two types of duties for county boards – required or “must do” duties and permitted or “may do” duties. A consolidated list of these mandatory and discretionary duties is provided in the Duties and Powers section above. Education Code sections 1040 and 1042 contain many (but not all) of these provisions. We refer to these duties as the section 1040 “musts” and the section 1042 “mays” as detailed specifically below.

The “Musts” in Education Code Section 1040

Education Code section 1040 *requires* the county board of education to do all the following:

1. Adopt rules and regulations, not inconsistent with the laws of this state, for their own government.
2. Keep a record of their proceedings.
3. Approve the annual budget of the county superintendent of schools before its submission to the county board of supervisors.

This pertains to fiscally dependent counties. In fiscally independent counties, the annual budget of the county superintendent and the county school service fund budget are consolidated into a single budget. The combined budget is submitted to the SPI as described further below, and in Chapter 3.

4. Approve the annual county school service fund budget of the county superintendent of schools before its submission to the Superintendent of Public Instruction.

See Chapter 3 for a detailed discussion of COE budget development; also see the list of functions under the heading “Financial Oversight” in the Duties and Powers section above, and Chapter 4 (relevant Frequently Asked Questions).

5. Review the report of the annual audit provided for the county superintendent of schools under Education Code section 41020. The review of the report shall be a scheduled agenda item at a regularly scheduled public meeting.

6. Fix the salary of the county superintendent of schools. (Cal. Const. art. IX, § 3.1 (b).)

The duty to fix the county superintendent's salary is also referenced in Education Code section 1207: (1) "In no case will the salary of the county superintendent be lowered during his term of office"; and (2) "the salary of an incumbent [county superintendent] shall not be reduced during the term for to which he was elected or appointed or for any consecutive new term to which he is elected or appointed."²⁶

The "Mays" in Education Code Section 1042

The Education Code contains various provisions giving a county board general discretionary power. (See the items marked by a double asterisk in the Duties and Powers section above.) In other words, there are certain things a county board of education "may" do. Education Code section 1042 permits (but does not require) county boards of education to do any of the following:

1. Adopt rules and regulations governing the administration of the office of the county superintendent of schools.

Although the statutory language of Education Code section 1042 (a) lacks explicit limitation, the power of any one government entity to adopt rules and regulations is implicitly limited by other provisions of law; for example, courts have repeatedly held that the rulemaking power of one local government entity such as the board of supervisors, may not encroach or act on matters that fall within the statutory or constitutional authority of other government entities.²⁷ (See additional comments on this subject in the FAQs.)

2. For fiscally dependent counties, review the county superintendent's annual itemized estimate of anticipated revenue and expenditures before it is filed with the county auditor; and make revisions, reductions, or additions in the annual itemized estimate that the board deems advisable or proper. An annual itemized estimate cannot be filed by the superintendent until it has been reviewed and approved by the county board of education.²⁸
3. For fiscally independent counties, acquire, lease, lease-purchase, hold and convey real property for the purpose of housing the office and the services of the county superintendent of schools.

26 The Attorney General has opined that Education Code section 1207 was "preempted and therefore void" because county boards are constitutionally vested with the plenary power in Article IX, Section 3.1, of the California Constitution to fix the county superintendent's salary, and may increase or decrease the annual salary before or during a superintendent's term of office. (62 Ops. Cal. Atty. Gen. 356, (1979); see also *supra* note 24.) While opinions of the Attorney General are not controlling statements of law, they are generally given great weight in determining the meaning of statutes. (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal. 4th 821, 829.)

27 Accordingly, the county board's power to adopt rules and regulations is generally understood as limited to matters connected to its own jurisdiction or authority as expressly provided in the constitution or statute such as, for example, budget adoption, LCAP approval, appeals, and when acting as the governing board for court and county community schools. (See *People v. Langdon* (1976) 54 Cal.App.3d 384; *Hicks v. Board of Supervisors of Orange County* (1977) 69 Cal.App.3d 228, 242.)

28 As noted in Chapter 4, in practice, this authority to revise impacts the three fiscally dependent county offices; fiscally independent county offices are not required to submit an annual itemized estimate to the county auditor. (86 Ops. Cal. Atty. Gen. 57 (2003).)

4. Contract with and employ any persons to provide the board with special services and advice in the areas of finance, economics, accounting, engineering, law, or administrative services. The California Attorney General has opined that a county board of education may not appoint outside counsel in addition to in-house counsel to provide unrestricted, independent advice to the board.²⁹ (See a discussion in the FAQs in Chapter 4 regarding the board and the superintendent hiring the “same” legal counsel.) However, the Attorney General suggested that a county board of education may contract with separate or outside counsel to provide advice to the board when the following circumstances exist:
 - a. In-house counsel has a conflict of interest;
 - b. In-house counsel has failed to render timely advice in a particular matter;
 - c. The services being sought are in addition to those usually, ordinarily, and regularly obtained from in-house counsel; or
 - d. The county board of education desires a second legal opinion from that provided by in-house counsel in a particular matter.³⁰

In any of these circumstances, it is recommended that the county board and county superintendent discuss the process for hiring outside counsel to encourage a smooth and collaborative process. Note: There may be additional circumstances where the question of appointing counsel may arise. Opinions of the Attorney General are afforded judicial deference, but they are not definitive statements of law. (Freedom Newspapers, Inc. v. Orange County Employees Retirement System (1993) 6 Cal. 4th 821, 829.) Here, the Attorney General's opinion that independent counsel should not be appointed to provide unrestricted advice to the board is potentially subject to criticism for not adequately considering a lawyer's ethical obligations when providing joint representation. In such a circumstance, there may be a risk the lawyer's representation of one client “will be materially limited by the lawyer's responsibilities to or relationships with another client.” (See California Rules of Professional Conduct, rule 1.16(b).)

5. Fill a vacancy that occurs during the term of an elected county superintendent of schools by appointment.

The Permissive Education Code

Education Code section 35160 provides that a school board, a county superintendent of schools, or a county board of education “may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which [school districts] are established.” The reasoning behind this permissive statutory authorization, which is to be liberally construed, is stated in Education Code section 35160.1 (a), which reads in part that “in addressing their needs, common as well as unique, school districts, county boards of education and county superintendent of schools should have flexibility to create their own unique solutions.”

²⁹ 86 Ops. Cal. Atty. Gen. 57 (2003).

³⁰ Reserved.

Entering into Contracts

The Education Code provides the county board of education with specific authority to enter into contracts on its own behalf: (1) to acquire, lease, lease-purchase, hold, and convey real property; (2) to appoint outside counsel in limited situations (see above), and (3) to retain specially trained persons to provide special services and advice in the areas of finance, economics, accounting, engineering, law, or administrative matters. (Education Code § 1042 (b), (c).) (See a further discussion of the board's permissive authority to contract in the "Contracting for Services" section in the FAQs.)

Board Involvement in COE Employee Matters

The county superintendent is the employer of certificated and classified employees. (Education Code §§ 1290-1319.)³¹ The county superintendent does not generally bring individual personnel matters (e.g., hiring decisions) to the county board for approval.³² However, as detailed in the Duties and Powers, Financial Oversight section above, any increase in an employee's retirement benefits is subject to board approval, and the board must discuss (but not take action on) a salary increase or bonus of \$10,000 or more. (Education Code §§ 1302, 1280.)

As a consequence, the personnel discussions that can consume local school board meetings are not a feature of meetings of the county board. Unlike local school boards, a county board may not meet in closed session under the "personnel exception" to the Brown Act to discuss county office employee matters because the county board of education is not the employer of county office employees.³³ There are few (if any) exceptions.³⁴

Monitoring county office staffing levels as determined by the county superintendent may be done by the county board in the normal course of performing its budget-related duties. For example, the board may review staffing levels during the annual budget creation and adoption process, during the review of interim budget reports, and when budget revisions are submitted to the board by the county superintendent for approval.

The county board's purpose here is not to interfere with the management responsibilities of the county superintendent, but rather to evaluate how the values expressed by the board during the budget approval process are being accomplished. (For a full discussion of how the budget incorporates the values of the county office, see the section entitled "Budget as a Statement of Values" included in Chapter Five, prepared as a case history by the Ventura County Office of Education.)

31 72 Ops. Cal. Atty. Gen. 25 (1989); see also 85 Ops. Cal. Atty. Gen. 77 (2002).

32 The county board approves sabbatical leaves for certificated staff and paid and unpaid leaves of absences for classified staff if such leaves are not included in a collective bargaining agreement. (Education Code §§ 1294, 1295.)

33 85 Ops. Cal. Atty. Gen. 77 (2002).

34 The Attorney General has opined that "a limited class of employees exists for whom the superintendent's decision to hire is subject to the approval of the board." For these employees, a board shares authority with the superintendent and may meet in closed session under the personnel exception to consider whether to approve the superintendent's employment decisions. The Attorney General described these employees as personnel for "the coordination of educational programs among school districts and community college districts." Such programs, the Attorney General opined, might include "guidance services, health services, school library services, [and] special education" as well as the supervision of instruction and/or attendance "in certain elementary, high school, and unified school districts." (72 Ops. Cal. Atty. Gen. 25 (1989) (citing Education Codes §§ 1700, 1703, 1730, 1750, 1760); see also 85 Ops. Cal. Atty. Gen. 77 (2002), footnote 3.)

The Appellate Role of County Boards

Like most other elected bodies, the county board of education hears and decides certain appeals. Unique to the county board of education is that it hears appeals of other local entities, school districts, and charter schools authorized by districts in the county. While such hearings use a somewhat informal process and the standard rules of evidence do not strictly apply, it must be remembered that a hearing is a formal legal proceeding that must afford the appellants due process. Fundamental to due process is that the hearing body be fair and impartial, affording all parties notice of the process and an opportunity to be heard. Discussed below are the three important administrative appellate functions performed by county boards.

Matters brought before a county board on appeal consist of (1) student expulsions, (2) interdistrict transfer denials, and (3) denials, non-renewals, or revocations of charter school petitions by school districts in the county. Detailed in law and summarized below are the board's specific roles and responsibilities pertaining to these appeals.

This is a difficult and highly sensitive role for the county board. In these hearings the issues may be highly charged. The board will find itself in the middle of competing interests between local school districts and parents/students, or charter school petitioners, during which the board, within the parameters of the law, may be called upon to make difficult and/or unpopular decisions. In fulfilling this role, the county board must be careful to follow the procedures and timelines specified in law, consult legal counsel as appropriate, conduct hearings objectively and professionally, determine the facts, and then make the best decision for the parties involved. Trustees also must be careful not to divulge confidential student information from a closed session.

I. Expulsion Appeals

Students who are expelled by the board of a local school district may appeal the expulsion to the county board within 30 days of the district's action. (Education Code § 48919.) The county board (or hearing officer or administrative panel)³⁵ is required to hold a hearing within 20 school days of the appeal, and then make its decision within three school days of its hearing unless the student requests a postponement.

The county board is mandated to adopt rules and regulations establishing procedures for expulsion appeals, which include:

- the requirements for filing a notice of appeal,
- the setting of a hearing date,
- the furnishing of notice to the student and school board regarding the appeal,
- the furnishing of a copy of the expulsion hearing record by the district to the county board,
- procedures for the conduct of the hearing,
- the preservation of the record of the appeal, and
- and any other requirements desired by the board.

The county board must hear the appeal in a closed session unless the student requests in writing, at least five days prior to the hearing, that the hearing be conducted in a public meeting. Whether the hearing is conducted in closed or public session, the board may meet in closed session in order to conduct its deliberations.

35 County boards in Class 1 and 2 counties may decide to have a hearing officer or administrative panel hold the hearing and make a recommendation to the board. The board must issue its decision within 10 school days of receiving the recommendation. (Education Code § 48919.5.)

When the county board is reviewing a district board's decision, unless the county board remands the matter back to the district or with reasonable notice grants a new hearing per Education Code section 48923,³⁶ it must limit its review to very specific conditions delineated in Education Code section 48922 which are primarily procedural. That is, it cannot open up the entire expulsion process again; it must use the evidence and transcripts of the previous school board hearing in order to consider:

1. Whether the school district board acted without or in excess of its jurisdiction (e.g., time period violations were made, the expulsion was not based on acts specified in law as forming the basis for expulsion, or the expulsion was not based on acts related to school activity or attendance);
2. Whether the school district board conducted a fair hearing;
3. Whether there was a prejudicial abuse of discretion by the school district board (i.e., procedural requirements were not met, the decision to expel was not supported by the findings, or the findings were not supported by the evidence); and/or
4. Whether relevant evidence was improperly excluded by the school district board or new evidence that could have reasonably been discovered exists. (Education Code § 48923 (a).)

If the county board finds that relevant evidence was unavailable or improperly excluded as described in #4 above, it may remand³⁷ the case back to the local board for reconsideration, possibly even ordering the student reinstated pending such reconsideration. If the county board finds that the district board's decision to expel was not supported by the findings required in Education Code section 48915, but evidence supporting any of those findings exist in the record, it must remand the matter back to the district board for adoption of the required finding(s). In all other cases, the county board enters an order either affirming or reversing the decision of the district board. If it reverses the decision, it may direct the district board to expunge any records referring to the expulsion action. (Education Code § 48923.)

For an example of an expulsion appeal and the role of the county board, see the CCBE website page, which contains links to the following resources:

- Ventura County Expulsion Appeals Process: <https://tinyurl.com/vcoeprocess>
- San Mateo County Expulsion Appeals Handbook: <https://tinyurl.com/smcoehandbook>
- Placer County Expulsion Appeal Handbook: <https://tinyurl.com/pcoehandbook>

36 Education Code section 48923 provides, in relevant part, that if a county board finds that relevant and material evidence exists, which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded, it may (1) remand the matter; or (2) grant a *de novo* [new] hearing.

37 Remand means: "To send back. The act of an appellate court when it sends a case back to the trial court and orders the trial court to conduct limited new hearings or an entirely new trial, or to take some further action." (Black's Law Dictionary; 6th edition, 1990.)

2. Interdistrict Student Transfer Appeals

California has two interdistrict attendance programs: transfers allowed under an agreement between two or more districts pursuant to Education Code sections 46600-46611, and an alternative interdistrict attendance program “of choice” pursuant to Education Code 48300-48315. The county board hears appeals of interdistrict transfer denials in the first program, but not in the second.

When local districts have an interdistrict attendance agreement and a district board, within 30 days of a parent's request, either fails to act on the request or refuses to grant the transfer, the parent has a right to appeal to the county board. (Education Code § 46601.) In addition, if two districts do not have an interdistrict attendance agreement or an agreed upon “permit” process, but a parent requests that they adopt one, the parent may appeal to the county board if the districts do not enter into such an agreement.

Parents may appeal to the county board within 30 days of the final decision by the district to deny the request.³⁸ Failure to file a timely appeal is good cause to deny the appeal. (Education Code § 46601.) After an appeal is filed, the county board has 30 calendar days to determine if the student should be allowed to transfer to the requested district. This timeline can be extended by the county board or the county superintendent for five school days for good cause. The county superintendent's designee has the responsibility to investigate whether all remedies at the district level have been exhausted and whether there is any additional information that may be deemed to be useful.³⁹ Any new information shared with the county board but not shared with the district board may result in the matter being remanded back to the district for further consideration.

Following a hearing where the county board conducts its own, separate review of the information as presented by the parent and the district, the board shall grant or deny the appeal based on its merits and a decision must be rendered within three school days of any hearing conducted by the board (or by a hearing officer or an administrative panel in some counties). When an appeal is granted, the board may only determine that the student may attend the requested district and not a particular school in the district. If the hearing involves the presentation of confidential student information, the appeal shall be held in closed session to protect the privacy of the student, unless the parent/guardian waives the right of privacy and permits the hearing to be held in open session. For an example of an interdistrict transfer process and the role of a county board of education see CCBE's website page, which contains links to the following resources:

- Ventura County Office of Education: <https://tinyurl.com/vcoetransfer>
- San Mateo County Board of Education: <https://tinyurl.com/smtransfer>
- Placer County Interdistrict Attendance Appeal Handbook: <https://tinyurl.com/pcoetransfer>

38 The final decision to grant or deny an interdistrict attendance transfer request can be made by the school board or by a district administrator.

39 Students who have been determined to be the victim of an act of bullying committed by a student of the district of residence must be given priority for interdistrict attendance. (Education Code § 46600 (b).)

3. Charter School Appeals, Approval and Oversight

County offices of education may become the authorizing entity of a charter school under four circumstances:

1. under a direct petition when the students to be served would otherwise be the responsibility of the county office,
2. when the petition proposes to operate at one or more sites “countywide” within the geographic boundaries of the county and the student population to be served cannot be served as well by a charter school that operates in only one district in the county,
3. if a district board denies a petition and the petitioners choose to submit the petition to the county board, and
4. if a district’s denial of the renewal of a petition is reversed on appeal by the county board; additionally, county offices may be delegated responsibility for oversight over charter schools authorized by the State Board of Education.⁴⁰

The board must ensure that the charter affirms its commitment to meet the conditions in law with regards to nonsectarian programs, nondiscriminatory admissions practices, and other conditions included in Education Code section 47605 (c). It also must ensure that the petition adequately describes its mission, the annual goals for all students and for each numerically significant student subgroup aligned with state priorities, the governance structure that will be used, the educational outcomes to be attained by students, the method by which progress in meeting these outcomes will be measured, and all other elements required by law.

Any board reviewing a charter petition must grant the petition if doing so is consistent with sound educational practice and the petition meets all the requirements specified in law. In the case of a countywide charter school petition, the county board has discretion to deny a petition on any “other basis that the board finds justifies the denial of the petition.”

If the county board grants the approval of a charter school, it bears the same responsibilities that fall to a district board granting a charter; except for the obligation to provide use of facilities if the charter school otherwise meets the criteria in Education Code section 47614 (also known as “Proposition 39”).⁴¹ It does not have any responsibility to provide services to the charter school unless such services are mutually agreed upon. It must, however, hold the charter school accountable for fulfilling the terms of its charter.

County boards may renew a charter petition based on the academic accountability criteria in Education Code sections 47607 and 47607.3 and the standards and criteria established in Education Code section 47605 (c). It has the authority to revoke a charter whenever it finds that the school committed a material violation of any of the conditions, standards or procedures set forth in the charter; failed to meet or pursue any of the student outcomes identified in the charter; failed to meet generally accepted accounting standards of fiscal management; or violated any provision of law (Education Code § 47607). The county board also must consider revocation whenever the California Collaborative for Educational Excellence (CCEE) finds that the charter school failed to implement the CCEE’s recommendations or continues to demonstrate persistent or acute inadequate performance.

⁴⁰ See Education Code section 47605.9, added in 2019 by AB 1505, effective January 1, 2020.

⁴¹ County boards as authorizers may, like county superintendents and the SPI, make reasonable inquiries of the charters schools they have authorized. (Education Code § 47604.3; 104 Ops. Cal. Atty. Gen. 66 (2021).)

Boards are encouraged to stay informed of laws applicable to charter school operations and oversight, and to adopt policies outlining the petition review and renewal process, criteria for approval/denial, the appeals process, geographic boundary requirements, and reports required to fulfill the county board's monitoring responsibility.

As a charter authorizer, county boards may request, but are not required, to have the county superintendent provide the administration of the charter school review and oversight. Although the county superintendent is not required to provide this support, it is common they do so.

COUNTY SUPERINTENDENT: ROLES & RESPONSIBILITIES

The county superintendent manages the day-to-day operations of the county office and works directly with the school districts in the county to provide support and guidance for their operations. In addition to providing credential monitoring and differentiated assistance, the county superintendent performs a vital oversight role involving district budgets, LCAPs, and when districts receive emergency loans from the state. The county superintendent may report on the execution of these activities at meetings of the county board of education. In the shared governance model, the county superintendent collaborates with the county board to develop for the county office a strategy and maintain a shared strategic vision.

In this section we will summarize key aspects of the county superintendent's role by focusing on their general duties, the development of the county office LCAP, the LCFF and budget, their management and monitoring of personnel, and oversight of charter schools in the county.

General Duties in Education Code Section 1240

Education Code section 1240 describes the general statutory duties of the county superintendent and requires county superintendents to do the following (partial list):

1. "Superintend" (i.e., engage in oversight over) the schools of his or her county.⁴²
2. Maintain responsibility for the fiscal oversight of each school district in his or her county.
3. Visit and examine each school in his or her county at reasonable intervals to observe its operation and to learn of its problems. The superintendent may annually present a report of the state of the schools in the county, and of the county office, including but not limited to, their observations while visiting schools, to the county board of education and county board of supervisors.
4. Develop a list of underperforming schools, including charter schools, meeting certain criteria that the superintendent or designee shall inspect annually and report on those schools at a regularly scheduled November board meeting of the districts in the county, the county board of education, and the board of supervisors.
5. On or before September 15 of each year, the superintendent shall present a report to the governing board of the school district and the SPI regarding the fiscal solvency of any school district that has existing or potential issues of fiscal solvency.

⁴² A county superintendent "must generally oversee the schools of the county," maintain fiscal oversight of each school district in the county, and enforce the course of study. (101 Ops. Cal. Atty. Gen. 56 (2018).)

6. Keep a record of his or her official acts, and of all the proceedings of the county board of education.
7. Enforce the course of study.
8. Enforce the use of state textbooks and instructional materials, and of high school textbooks and instructional materials, regularly adopted by the proper authority in accordance with Education Code section 51050.
9. Submit two interim reports during the fiscal year to the county board of education in accordance with the following:
 - a. The first report shall cover the financial and budgetary status of the county office of education for the period ending October 31.
 - b. The second report shall cover the period ending January 31.
 - c. Both reports shall be reviewed by the county board of education and approved by the county superintendent of schools no later than 45 days after the close of the period being reported.⁴³
 - d. As part of each report, the superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for two subsequent fiscal years. The certification shall be classified as positive, qualified, or negative.
 - e. The superintendent shall also send copies of each positive, qualified, or negative certification, and the report containing said certification, to the Superintendent of Public Instruction and the Controller at the same time he or she submits them to the county board of education.
 - f. The interim reports and certifications shall be based on standards and criteria for fiscal stability adopted by the State Board of Education and shall use format and forms prescribed by the Superintendent of Public Instruction.
 - g. The superintendent shall make these reports and supporting data available to any interested party upon request.
10. Report to the Commission on Teacher Credentialing (CTC) the identity of any certificated person who knowingly and willingly reports false fiscal expenditure data relative to the conduct of any educational program if based on information that gives the county superintendent reasonable cause to believe such false information has been reported.

⁴³ County board review of the interim reports allows for oversight throughout the year and makes the reports public.

Development of the County Office LCAP

To demonstrate accountability for the expenditure of funding provided by the Local Control Funding Formula ("LCFF"), county offices must annually prepare and adopt an LCAP or an update. The county office LCAP should reflect the needs of the students and the community, especially for historically underrepresented or low-achieving populations. (Education Code § 52059.5 (b)(3).) County office LCAPs focus on outcomes for all students, as well as goals and specific actions for certain numerically significant pupil subgroups, including English learners, low income, and foster youth students in the programs and services funded by the LCFF. (Education Code §§ 52052, 52066 et seq.)

Each county superintendent of schools must develop a county LCAP for the schools and programs directly generating LCFF funding for the county office and present the LCAP to the county board for adoption by July 1. (Education Code § 52066 (a), (c).) The adopted county office LCAP is effective for a period of three years, must be updated annually, and must include all the information specified in the template adopted by the SBE. (Education Code §§ 52066 (b), (c), 52067 (a).)

The county office LCAP must identify specific goals that address all pupils, and each numerically significant subgroup of pupils, within each county program or school reported in the LCAP. (Education Code §§ 52052, 52066 (c).) The LCAP must include the information specified in the SBE's template, including goals and specific actions for the two priorities established for county offices which require the county superintendent to coordinate both the instruction for expelled students and the services for foster youth. (Education Code §§ 52066 (c), (d) (9)(10).)

The county superintendent is required to consult with teachers, principals, administrators, other school personnel, employee bargaining units, parents/legal guardians, and students in developing the LCAP or annual update. (Education Code § 52066 (g).) The county superintendent is also required to establish a parent advisory committee to provide advice to the county superintendent and the county board regarding the development and adoption of the county office LCAP. (Education Code § 52069 (a)(1).)

If at least 15% of pupils enrolled in the county programs and schools operated by the county office are English learners, the county superintendent must also establish an English learner advisory committee (ELAC) that is composed of a majority of parents/guardians of English learner students. (Education Code § 52069 (b)(1).)

Before submitting the county office LCAP to the county board, the county superintendent must:

- a. solicit input from the parent advisory committee(s);
- b. notify members of the public of the opportunity to submit written comments on the LCAP;
- c. ensure that the LCAP is in alignment with county school plans and strategies for categorical programs; and
- d. determine, following consultation with its SELPA administrator, if specific actions for individuals with exceptional needs are in the LCAP or update, and if the specific actions are consistent with the strategies included in the SELPA's annual assurances.

Once approved, the county superintendent must post the LCAP prominently on the county office's website and transmit it to the SPI. (Education Code § 52065 (b).)

Administration of the County Office Budget and Contracting Authority

The county superintendent is designated by law both as a “civil executive officer” and as a “county officer” with the authority to administer the County Office of Education and its budget.⁴⁴ (Education Code § 1621.) The Education Code vests the superintendent with the power to allocate funds included in the approved budget and provide interim budget reports to the Board. (Education Code §§ 1604, 1240 (1)(2).) However, fund balances designated by the county board for specific purposes may only be allocated by a majority vote of the board. (Education Code § 1621 (c).)

As discussed under the duties of the county board, if a budget revision in excess of \$25,000 is proposed by the county superintendent to the annual budget of the county superintendent after the county board of education has adopted the budget, the revision shall be incorporated in the next interim financial report or other board report, and is submitted for discussion and approval at a regularly scheduled meeting of the board. (Education Code § 1280.)

The Education Code explicitly vests the county superintendent with the independent authority to enter into specific contracts,⁴⁵ but the county superintendent’s broad authority to spend funds and administer the budget approved by the county board, necessarily implies general authority to enter into contracts on behalf of the county office.⁴⁶ Additional information regarding development of the county office budget can be found in Chapters 3 and 4 of this Handbook.

Management & Monitoring of Personnel

The contrasting roles of county boards of education and district boards are highlighted in the areas of personnel management (i.e., hiring, discipline, termination, and collective bargaining). The county superintendent is the employer of certificated and classified employees. (Education Code §§ 1290-1319.)⁴⁷ Employees of the county superintendent who staff the county office are of two types—certificated and classified. Certificated employees are those that are required by state law to have a certificate (i.e., credential) issued by the state in order to perform their functions, and classified employees are all other employees. County office employees are covered by the same collective bargaining laws which cover employees of school districts; however, it is the county superintendent, not the county board, who possesses the control over employment conditions and is the employer who negotiates and ratifies contracts with the unions.⁴⁸

44 101 Ops. Cal. Atty. Gen. 56 (2018).

45 See, e.g., Education Code §§ 1250, 1258-1259, 1276, 1293.

46 Conversely, the Education Code provides the authority to the county board to enter into contracts on its own behalf: (1) to acquire, lease, lease-purchase, hold and convey real property; (2) to appoint outside counsel in limited situations; and (3) to retain specially trained person(s) to provide special services and advice in the areas of finance, economics, accounting, engineering, law, or administrative matters. (Education Code § 1042.)

47 The board may hire and set the rate of pay for professionals who perform special services and give advice to the board. (Education Code § 1042 (d).)

48 Southern Alameda County Teachers Association, PERB Dec. No. 323 (1983).

The county superintendent does not bring individual personnel matters (e.g., hiring decisions) to the county board for approval except in the limited circumstances when the board is asked to approve an increase to retirement benefits, or to discuss a salary increase or bonus of \$10,000 or more, or when the board is asked to approve the hiring of personnel who coordinate certain services for students countywide. (See above “County Board of Education: Roles and Responsibilities” for further discussion.) Because the county superintendent is the employer charged with the responsibility of managing the personnel of the county office, the county board may not meet in closed session under either the “personnel exception” or the “labor negotiations exception” of the Brown Act. (See 72 Ops. Cal. Atty. Gen. 25 (1989).)⁴⁹ The county superintendent is responsible for making staffing determinations, including setting of salary and the need for new staff positions or the reduction of current staff positions. (Education Code §§ 1294, 1311.)

Oversight of Charter Schools

County superintendents have authority to monitor and investigate the operations of any charter school located within his or her county based upon written complaints by parents or other information that justifies the investigation. (Education Code § 47604.4.) Charter schools in the county must respond to all reasonable inquiries made by the county superintendent. (Education Code § 47604.3.) In addition, county superintendents have authority to review or audit the expenditures and internal controls of any charter school in his or her county, in a timely manner, if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. (Education Code § 1241.5 (c).) The county superintendent must report the findings and recommendations to the governing board of the charter school and provide a copy of the information to the chartering agency within 45 days.

⁴⁹ But see *supra* note 34.



CHAPTER 3 WORKING TOGETHER

The Imperative of Collaboration

Overview

SHARED GOVERNANCE – ENSURING QUALITY AND EFFECTIVENESS

California law has created a special and unique relationship between a county board and a county superintendent. Each entity is separately elected or appointed as discussed in Chapter 1 (in all but five counties),⁵⁰ and each has distinct duties and responsibilities; yet there are some common areas of focus and responsibility. In these areas, such as the budget and the LCAP, the county superintendent and the county board of education need to work collaboratively to achieve the best outcomes for our schools and students.

CCBE believes, in order to jointly lead each county office of education successfully, both entities must agree to the concept of “shared governance” characterized by shared authority, accountability, and responsibility, and (to the extent possible) an aligned vision. Only through a collaborative and shared governance process can both entities work together effectively and seamlessly for the benefit of the students and families in their county.

CCBE also recognizes that shared governance is a model between elected and appointed public officials based upon collaborative working relationships that take significant effort and commitment to achieve, much less maintain. In instances where the county superintendent and the county board are operating more independently, the Handbook still will serve as a guide because it identifies the express statutory authority of both constitutional entities and includes discussions of where the law is not as clear.

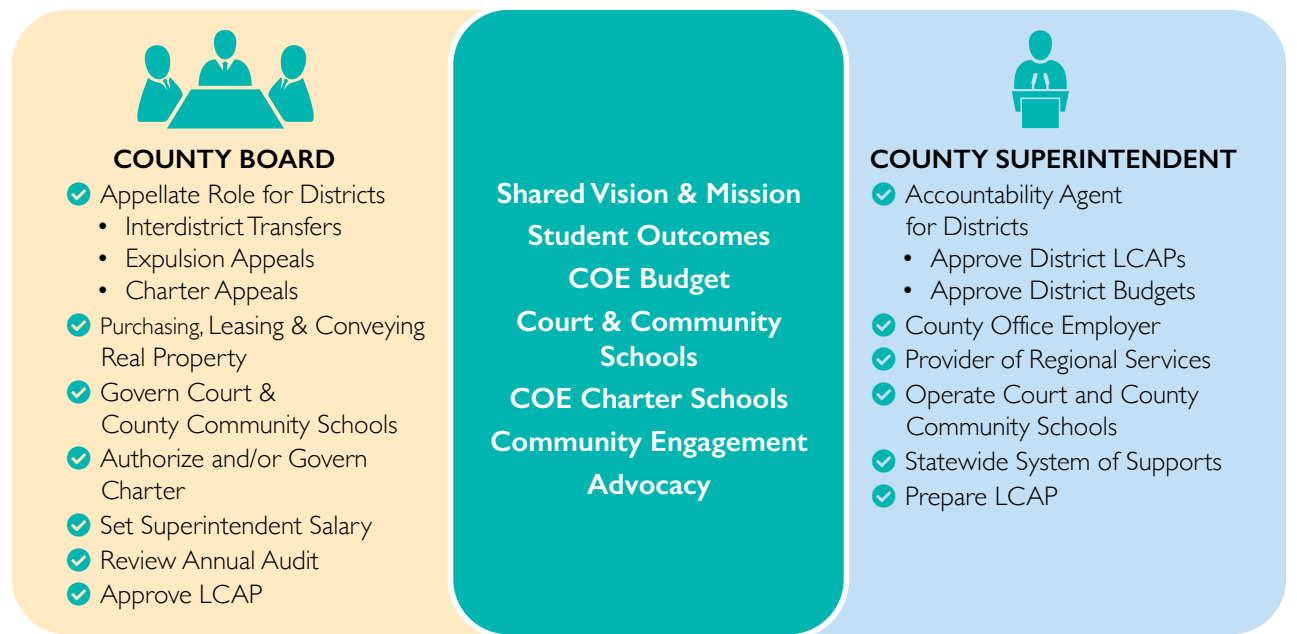
SHARED RESPONSIBILITIES

County boards and county superintendents are both duly elected or appointed public servants who share an accountability to the students and counties they serve. Although the Education Code is generally clear about which authorities belong to the county board and which belong to the county superintendent, and although the law invests certain statutory duties exclusively in one or the other, the two entities share an obligation to implement the Education Code in a collaborative and effective fashion.

Chapter Acknowledgment: This chapter contains certain excerpts and adaptations of material previously published in Placer County Superintendent of Schools and Placer County Board of Education, *Governance Compact* (2021).

50 San Diego, Santa Clara, San Francisco, and Sacramento County Superintendents of Schools are all appointed by their respective county board of education. Los Angeles County Superintendent of Schools is appointed by the Los Angeles Board of Supervisors along with the Los Angeles County Board of Education members.

Based on a review of the Education Code, the Venn diagram to the left, inspired by the California School Boards Association (CBSA), represents critical independent duties and responsibilities of each entity and the areas where county superintendents of schools and the county boards of education may share duties and responsibilities.



The chart below illustrates the interaction needed to successfully govern the areas identified in the “shared governance” column. For instance, both county superintendents and county boards share a responsibility to improve outcomes for students. County superintendents have the responsibility to meet and respond to stakeholders and prepare the LCAP. County boards of education have the responsibility to review, consider and approve the LCAP(s). When collaborating and using a continuous improvement model, both entities will work together to identify program gaps, strengths, and weaknesses, and to identify where improvements are needed.

CCBE recognizes that each county has its own circumstances, needs, and challenges. These differences may be reflected in the way each county board and county superintendent work together at their own pace to achieve shared governance.

COUNTY BOARD	SHARED GOVERNANCE	COUNTY SUPERINTENDENT
Approve COE LCAPs	Student Outcomes	Develop COE LCAPs Approve School District LCAPs
Approve	COE Budget	Develop
Establish & Govern	Court & Community Schools	Operate
Authorize & Govern	COE Charters (Dependent)	Operate & Oversight
Authorize	COE Charters (Independent)	Oversight
Listen & Respond	Community Engagement	Listen & Respond
Confer & Align	Advocacy	Confer & Align

What follows in this chapter is a discussion of each of the areas of shared governance: student outcomes; court and community schools; charter schools; community engagement; advocacy; and the county office budget (which is also referred to commonly as the “budget of the county superintendent of schools”).

From there, we provide in subsequent chapters and appendices: answers to frequently asked questions related to these functions (chapter 4); examples of county boards and county superintendents working together (chapter 5); and an index of available tools and resources to help all county boards achieve shared governance by adapting these models of practice to their circumstances (chapter 6).

Student Outcomes

As part of their shared governance, both the county board and county superintendent are accountable for the academic outcomes of the students served by the county. The most obvious indication of how well a school is serving the academic needs of its students comes from the performance results on California’s state mandated testing system – the California Assessment of Student Performance and Progress, or CAASPP. CAASPP encompasses a number of distinct tests that measure progress toward grade level outcomes in specific subject areas, and for English learners, progress toward English fluency. County boards and county superintendents use the results of these tests as one data point in determining how well schools are serving students. In fact, grade level performance on tests helps determine how a county board might make adjustments to its LCAP to ensure students, teachers, staff, administrators, parents, and the community are being served in the best possible way.

Importantly, LCAP activities nearly always have budget implications, and county boards determine (by approving the county superintendent’s proposed budget) how funding will be allocated to achieve their stated goals. In turn, the LCAP also acts as a public accountability document that shows where and how much funding is allocated based on the priorities of the county board, the county superintendent, and their stakeholders. Beyond student academic outcomes, measures such as attendance, rates of suspension/expulsion, parent involvement, and staff satisfaction together provide important data that points to the effectiveness of county-operated schools.

Court & Community Schools

With respect to court and community schools, the county board assumes roles and responsibilities akin to that of a governing board of a school district. Critically, the county board’s authority over court and community schools comes with the responsibility to provide services to their distinctive student populations. County boards must consider not just the academic needs of these students, but must also, in collaboration with the county superintendent, work with the ancillary service providers, governmental agencies, and community organizations that serve at-risk youth in the county (e.g., mental health services, probationary services, juvenile courts, etc.). Considering that these schools are often seen as the last-chance opportunity for at-risk youth, the county board’s responsibility to them becomes exponentially more important.

Still, it must be remembered that it is the county superintendent, not the county board, who operates the court and community schools. If the county superintendent implements staffing at a community school at a level or in a manner that the board disagrees with, the county board may not direct the county superintendent, inside or outside of the budget approval process, how to operate the school. (Education Code § 1986; Hicks v. Board of Supervisors of Orange County (1977) 69 Cal.App. 3d 228.) If, on the other hand, the county superintendent decides to close a county community school, the county board could prohibit the closure because it has the express authority to establish and maintain community schools. (Education Code §§ 1980, 1981.)

Beyond ensuring these schools and their students have appropriate support, county boards approve the courses of study for community and court schools. The course of study at a community or juvenile court school may look entirely different from a course of study at any other county school, given the unique needs and challenges. Collaboration with the county superintendent and local personnel working directly with these students will be necessary to achieving positive outcomes.

Charter Schools

Enacting in 1992 the Charter School Act (which was co-authored by then-Assemblymember Ted Lempert, who later became a longstanding trustee of the San Mateo County Board of Education), the Legislature included the following legislative intent in the preamble to the law:

It is the intent of the Legislature, in enacting this part, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

- a. Improve pupil learning.*
- b. Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.*
- c. Encourage the use of different and innovative teaching methods.*
- d. Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.*
- e. Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.*
- f. Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems.⁵¹*

Unlike districts and the State Board of Education, the county board of education is the only agency that can both approve an initial charter, and serve in an appellate role for a school district.⁵² As such, county board trustees must understand their unique role in approving the opening of a charter school and considering an appeal following a local district's denial. In doing so, the board member should keep in mind the original intent of the Charter Schools Act of 1992, as quoted above, as well as current law.

⁵¹ Education Code § 47601.

⁵² Effective July 2020, AB 1505 removed the SBE's authority to authorize a statewide benefit charter school.

Like any other public school, charter schools must administer state-mandated testing to their students to measure progress toward academic achievement (as defined by the state). Results from tests are public data and serve as one of many data points on the health of the charter school and its ability to effectively serve its students. Considering recent changes to laws governing charter schools, academic performance has become a key consideration in determining whether an existing charter should be renewed for another charter term (and the length of that term).

Community Engagement

The county board and county superintendent have broad discretion to sponsor events and activities that will engage the community and support public education. For example, the county board and county superintendent may wish to utilize the process specified in the Local Control and Accountability Plan (LCAP) legislation to engage with the community. The county board, at its discretion, may also hold board workshops and community forums on matters within their scope of representation. The county board may also decide to participate in local and regional organizations and events, preferably in alignment with the county superintendent, to represent and advocate for the interests of the students served by the county office. Many counties have school board associations that act as advocacy groups within the county; county board trustee are natural leaders in these groups, and they can be one of many vehicles by which trustees engage stakeholders in the community.

Advocacy

It is entirely appropriate for the county board to advocate on behalf of public education policies that will benefit county office students, and public education more generally. As mentioned above, many board members take on leadership roles in advocacy groups.

Advocacy is a natural area to engage in shared governance with the county superintendent. Working together can enhance each other's effectiveness in meeting the needs of the students and other stakeholders. Examples of advocacy include passing board resolutions in support of relevant legislation and signing joint letters to the legislature or governor on topics of interest to the county board and superintendent.

COE Budget Development and Approval

The process by which the county budget is adopted depends upon the fiscal *dependence* or *independence* of the county office of education. County offices of education agencies are of two types: those that are fiscally independent of the county board of supervisors pursuant to Education Code section 1080, and those that are not. Today, only three county offices – Alpine, San Benito, and San Bernardino – are fiscally dependent on the board of supervisors. The remaining 55 county offices are fiscally independent.⁵³

53 At one time, there was a department or office of education within the government of each of the 58 counties. Since 1975, Education Code section 1080 has empowered the county board of supervisors to transfer various functions to the county board of education, and to include the county's general fund budget and the county school service fund in a "single fund budget." Once the expenses are included in a single fund budget, the county office of education is said to be "fiscally independent."

BUDGET DEVELOPMENT IN “FISCALLY INDEPENDENT” COUNTY OFFICES

The following describes the budget development and approval process for the 55 county offices that are fiscally independent of the board of supervisors. In fiscally independent counties, the annual budget of the county superintendent and the county school service fund budget are consolidated into a single budget. This single budget is commonly prepared and adopted as follows:

- 1. Budget Preparation:** The county superintendent of schools or designee develops a budget that shows a complete plan and itemized statement of all proposed expenditures in each fund of the county office of education, and the estimated cash balances and estimated revenues for the current budget year and for the next two fiscal years.
- 2. Proposal Submission:** The county superintendent submits the proposed budget to the county board of education. The official form of the budget must be in the form prescribed by the Superintendent of Public Instruction (SPI). While the law requires that the budget conform to standards and criteria adopted by the State Board of Education (Education Code §§ 1621, 14050, 33127, 33129; 5 CCR §§ 15467-15479), it does not need to be presented to the county board in that exact format. What the county board should receive, to meet its statutory and fiduciary obligations, is a level of detail in a format that enables it to properly evaluate, discuss, and approve the budget.
- 3. Public Hearing:** By July 1 of each year, the county board of education must hold a public hearing on the proposed budget. The public hearing may be the same meeting as the public hearing on the county office of education's LCAP and the LCFF Budget Overview for Parents. The hearing must be held prior to budget adoption by the county board, but at least three days after the proposed budget is made available for public inspection. (Education Code § 1620.)
- 4. Board Approval:** By July 1, the county board must adopt and approve an annual budget to be filed with the Superintendent of Public Instruction. (Education Code §§ 1040, 1622 (a).)⁵⁴ If the county board exercises its authority to disapprove the budget, a statutory review process ensues, potentially ceding ultimate authority over the budget to the SPI. See FAQs in Chapter 4.
- 5. SPI Review:** By September 15, the SPI shall approve or disapprove the budget. In the event of a disapproval, the SPI shall in writing provide the county office recommendations regarding revisions to the budget and the reasons for those recommendations. The SPI must disapprove the budget if an LCAP has not been filed by the county board, or if filed, has not been approved by the SPI. (Education Code § 1622 (b)(1).)
- 6. Revision Process:** In the event of budget disapproval by the SPI, the county superintendent and the county board shall review the SPI's recommendations at a regularly scheduled meeting. By October 8, the superintendent and county board shall submit a revised budget to the SPI. By November 8, the SPI shall examine the revised budget and approve or disapprove it. If disapproved, the SPI must call for the formation of a Section 1623 budget review committee who make recommendations to the SPI who has final authority to approve the county office budget.⁵⁵ (Education Code § 1622 (c), (d); 1623, 1624.)

⁵⁴ Following budget approval, the county superintendent shall submit to the SPI a budget by July 1 and a final budget by October 1. (Education Code § 14050.)

⁵⁵ Section 1623 requires that the county superintendent and the county board of education select a three-person committee exclusively from a pool of five or more candidates nominated by the SPI. By November 30 (subject to a potential extension of up to 15 working days), the Section 1623 committee submits to the SPI either a recommendation that the budget as originally submitted be approved, or that specified revisions be made. By December 31, the SPI may then approve the budget or, if disapproved, take various actions to revise the budget and administer the financial affairs of the county office. (Education Code § 1624.)

BUDGET DEVELOPMENT IN “FISCALLY DEPENDENT” COUNTY OFFICES

In fiscally dependent county offices, there are two funds from which expenses of the county board and the county superintendent are paid: the *general fund budget* of county government which is approved by the board of supervisors;⁵⁶ and the *county school service fund* which is established in every county office and approved by the county board.⁵⁷ In the three fiscally dependent counties, these budgets are commonly prepared and adopted by the following process::

1. **County General Fund.** The county superintendent submits a proposed annual budget for approval to the county board of education. The county board must approve the proposed general fund budget prior to its submission to the county board of supervisors for final approval. (Education Code § 1040 (c).) In addition to the general fund budget, the county board reviews the itemized estimate of revenue and expenditures prepared by the county superintendent. Prior to approval, the county board may make revisions, reductions, or additions to the itemized estimate of revenue and expenditures. (Education Code § 1042 (b).) Once approved by the county board, the itemized estimate is filed with the county auditor as part of the county general fund budgeting process⁵⁸ overseen by the county board of supervisors. (Education Code § 1042 (b); Government Code §§ 29040 et seq.)
2. **County School Service Fund.** The process for adoption and approval of the county school service fund budget by fiscally dependent counties, as described above, is commonly understood to be identical to the process for adoption and approval of the single fund budgets in counties that are fiscally independent. (Education Code § 1040 (d).)

56 Education Code § 1510.

57 Education Code §§ 1500, 1600.

58 This approval process applies only in fiscally dependent county offices. Government Code section 29040 requires all “budget units” of county government to provide an annual itemized estimate to the county auditor. A fiscally independent county office of education is not a budget unit of county government; therefore, fiscally independent county offices are not required to submit an annual itemized estimate to the county auditor. Instead, in fiscally independent counties, approval of the county office’s general fund budget has been delegated by the board of supervisors to the county board of education. (Education Code § 1080.)



CHAPTER 4 SPECIAL TOPICS IN LAW & GOVERNANCE

Frequently Asked Questions

CCBE has identified areas of practice where it is seeking to provide, in the form of Q&A, an in-depth analysis of certain roles, responsibilities, and authorities under California law of county boards, including how these roles, responsibilities and authorities interact with those of the county superintendent.

The areas discussed in this chapter are topics often characterized by confusion or controversy, or a simple lack of awareness. The intent here is to provide as much clarity as possible, but with two caveats:

1. OVERREACHING IS THE ENEMY OF COLLABORATION

First, CCBE is fully committed to working collaboratively with our partners, county superintendents. We remain committed to the mutual goal of operating effective and efficient county offices.

Whenever a county trustee or a county superintendent overstates the authority of their office, or exaggerates the reach of their power, or more subtly, masquerades advocacy as objectivity (by, for example, selectively omitting inconvenient but potentially relevant laws, court decisions and other legal authorities), there is only one inevitable result: conflict.

The conflict arises when one elected branch of the county office takes action that might set a precedent encroaching on the authority of another elected branch. The balance of power is disrupted. And instead of focusing on policy outcomes that best serve children, the adults instead seek to restore the balance of power between the adults.

Instead, county trustees and superintendents are well advised to recognize each other's power and authority, to acknowledge the limits of their own express authority, to work together when the law is not explicitly clear, and to always seek collaboration wherever possible in service of the children we serve.

2. NOT LEGAL ADVICE

Second, with the foregoing in mind, we seek in this chapter to make explicit what is clear and unambiguous in the law, as well as what is not, and to provide a lay perspective on reasonable possibilities in interpreting and applying the law. In some areas, there is no consensus; in others, there are generally accepted, but still not definitive, points of view. We acknowledge this ambiguity to avoid the dangers of overreaching discussed above.

Although we know that there are advocates and attorneys who will be tempted to cite these materials as authoritative, we must offer the caveat that any commentary presented as an "answer" in this chapter (or anywhere else in this Handbook) is neither offered as an absolute interpretation of the law, nor as legal advice.

Rather, we seek in this chapter, and in this Handbook for that matter, to equip our membership – county trustees – to make their own calls. We seek to provide direct access to some of the arguments that counsel may make, along with the relevant legal authorities (e.g., applicable statutes and court decisions), to help make understandable some of the perplexing questions that frequently arise in the normal course of the work of a county board of education.

COE Budget Development and Approval

Q1: Is the county superintendent responsible for budget preparation and development?

Yes. As local education agencies, county offices of education are responsible for “developing their budgets and managing their expenditures” in accordance with standards and criteria adopted by the State Board of Education. (Education Code §§ 1621, 33127, 33129; 5 CCR §§ 15467-15479.) The county superintendent is commonly understood to be responsible for preparing the county office of education budget. Although not expressly included as a duty in the Education Code, the county superintendent’s professional staff prepare the annual budget, as well as the interim budget reports. (See Education Code § 1240 (l).)⁵⁹

Q2: Does the county board of education play a role in the budget preparation process?

Yes. The Education Code provides that the board must hold a public hearing on the superintendent’s proposed budget and must adopt a budget by July 1. (Education Code §§ 1040, 1622.) Beyond these mandatory responsibilities, the course of practice varies from county to county, but it is widely agreed that the county board and the county superintendent can (and should) collaborate in developing a budget that reflects shared values and priorities. To accomplish this, the board may in its discretion establish a board budget committee to collaborate with the superintendent and/or his or her staff in the budget preparation process.⁶⁰

Notably, the county board does have the explicit statutory authority to designate spending on a discretionary basis: Education Code section 1621 provides that the county superintendent’s budget may contain a fund balance designated “for any specific purpose as determined by the county board.” Any designated balance may only become available for appropriation by a majority vote of the board.

Although budget preparation (i.e., drafting the proposed budget) is generally viewed as the superintendent’s prerogative as a Constitutional Officer, county boards and county superintendents are encouraged to communicate and collaborate to ensure that the budget presented meets the needs of the county office and that it will be approved by the board.

⁵⁹ Any question about whether the county board has the authority to prepare the county office budget is implicitly answered by the reality that the county board does not have the staff to do so. Budgets, like other critical responsibilities of the board, such as LCAP approval, appeals, charter petition review and authorizer oversight, and real property sales and purchases, require – as part of shared governance – the assistance of the county superintendent’s staff. The county board may, however, adopt rules and regulations addressing the administration of these functions to the extent they fall within the board’s jurisdiction. (Education Code § 1042 (a).)

⁶⁰ A key element of the shared governance model is for the county superintendent to keep the board informed of efforts throughout the year to prepare the coming year’s budget. Keeping the board informed and seeking its input can be done at budget committee meetings and budget workshops held by the board. The county superintendent’s staff typically play a substantive role in supporting these activities.

Q3: Is the county board of education legally obligated to approve the county superintendent's proposed budget?

No. Inherent in the power to approve the budget is the power to disapprove the budget. Although the Education Code does not include explicit language to this effect, commentators generally agree that the board's review of the superintendent's budget is not meant to just be a "rubber stamp."

Still, county boards rarely disapprove the budget submitted by the county superintendent. A budget disapproval might arise from an unresolved conflict in views about a county office program. Any such disapproval, however, cedes ultimate control over the conflict, and over the budget itself, to the State Superintendent of Public Instruction (SPI), who has the ultimate authority to approve the county office budget. County boards and county superintendents should be aware that a statutory review process is triggered by a county board's disapproval of the budget (see Education Code §§ 1623-1624), after which the ultimately approved budget may no longer reflect the values of the leadership of the county office but instead may reflect the values of the SPI.

Thus, from a practical perspective, the failure of the county superintendent and county board to agree on a budget could have far-reaching and damaging implications.

One possibility that is often mentioned is that "warrants" (written orders for payments) will not be issued. There is a legal basis for this remote possibility in the Education Code. If the county board neglects or refuses to adopt a county office of education budget or file an interim report in accordance with applicable laws and regulations, the Education Code states that the SPI shall not appropriate any state or federal money to that county office for the fiscal year and shall notify the appropriate county official not to approve warrants issued by the county office of education. (Education Code § 42120.)

However, in practice, when there is a dispute, warrants will likely still be issued while a budget stalemate plays out. The county office may continue to operate on the basis of the last county office budget adopted or revised in the fiscal year immediately preceding the budget year, if the county superintendent submitted a budget in accordance with law and is awaiting approval from the SPI. It would likely take an allegation of fraud or malfeasance before the SPI would stop the county office from paying its staff and third-party vendors. (Education Code § 1626.)

Q4: May the county board of education make “line item” budget changes (e.g., additions, modifications, or deletions) prior to budget approval?

This question has not been definitively answered by any legal authority to date, because there are conflicting statements in the Education Code.

Education Code section 1040 (c) requires county boards to “[a]pprove the annual budget of the county superintendent of schools before its submission to the county board of supervisors.” The Education Code empowers county boards to provide input to the budgeting process, but there is an absence of any statutory language to permit county boards to change, modify, or remove items from the budget.

Education Code section 1042 (b) does include the words “revision,” “reductions,” and “additions” in relation to the county board’s review of the annual itemized estimate of anticipated revenue and expenditures. However, as discussed earlier, the annual itemized estimate is a separate document from the budget of the county superintendent of schools and only applies to the three fiscally dependent counties.

Legal observers have argued that while Education Code section 1042 specifically allows for revision of the annual itemized estimate of anticipated revenue and expenditures in three counties, section 1040 does not include language allowing the county board to revise the budget of the county superintendent of schools; as such, it is argued the Legislature did not intend to allow a county board to line item veto or make revisions, reductions, or additions to the budget of the county superintendent. It could have expressly provided this authority in statute, but did not. Legal commentators have also argued more generally that it is not the intent of the Legislature to have the county board manage the day-to-day operations of the county office of education, and revising specific items in the budget on a granular scale may interfere with the day-to-day operations of the county office.

Others have noted that the county board is given statutory authority over some very limited portions of the budget and other financial reporting. As discussed above, Education Code section 1042 requires the county board in fiscally dependent counties to review the county superintendent of school’s annual itemized estimate of anticipated revenue and expenditures before it is filed with the county auditor; and to make any revisions, reductions, or additions it deems advisable and proper.⁶¹ Education Code section 1096 allows county boards to select members of the board to attend association meetings, conventions, and other professional development opportunities (e.g., CSBA, CCBE, CCSESA), with expenses paid out of the general fund. Education Code section 1621 specifically allows for the county superintendent’s budget to contain a fund balance designated by the county board for any specific purpose that will only become available for appropriation upon the approval by the county board.

61 Government Code section 29040 requires all “budget units” of county government, such as a fiscally dependent county office of education, to provide an annual itemized estimate of revenue and expenses to the county auditor. Fiscally independent county offices are not required to do so because they are not a budget unit of county government.

Given the county board's role in approving and adopting the budget, the board inherently has a significant role in the formation of the budget regardless. An effective process at the county level, with dynamics of proactive communication and collaboration between the county board and county superintendent, will help ensure that the budget presented to the county board is one the county board will adopt and approve.⁶²

County boards that have specific input on the budget would be better served to discuss with the county superintendent specific budget items they are in favor of including in or removing from the budget, or specific programs they want to see as part of the budget, during the budget creation process – including, for example, budget workshops – so the county superintendent can take the board's perspective into consideration when drafting the budget.

Q5: May the county superintendent make changes within the budget after its approval?

Yes. After a budget has been approved by the county board and the SPI, the administration of the budget is the county superintendent's responsibility. The county superintendent has the statutory authority to spend within major budget categories without further approval, and make transfers among budget categories to meet necessary expenses.

However, budget funds cannot be transferred from the unappropriated fund balance without the approval of the county board. Also, a budget revision by a county superintendent in excess of \$25,000, or a consultant contract for \$25,000 or more, must be incorporated into the next interim financial report, or other board report. (Education Code §§ 1280, 1281.) Through the interim reports, the board and the public are informed of routine budget transfers and the board approves budget revisions.

⁶² Whether the county board can modify or remove items from the county superintendent's budget created a significant conflict between the Orange County Board of Education and the Orange County Superintendent of Schools in 2019. At a board meeting to approve the Orange County Department of Education (OCDE) budget, the Board voted to reduce the budgeted amount for lobbying contracts by \$60,000 and reduce the travel and conference fees for OCDE by \$112,442. The disagreement eventually led to the county board attempting to submit their own modified budget directly to the SPI without the county superintendent's approval, which was rejected by the SPI because the county superintendent must certify and submit the budget. (See Education Code § 14050.) The county superintendent submitted the budget without Board approval, and the SPI rejected that version too because it wasn't approved by the Board. (See Education Code § 1622.) The dispute led to litigation which at this writing is ongoing and has not clarified whether that the county board in that case may modify specific budget line-items in their county superintendent's budget.

Rulemaking & Policy Setting: Frequently Asked Questions

Q6: What does it mean when the Education Code says the county board can adopt rules and regulations governing the office of the county superintendent of schools?

Pursuant to Education Code section 1042 (a), county boards of education may adopt rules and regulations governing the administration of the office of the county superintendent of schools. Any rules and regulations adopted by a county board, however, must directly relate to board authority and may not apply to matters outside its authority prescribed by or implied from the Constitution, statutes, or regulations. For example, the board may adopt rules and regulations related to the LCAP approval process, but it may not adopt rules and regulations that define how a county superintendent fulfills their LCAP duties, such as organizing parent advisory committee meetings and responding to any of their comments in writing. Rules or regulations establishing office hours or the classifications of the employees working at the office, and what their duties should be, would be outside the board's scope of authority and cross into the county superintendent's responsibilities as the administrator of the county office and its employees.

Because of the county superintendent's authority and management responsibilities to run the county office of education, CCBE recommends that boards, who in their discretion decide to develop rules and regulations governing the county superintendent's office pursuant to Education Code section 1042 (a), should do so in collaboration with the county superintendent.

Q7: What is the county board's role in advocacy on questions of public policy? How does this intersect with the superintendent's role?

The Education Code does not specifically address the role of a county board or a county superintendent in advocating for public education. Still, it is appropriate for the county board to take a prominent role in advocating for public education policies that will benefit county office students and public education generally.

Q8: What are appropriate ways for a county board or county superintendent to engage in community engagement?

The county board and county superintendent also have broad discretion to sponsor events and activities that will engage the community and support public education. For example, the county board and county superintendent may wish to utilize the process specified in the Local Control and Accountability Plan (LCAP) legislation to engage with the community. The county board, at its discretion, may also hold board workshops and community forums on matters within their scope of representation. The county board may also decide to participate in local and regional organizations and events, preferably in alignment with the county superintendent, to represent and advocate for the interests of the students served by the county office.

Contracting for Services: Frequently Asked Questions

Q9: Does the county board and county superintendent have to agree on hiring their counsel? When can the county board hire its own independent counsel?

The county board and county superintendent should make every effort to agree on hiring the “same” legal counsel. Education Code section 35041.5 states in part: “The county board of education and the superintendent of schools of the same county shall appoint the same legal counsel.” Hiring the same legal counsel to represent the county superintendent and the county board on issues within their respective scope of responsibilities, and especially those related to governance, is a critical element of the shared governance model. If, however, there is disagreement over who the same legal counsel should be, the board and the superintendent may hire their own independent legal counsel.

The Attorney General, however, opined in 2003 that a county board of education could not hire outside counsel in addition to in-house counsel to “provide unrestricted, independent advice to the board.” Rather, a county board could only retain its own counsel when the in-house counsel has a conflict of interest or failed to render timely advice, the board has a desire to obtain a second opinion, or the services desired are in addition to the services usually provided by the in-house counsel.⁶³

Notwithstanding this Attorney General opinion, county boards have from time to time hired their own outside counsel (or have been assigned their own counsel from the county attorney’s office) to overcome challenges that arise from joint representation, or for other reasons. Additionally, there are no statutory limitations restricting county superintendents from hiring independent counsel to advise on matters related to the specific authorities of their office.

Q10: May a county board independently contract for other kinds of professional services?

Yes. Pursuant to Education Code section 1042 (d), the county board may contract with and employ persons to provide special services to the county board in programmatic, financial, economic, accounting, engineering, legal, or administrative matters if these persons are specially trained and experienced and competent to perform the required special services, such as advising the board in appellate hearings, on real property matters, and on charter school petitions presented directly to the board.

63 86 Ops. Cal. Atty. Gen. 57 (2003).

Appeals: Frequently Asked Questions

Q11: Does the Education Code provide specific guidance on the basis for a county board to decide and adjudicate interdistrict transfer appeals?

No. The Education Code does not provide specific criteria for adjudicating interdistrict transfer appeals. An interdistrict appeal is granted or denied “on its merits.” (Education Code § 46601 (b)(1).) A county board has broad authority and may adopt its own criteria for adjudicating interdistrict transfer appeals. The criteria may include considerations related to child care, employment, programs not available in the district of residence, and the safety of the student, including whether the student is a victim of bullying.⁶⁴ Students that have been determined to be a victim of an act of bullying by a student of the district of residence shall receive a preference for their interdistrict transfer request. (Education Code § 46600.)

Q12: Does the Education Code provide guidance on the basis for a county board to adjudicate expulsion appeals?

Yes. Education Code section 48922 sets forth the criteria for adjudicating expulsion appeals. The criteria for considering whether to uphold or reverse the decision of the district board are:

- a. Whether the governing board of the school district acted without or in excess of its jurisdiction.
- b. Whether there was a fair hearing before the governing board.
- c. Whether there was a prejudicial abuse of discretion in the hearing.
- d. Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board.

⁶⁴ The Education Code provides for transfers for employment purposes into non-resident districts independent of the interdistrict transfer process. (Education Code § 48204 (b).) Known as “Allen Bill” transfers, under certain conditions a district may enroll a non-resident student if their parent/guardian is employed in the district. Denials of such transfer requests must be appealed to the courts and not to the county board.

Q13: Does the Education Code provide guidance on how county boards are supposed to adjudicate charter appeals?

Yes. If a petitioner appeals the denial of its petition by a district governing board, the county board must take one of two actions: (1) If the petition submitted on appeal contains new or different material terms (e.g., signatures, affirmations, disclosures, documents, and/or descriptions regarding the required elements of a charter petition), the county board must immediately remand the petition back to the district for its reconsideration of the petition. (2) If the petition submitted on appeal is the same as the version that was denied by the school district's governing board, the county board must conduct a "de novo" review (i.e., a brand new review) of the petition based on the same standards and procedures that a school district governing board uses to consider a petition. These are set out in Education Code sections 47605 (b) and (c). If the school district board's denial of the petition was based, in whole or in part, on it not being positioned to absorb the fiscal impact under Education Code section 47605 (c)(8), the county board must also consider the school district board's findings of fiscal impact as part of its review of the appeal. (Education Code § 47605 (k) (1)(a)(ii).) The law, however, does not specify how much weight or deference a county board must give to a school district's fiscal impact finding(s); it just provides that the county board "shall review" the finding(s).

Board Meeting Rules & Processes: Frequently Asked Questions

Q14: How many county board members should vote in the affirmative to approve an item when only a minimum quorum is present?

CCBE recommends that the best practice, in light of the Brown Act, is for county boards to only act by a majority of all voting members. Because the law is arguably ambiguous on this question, the county board may choose to adopt a policy or bylaw explicitly requiring that any action requires a vote by a majority of its members. (Education Code § 1040 (a).) CSBA sample county board bylaw 9323 provides a model for this approach. Such a policy not only eliminates the potential for confusion but also signals the board's commitment to full participation by members in voting matters and allows for more representative actions.

It should be noted there is no explicit Education Code section that specifies what portion of a county board of education's membership is required when taking action on an item. (Education Code section 35164, which states that the governing board of school districts may only take action by a majority vote of all their members, does not apply to county boards of education.) Nonetheless, county boards of education and other local agencies must operate under the Brown Act, which provides the necessary guidance to determine how many must be present and vote in the affirmative when a county board takes action. Government Code section 54952.6 states that an "'action taken' means a collective decision made by a majority of the members of a legislative body."

Some legal practitioners argue that common law practices may instead be followed, rather than Government Code section 54952.6, and a county board of education may approve an action when the whole of a quorum is present for a vote on the question and, due to an abstention, less than a majority of the membership votes in favor. Under this rationale, if only three of five county board members are in attendance, a quorum is established, and an action may be approved not only by a 3-0 vote (i.e., a majority of the membership), but also by a 2-0 vote with one abstention.⁶⁵ This approach is arguably contrary to the Brown Act and recent case law.⁶⁶ A county board of education should consult with its own legal counsel regarding the interpretation and application of these statutes and other law before adopting any practice, policy, or rule that would allow for action by a majority of a quorum present as opposed to a majority of the membership.

Q16: When is a roll call vote required?

Roll call votes, in which each board member states their vote individually for recording in the minutes, are required in the following circumstances:

- a. During a Brown Act compliant teleconference meeting. (Government Code § 54953.)
- b. During an emergency meeting as defined in Government Code section 549565.
- c. Upon request of any board member. (Education Code § 1015.)
- d. When otherwise required in board bylaws, policies or administrative regulations.

⁶⁵ Education Code section 35164 requires the governing boards of school districts to take action by a majority of all their members. There is no similar statute for county boards of education. Therefore, the common law rule in *Martin v. Ballinger*, (1938) 25 Cal. App.2d 435, potentially applies, allowing a five-member county board to approve a motion with as little as a 2-0 vote and one abstention (so long as three members are present to constitute a quorum). At issue in the *Martin* case is the abstention. *Martin* provides authority for passage of a measure by a 2-0 vote with one abstention, but not for passage by a 2-1 vote. (See, also, 94 Ops. Cal. Atty. Gen. 100 (2011) (regarding quorum and abstention rules for California's State Council on Developmental Disabilities).)

⁶⁶ See, e.g., *County of Sonoma v. Superior Court* (2009) 173 Cal.App.4th 322 (holding that in the context of the county board of supervisors as a local elected agency, both the Brown Act and common law principles require a majority of the elected membership to take action).



CHAPTER 5 CASE STUDIES

Shared Governance Practices That Work

There are many examples of high-quality and effective shared governance between county boards of education and county superintendents throughout California. Chapter Five tells the stories of three counties navigating their roles and finding the best possible ways to conduct business. In each of these short vignettes, we have attempted to capture how this governance structure operates on the ground, so to speak.

Chapter Six includes more detailed information about the specific documents and processes developed and other guidance for county offices interested in starting their own journey to greater shared governance.

CASE STUDY: Los Angeles County Office of Education, Trustee Dr. Monte Perez

POSITION: Appointed in 2015 by the Los Angeles County Board of Supervisors

PRIOR EXPERIENCE: President of Los Angeles Mission Community College

BUDGETS: BLUEPRINTS TO SHARED GOVERNANCE

The Los Angeles County Office of Education serves 1.4 million K-12 students across a county that is larger – in population and land mass – than some states, and commanded a budget of \$566 million in the 2021-22 school year. Its services and oversight extend to Head Start programs, alternative education schools, and juvenile court schools. When working with a budget that dwarfs the budgets of its fellow county offices, collaboration, clarity, and accountability are key.

On Shared Visions: “It’s very detailed work,” reflected Dr. Monte Perez when speaking about the budget development process that he, his fellow trustees, and the superintendent’s office engage in annually. With each trustee representing their own chunk of the county with their own set of priorities, a shared vision helps focus and drive the process. At their annual planning sessions, typically in August of each year, the trustees come together with the superintendent and the senior staff of the superintendent’s office. The annual planning session helps to “bring us all on the same page in terms of our mission, values and vision. [It is] very helpful and we all chime in” on individual priorities. After several meetings working through budget drafts and reports from the various departments in the superintendent’s office, plus a very detailed report from the Finance Office, the board votes on their “blueprint,” representing the collaboration of key stakeholders and their shared vision for the coming year.

On Influence: Dr. Perez has a special interest in the county’s Head Start programs. Knowing that the state had allocated funding for universal pre-kindergarten, the challenge would be hiring the qualified personnel to deliver on the state’s mandate. Given the nationwide shortage of teachers, this would be an especially challenging task, one that required a sustained focus. Dr. Perez raised questions about the county’s strategy to meet the universal pre-kindergarten mandate at a board meeting and received follow up from Head Start leadership for LACOE. He was able to speak to the Head Start Director and their staff directly, asking “How are you going to approach this? What are your plans? What kinds of initiatives do you need to pursue?”

“So, we share our questions and then that information goes to the next board meeting where I bring it up as a board member, explaining that I had this meeting. Then a presentation can be made by the Head Start leadership on how they’re going to address teacher shortages. Also, what funding is going to be available to do that, or if there is going to be additional support for that elsewhere.” Using his position as a trustee to dive deep on specific topics or areas – especially those with significant budget implications – helps Dr. Perez not only meet the obligations of his position, but it helps educate the rest of the board on impactful subjects that may not be at the forefront of their focus. It also helps the board uphold accountability in the various departments within the county office and provides a measure of transparency for the board and stakeholders.

CASE STUDY: Placer County Office of Education, Superintendent Gayle Garbolino-Mojica and Trustee David Patterson

POSITION: Ms. Ms. Garbolino-Mojica was elected in 2006; Dr. Patterson was elected in 2012.

PRIOR EXPERIENCE: Ms. Garbolino-Mojica served previously as superintendent of Colfax Elementary School District; Dr. Patterson served previously on the boards of the Rocklin Unified School District and the Del Paso Heights Elementary School District.

LIKE AN ARRANGED MARRIAGE

On Budgeting. Superintendent Gayle Garbolino-Mojica, elected in 2006, has worked to build transparency into her office’s budget development process with the county board. “Education Code says the board shall approve the superintendent’s budget, and there are a handful of boards that maybe get sideways with, ‘What does that mean?’” Understanding that this language, given its vagueness, can make some trustees interpret their role as little more than a rubber stamp, Superintendent Garbolino-Mojica has taken deliberate steps to build trust with her county board. Her office put in place a budget liaison who works with both the board and the county office to provide an “extra voice.” The budget liaison can ask questions as the superintendent’s office is preparing draft versions of the budget in an effort to provide the board with more insight on how the budget comes together. Several iterations of the budget are worked through before it is finalized, ensuring each trustee has their opportunity to ask questions or get clarification.

On Shared Governance. Like most of California’s county offices of education, the superintendent and the county board are comprised of elected officials. As such, there are naturally a variety of priorities that each official brings to their position. “Like an arranged marriage,” each party must find a way to work together productively and efficiently for the benefit of the county’s students. Superintendent Garbolino-Mojica leans heavily on transparency and relationship building to ensure successful outcomes for each authority and Placer County’s students. Memorializing this collaboration in a document can be foundational to ensuring a shared understanding among trustees and the superintendent. In Placer County’s case, “The Compact” serves this purpose. Reflecting on its genesis, Superintendent Garbolino-Mojica explained, “we were trying to create a document that would basically set the foundation as to how our county board works with our superintendent, and really try to make sure that we are not attracting single-issue individuals; but [rather] people who have the same ideals as far as public service and transparency are concerned.”

On Advice to Successors. “Invest in relationships. All relationships. Invest in your relationships with your district board members, county board of education members, your city council.” It’s the only way to make your arranged marriage work!

CASE STUDY: Ventura County Office of Education, Trustee Michael Teasdale, District 2

POSITION: Elected in 2018

PRIOR EXPERIENCE: Private industry; current Board Chair of the Social Justice Fund for Ventura County

THE BUDGET AS A STATEMENT OF VALUES

On Creating a Common Vision. Nestled between Los Angeles and Santa Barbara, Ventura County is a mid-sized California county. The Ventura County Office of Education Board is composed of 5 members who represent Ventura County's five districts, plus the county superintendent of schools, who also serves as the board's secretary. As an elected board, Trustee Teasdale reflects on the challenges of practicing robust shared governance. "[We engage in] exercises to try to create a common vision and priorities, which are a good way to see if we can reach some common priorities and then are able to reach some sort of consensus. That, I think, is the most important thing to do – to identify common priorities. The challenge is, boards don't usually have a whole lot of time to do that."

On Open Communication: Leveraging his professional experience in strategic planning and professional development, Trustee Teasdale has tried to carve out time and space for the board to "get more dialogue between the trustees and the superintendent around priorities, and strategies to meet those priorities...being on the county board and figuring all of this out, it's not exactly the most exciting, but it is the most necessary work." Dedicating time outside of the regular course of board meetings to collaborate on specific tasks – like strategic planning – is certainly a practice in the art of calendaring, but also good shared governance. Without a dedication to this work, the county board's approval can become little more than a rubber stamp.

On the Importance of Budget Fluency: Trustee Teasdale reflected on the steep learning curve that new trustees must manage when joining a county board, particularly as it relates to understanding county budgets. Even someone familiar with managing large budgets for private industry, the county educational budget is a different beast altogether. "It's got more regulations – restricted and unrestricted funding – so it's a little more difficult." Plus, it doesn't help that the budgeting information that gets submitted to the state is in excess of 140 pages, making it a challenge to digest and reflect on in a meaningful way for most county representatives. Trustee Teasdale has advocated for implementing a process that distills the most valuable information from those 140 pages, particularly key indicators and year-over-year trends, into, say, 10 pages that would give the trustees a fighting chance at truly understanding the position of the county office, its financial obligations, and its priorities..

On Advice to Successors: "Learn the budgeting process. Try to learn the priorities of your superintendents. Try to get and see information about spending trends year-over-year and then ask about them. If we're spending less on transportation and more on social-emotional learning, why is that the case? What challenge is that addressing? What value is that exemplifying? Someone thought that was more important? Because that's the whole idea of a budget – to put money where your priorities are."

GENERAL GUIDANCE ON ENACTING SHARED GOVERNANCE

Each county board of education and county superintendent needs to determine how best to start or continue their shared governance journey. CCBE is in the process of developing ongoing professional development opportunities to help inform trustees regarding their roles and responsibilities as well as templates they may use in collaboration with their county superintendent. While a full exploration of the process is beyond the scope of this Handbook, the typical steps in the process are outlined below.

1. Create a joint consensus in support of shared governance. This requires a consensus by the board itself, and then a consensus with the county superintendent. This is often done through one or more open session retreats and/or study sessions. These may be facilitated by an ad-hoc committee of the board with the superintendent and/or the use of an external facilitator.
2. Upon the development of a shared consensus on creating or deepening a shared governance structure, identify where to begin. One approach is developing an overarching framework. Another approach is identifying specific areas as a vehicle to developing a shared framework. An example may be a shared vision and mission statement. Another might be the budget development process that reflects robust collaboration.
3. Once an approach is agreed upon, begin interest-based discussions. Again, these may be facilitated by an ad-hoc committee of the board with the superintendent and/or the use of an external facilitator. Discussions occur in open session study sessions and/or retreat settings. Report progress at board meetings and in board meeting minutes.
4. Create a draft document that captures both the purpose as well as the process and structure of the shared governance approach/practice. Share and discuss at one or more study sessions and/or board retreats. Have robust board, and board and superintendent discussions. Listen to any input from the public throughout the process.
5. Upon reaching consensus on the shared governance approach/practice, develop an implementation plan that reflects the scope of the change and the resources, including time, that will be needed to accomplish it.
6. Formally adopt at a board meeting.
7. Begin implementation and monitor progress. While remaining committed to the shared agreement, be open to modifications of language and implementation as it progresses.
8. Formally review annually.



CHAPTER 6 RESOURCES

Tools for the Journey

Despite sharing the same mandates, the local contexts of counties and county offices vary greatly. Considerations for rural counties with smaller budgets and smaller constituencies will be understandably – and necessarily – different from those of large urban counties, like Los Angeles and Alameda. Consequently, CCBE recognizes that each's needs will be similarly varied.

Regardless of their size or setting, county boards of education and county superintendents may benefit from a number of existing collaborative tools, draft policies, and approaches that have been helpful in assisting in developing effective shared governance structures. These include:

1. Budget Development Policies and Practices
2. Sample Board Bylaws
3. Examples of shared County Office Vision, Mission and Strategic Goals
4. Examples of a Governance Compact
5. Examples of Governance Calendars
6. Board Member Liaison Role Examples
7. Examples of Board Agenda Structure
8. Five Major Themes of Good Governance: Excerpt from *The Governance Core: School Boards, Superintendents, and Schools Working Together* by Davis Campbell and Michael Fullan
9. Five Responsibilities of the Board: Excerpt from CSBA MiG County Board Governance Training

These collaborative tools, templates and resources will be available through the CCBE website. The development of deep and effective shared governance structures takes a clear understanding of the roles and responsibilities of both county boards and county superintendents, the development of relationships based on trust and mutual respect, and a long term and sustained commitment to work together.

Whether your position is appointed or elected, representing the frontier counties of this immense state, or its bustling multicultural urban communities, your north star remains the same: ensuring access for California's youth to a public education system that provides an education of excellence, equity, and justice for all students.

CCBE is committed to working with its members to support the deep implementation of shared governance in every county in California as part of our commitment to best serve all our districts, students, and their families.

APPENDIX A

Common Education Acronyms

ACSA	Association California School Administrators
ACT	American College Testing
ADA	Average Daily Attendance
AMO	Annual Measurable Objectives
API	Academic Performance Index
ASAM	Alternative School Accountability Model
AYP	Adequate Yearly Progress
BASC	Business and Administration Steering Committee
CAHSEE	California High School Exit Exam
CALPADS	California Longitudinal Pupil Achievement Data Systems
CalPERS	California Public Employees' Retirement System
CAT/6	California Achievement Test – 6th Edition
CBEST	California Basic Education Skills Test
CCBE	California County Boards of Education
CCEE	California Collaborative for Educational Excellence
CCSESA	California County Superintendents Educational Services Association
CDE	California Department of Education
CELDT	California English Language Development Test
CISC	Curriculum and Instruction Steering Committee
COE	County Office of Education
COLA	Cost of Living Adjustment
CSBA	California School Boards Association
CSR	Class Size Reduction
CST	California Standards Test
CTE	Career Technical Education (Standards and Framework)
EL	English Language Learner
ELA	English Language Arts

ELD	English Language Development
ESD	Elementary School District
HQT	Highly Qualified Teacher
HSD	High School District
IDEA	Individuals with Disability Education Act
IEP	Individual Education Plan
LCAP	Local Control and Accountability Plan
LCFF	Local Control Formula Funding
LEA	Local Education Agency
MOU	Memorandum of Understanding
NAEP	National Assessment of Educational Progress
NCLB	No Child Left Behind Act
PI	Program Improvement
PSAA	Public Schools Accountability Act
QEIA	Quality Education Investment Act
ROP	Regional Occupation Program
SARB	School Attendance Review Boards
SARC	School Accountability Report Card
SAT	Scholastic Aptitude Test
SBE	State Board of Education
SD	School District
SELPA	Special Education Local Plan Area
SPI	Superintendent of Public Instruction
STAR	California Standardized Testing and Reporting Program
STRS	State Teachers Retirement System
TANF	Temporary Assistance for Needy Families
UHSD	Union High School District
USD	Unified School District
USD	Union School District

For a more comprehensive list of acronyms, please visit <https://www.cde.ca.gov/re/di/aa/ap/index.asp>

APPENDIX B

History of County Offices of Education

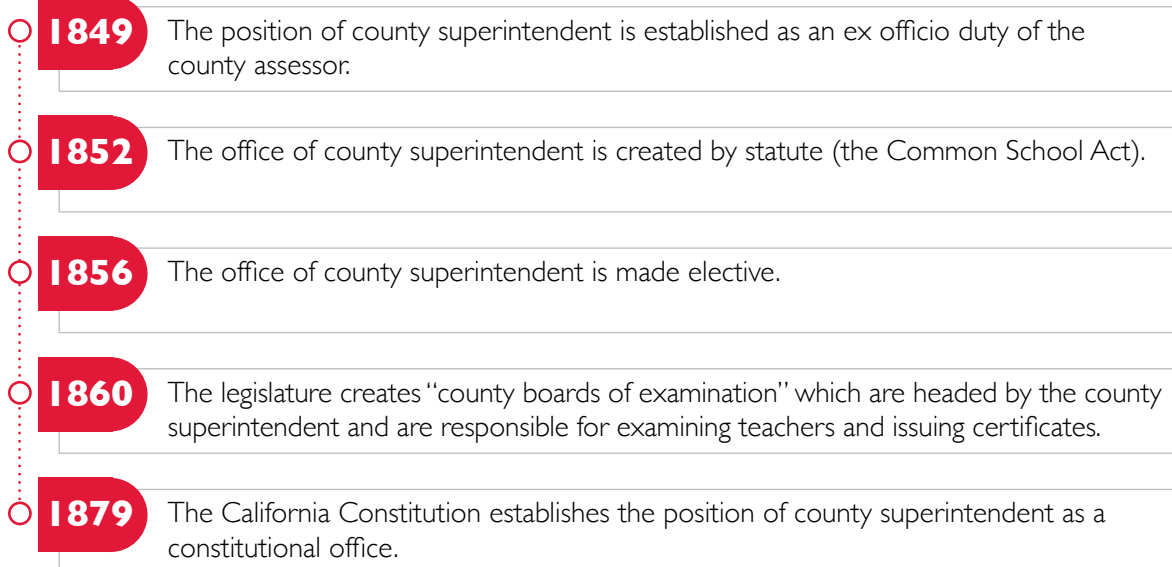
Historical background

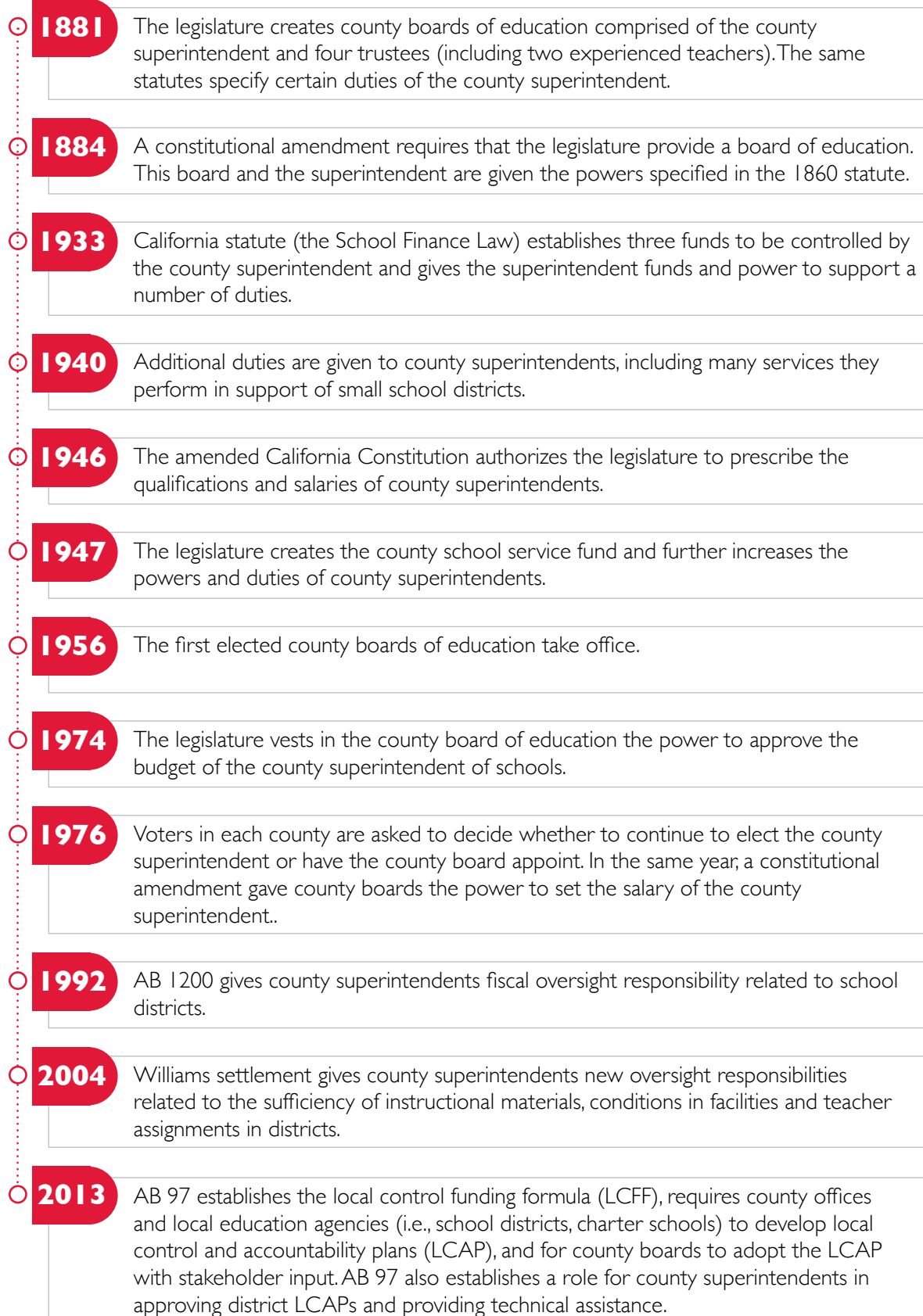
The offices of county boards of education and county superintendents were established in the mid-1800s and have seen many changes in their structures and functions since that time. (For more historical information, see Chapter One, Origins, and our website at www.theccbe.org). Figure 1 outlines the key events that helped shape the structure of county office governance.

The position of county superintendent was established first, in 1849 by the California Constitution, but was an ex officio duty of the county assessor. Over the next 30 years, the office of county superintendent was created by statute, then made elective, and then made a constitutional office. In 1976, voters in each county were given the authority to determine whether the superintendent would be elected by the voters in the county or appointed by the county board of education.

County boards had their origin of sorts in 1860 when the legislature created county “boards of examination.” These boards were headed by the county superintendent and were responsible for examining teachers and issuing certificates. Then, in 1881, the legislature created county boards of education comprised of the county superintendent and four trustees (including two experienced teachers). An amendment to the constitution in 1884 required that the legislature provide boards of education with the same powers prescribed for the boards of examination in the 1860 statute. It was not until 1956 that the first elected county boards of education took office.

Figure 1. Historical Background

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- 1849** The position of county superintendent is established as an ex officio duty of the county assessor.
 - 1852** The office of county superintendent is created by statute (the Common School Act).
 - 1856** The office of county superintendent is made elective.
 - 1860** The legislature creates “county boards of examination” which are headed by the county superintendent and are responsible for examining teachers and issuing certificates.
 - 1879** The California Constitution establishes the position of county superintendent as a constitutional office.

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- A vertical timeline on the left side of the page, marked with red circles and a dotted line, indicates the years for each event. The events are presented in white boxes with red headers containing the year.
- 1881** The legislature creates county boards of education comprised of the county superintendent and four trustees (including two experienced teachers). The same statutes specify certain duties of the county superintendent.
 - 1884** A constitutional amendment requires that the legislature provide a board of education. This board and the superintendent are given the powers specified in the 1860 statute.
 - 1933** California statute (the School Finance Law) establishes three funds to be controlled by the county superintendent and gives the superintendent funds and power to support a number of duties.
 - 1940** Additional duties are given to county superintendents, including many services they perform in support of small school districts.
 - 1946** The amended California Constitution authorizes the legislature to prescribe the qualifications and salaries of county superintendents.
 - 1947** The legislature creates the county school service fund and further increases the powers and duties of county superintendents.
 - 1956** The first elected county boards of education take office.
 - 1974** The legislature vests in the county board of education the power to approve the budget of the county superintendent of schools.
 - 1976** Voters in each county are asked to decide whether to continue to elect the county superintendent or have the county board appoint. In the same year, a constitutional amendment gave county boards the power to set the salary of the county superintendent.
 - 1992** AB 1200 gives county superintendents fiscal oversight responsibility related to school districts.
 - 2004** Williams settlement gives county superintendents new oversight responsibilities related to the sufficiency of instructional materials, conditions in facilities and teacher assignments in districts.
 - 2013** AB 97 establishes the local control funding formula (LCFF), requires county offices and local education agencies (i.e., school districts, charter schools) to develop local control and accountability plans (LCAP), and for county boards to adopt the LCAP with stakeholder input. AB 97 also establishes a role for county superintendents in approving district LCAPs and providing technical assistance.

ABOUT CCBE

California County Boards of Education is a statewide organization representing and serving the unique needs of California's 58 county boards of education. As the voice for county boards of education at the state and federal level, CCBE impacts policies and legislation affecting all public schools.

Our Vision

California County Boards of Education (CCBE) is a dynamic network of members maximizing educational opportunities for all. CCBE is essential to our state's K-12 education leadership, providing a voice for County Boards at the state and federal levels.

Our Mission

Through advocacy, training, mentoring, marketing, and communication, CCBE serves and represents County Boards in the education community, strengthening and promoting local governance and enabling County Boards to help every student succeed.

IN PURSUIT OF ITS MISSION, CCBE:

- Inspires its members to be knowledgeable leaders, extraordinary governance practitioners, and passionate champions for all students
- Provides high-quality products and services
- Initiates and impacts policies and legislation affecting County Boards and County Offices of Education (COEs)
- Partners with the California School Boards Association (CSBA), the California County Superintendents, and other education organizations to raise public awareness regarding key education issues
- Defines and drives the public education policy agenda as it affects County Boards and COEs
- Promotes collaboration among County Boards and Superintendents to ensure that COEs are operated efficiently and effectively

Our Core Beliefs and Values

CCBE's policy positions are based on the following set of core beliefs and values.

STUDENTS

- All students can learn and succeed when they have access to a high-quality education program that challenges them to succeed
- All students must be provided with a safe physical environment that enhances learning
- The needs of the whole student must be addressed
- Students in COE-operated court and community schools and special education programs confront unusual obstacles to learning and deserve specialized assistance and support

SCHOOLS

- Schools must be held accountable for their performance and effectively serve every student irrespective of their social, ethnic, language, or economic background, gender, or special needs
- Achievement gaps must be closed
- School staff must be adequately prepared, supported, and held accountably
- Schools must provide a safe, supportive and positive environment
- Every School (and every school district) deserves the support and assistance of an effective COE to ensure that the students are well served

STATE AND FEDERAL GOVERNMENT

- COEs must have adequate, predictable, and fair funding and must be permitted to retain and expend for educational purposes all revenues collected from local taxpayers for those purposes
- State and federal accountability measures must be fair and meaningful

While addressing all these critical issues, policy discussions and educational improvement must stay focused on meeting the needs of students. The ultimate goal must be to prepare all students for college and career, consistent with state-adopted standards, and for the challenges they will face in the 21st century. Moreover, the essential roles of COEs in attaining that goal must be recognized, including the COEs' ability to efficiently deliver cost-effective programs and services in such areas as professional development and in-service training for teachers and administrators, teacher preparation and induction, technology, and centralized purchasing.

CCBE is a section of the California School Boards Association (CSBA) and works collaboratively with the California County Superintendent association. CCBE members are also CSBA members, and CCBE's president sits on the CSBA Board of Directors. CCBE is governed by an executive committee and a board of directors that includes the executive committee, county board members who serve on CSBA's Delegate Assembly and Board of Directors, and committee and task force chairs. Learn more about CCBE leadership and committees at <http://theccbe.org>.

County boards of education are an essential component of the intermediate education structure. Learn more about county boards of education and their function.

Our History

In 1958, the California County Boards of Education was recognized by CSBA as a “section” of CSBA following a major statutory and constitutional revision of county offices of education. To recognize county board members' new status and role, CCBE became the entity that provided statewide representation for county board members within the CSBA governance structure. CCBE is an independent organization that adopts rules and regulations for its own government within the framework of CSBA.

California County Boards of Education Board of Directors

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ABOUT THE EDITORS

Joe E. Ross, JD was elected in 2012 to the San Mateo County Board of Education and served in 2022 as president of California County Boards of Education (CCBE). Mr. Ross is also president of the nonprofit Reach University and, earlier in his career, served for eight years on active duty in the U.S. Navy. Later, as deputy district attorney in San Mateo County, he served as sole counsel in numerous hearings and jury trials. The son of a U.S. Postal Service labor custodian, Mr. Ross was awarded a Truman Scholarship at Yale University and earned his law degree from Stanford Law School, where he was president of the Stanford Law Review.

David Patterson, EdD has over three decades of experience creating, managing, and helping others develop high-performing schools in California and nationally. Dr. Patterson currently serves as a founding member of the board of California Charter Authorizing Professionals (CCAP), a nonprofit dedicated to the improvement of charter school oversight. Dr. Patterson previously served for ten years at the California Department of Education. Dr. Patterson was elected in 2012 to the Placer County Board of Education and served many years as an elected school board member in Del Paso Heights and Rocklin. Dr. Patterson earned a doctorate in education from USC, a master's degree in higher education from George Washington University, and a BA in political science from UCLA.

Bruce Dennis currently serves on the Riverside County Board of Education since his original appointment in 2011. From 1995-2008, he served on the Nuview Union School District's Board of Education. Mr. Dennis is a past President of CCBE and served two terms on the CSBA Board of Directors. Mr. Dennis served nine years on the Board of Directors of the Riverside County School Boards Association, including one term as President. He served 14 years CSBA's Delegate Assembly representing both Riverside and Imperial counties. He has served appointments to CSBA's Legislative, Policy Platform, Small School District, and Annual Conference committees.

Beverly Gerard has served on the San Mateo County Board of Education since 1989, and she served as president of California County Boards of Education (CCBE) in 1998. Ms. Gerard has participated in several CCBE committees, including Policy and By-Laws, Professional Development, Nominating, Charter School Task Force, and many more throughout the years. Mrs. Gerard has always focused on ensuring essential issues facing county offices and school districts are addressed through professional development offerings.

Michael Teasdale was elected to the Ventura County Board of Education in 2018. He retired in 2014 from Baxter Bioscience as senior director of operational excellence and strategy. Before working for Baxter, he had a varied career: Michael was teacher both in California and in the American School in Paris, France. He taught and directed the theatre. One of his productions won the Best Foreign Language Play at the Edinburgh Festival. After his work in the theatre Michael worked both in Paris and New York coaching executives to present in high value situations. He also worked six years for General Electric Medical systems. In addition to serving as a trustee, Michael is currently a director-at-large for the California School Boards Association and chair of the Social Justice Fund of Ventura County.

Michelle de Werd was elected to the Santa Barbara County Board of Education in 2020. She currently serves as treasurer of California County Boards of Education (CCBE). Mrs. de Werd is the owner/operator of an agriculture business that grows wine grapes. She currently serves on the Santa Ynez Valley Union High School District Measure K2016 Citizens Oversight Committee as a designated member of the Santa Barbara County Taxpayers Association, and was chair of the committee from 2018 to 2022. Earlier in her career, Mrs. de Werd worked in investment management, specializing in municipal bond finance and asset management in Los Angeles, New York, and Pasadena. She earned a B.A. in economics from UCLA.

Kathryn Meola, JD is partner at Atkinson, Andelson, Loya, Ruud & Romo, providing legal representation and general counsel advice to community college districts, K-12 districts, and county offices of education. Prior to joining AALRR, Ms. Meola was general counsel and director of the Education Legal Alliance (ELA) at the California School Boards Association. Prior to joining CSBA, Ms. Meola was a chief deputy county counsel in San Mateo County where she served as general counsel for the San Mateo Community College District and Superintendent of Schools and Board of Education. Prior, she was a deputy district attorney for 12 years where she prosecuted homicide, sexual assault and domestic violence cases and took more than 50 jury trials to verdict and handled hundreds of court trials and preliminary hearings. She earned her BA from The College of New Jersey and a law degree from University of San Diego School of Law.

Keith Bray, Esq. serves as general counsel & chief of staff at the California School Boards Association (CSBA). In this capacity, he is responsible for professional legal counsel to CSBA's leadership, management, and the Education Legal Alliance. In addition to CSBA, Bray has represented school districts and county offices in private law practice and served as general counsel and chief of staff for the Placer County Office of Education and as legal counsel for the Placer County Board of Education. Bray received a bachelor's degree in economics and psychology from California State University, Chico and a law degree from the McGeorge School of Law.

Stephenie Tesoro is a professional writer with ten years of experience working in the education and nonprofit sectors. She currently serves as writer-in-residence at Reach University. Her background includes work in nonprofit and social mission organizations with a passion for equity and innovation in education. She earned a bachelor's degree from UC Berkeley and a master's degree in cultural anthropology from Uppsala University in Sweden.



**CALIFORNIA COUNTY
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