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Frequently Asked Questions: Malibu Unification (Separation)

As you may be aware, the City of Malibu recently refiled a Petition to separate the SMMUSD schools located in Malibu by seceding from the Santa Monica-Malibu Unified School District to create its own Malibu Unified School District. To address the many questions and requests for information we have received, we have created this Frequently Asked Questions (“FAQ”) document.

This FAQ provides an overview of the Petition, the process, the SMMUSD’s and City of Santa Monica’s position on the Petition, as well as some background information on how the district is funded and how students in both communities have fared academically.

We encourage you to learn more about this issue as the success or failure of the City of Malibu’s Petition will impact the educational future of all SMMUSD students.

1. How long has the Santa Monica-Malibu Unified School District (“SMMUSD”) been serving families in the Santa Monica and Malibu Communities?

The district was first organized in 1875, 11 years before the City of Santa Monica was incorporated in 1886. Students from Santa Monica and Malibu have attended district schools since the district’s formation.

2. What does the City of Malibu Petition for unification seek?

The city’s petition requests the division of the Santa Monica-Malibu Unified School District into two separate school districts -- one serving the students in Santa Monica, the other serving the students in Malibu. The Petition also seeks adoption of a formula for funding of the new districts that would disproportionately harm the students who attend Santa Monica schools. As proposed the Petition would provide less per pupil funding for Santa Monica students who would attend a newly created SMUSD than those same students would receive if SMMUSD were to remain. At the same time, the per pupil funding of students who would attend Malibu schools in a new MUSD would increase substantially.

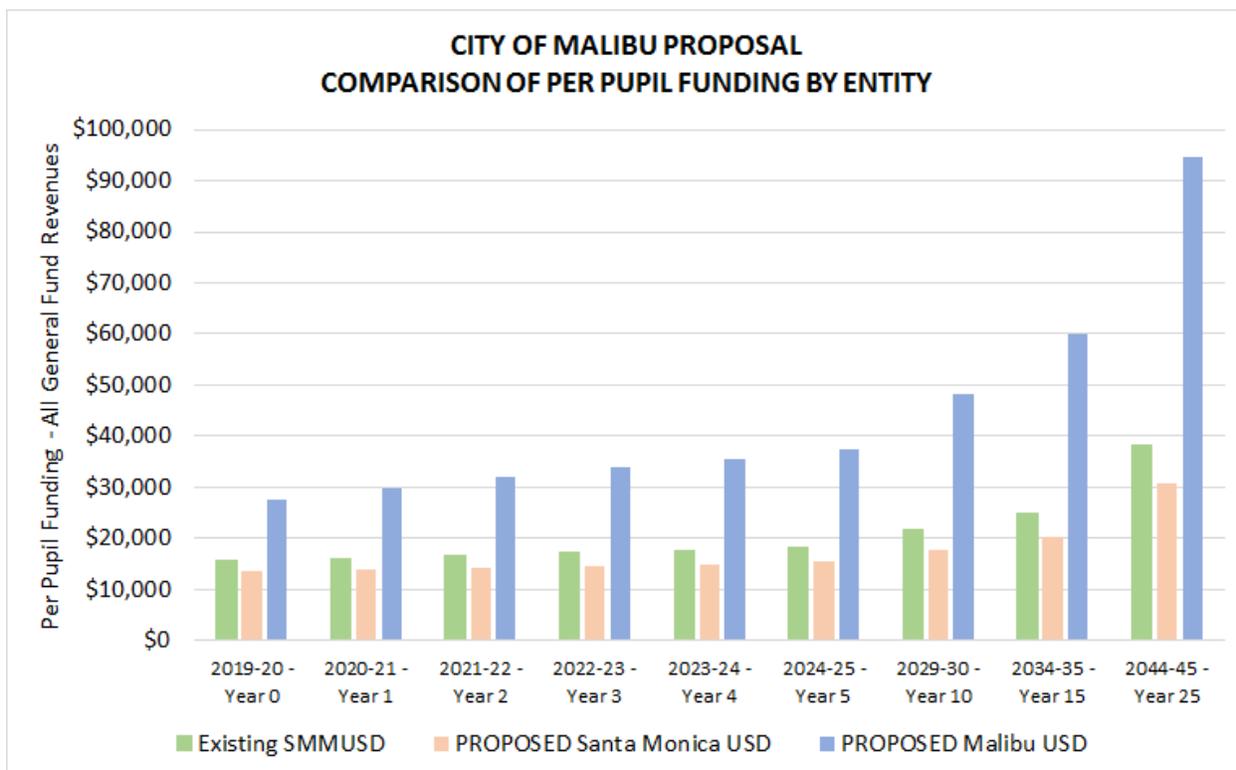
3. What is the SMMUSD’s position on the City of Malibu’s Petition?

The district’s board of education opposes the City’s Petition.

4. Why does the SMMUSD oppose the City of Malibu’s Petition?

The City of Malibu’s Petition seeks to divide the district in a way that fails to address significant equity and access concerns. Specifically, the City Petition results in an inequitable division of funding and promotes the creation of a district with a significantly less diverse student

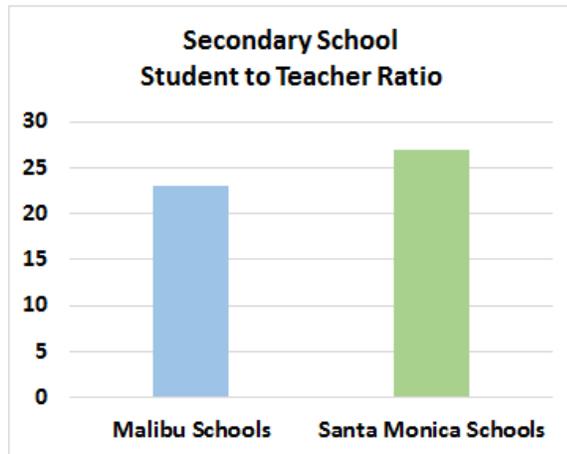
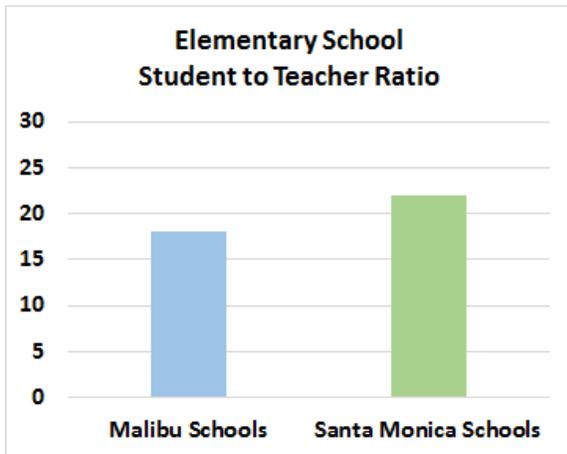
population. The division as proposed would harm the most vulnerable students in both communities, jeopardizing service delivery, including programs for special education students, English learners and at-risk students. Unification, in the manner currently proposed by the City of Malibu in its Petition, will have a significant negative impact on climate and culture. Our projections show Malibu starting at \$27,651 per student, while students in Santa Monica would be funded at \$13,759. In year five, Malibu students will receive \$37,599 per student, while Santa Monica per student funding will be \$15,486: a five-year growth rate of 36% in Malibu vs 13% in Santa Monica.



5. Where does funding for the SMMUSD currently come from and how have Malibu students benefitted from the current funding model?

The students and communities of Santa Monica and Malibu enjoy a unique and diverse portfolio of general fund revenues -- many of which originate exclusively from the Santa Monica community -- as detailed below. These revenues support both communities, with per pupil expenditures in Malibu exceeding the per pupil expenditures in Santa Monica. The per pupil expenditures in terms of human resources, transportation, materials, and programs are currently: \$9,856 per student in Malibu and \$7,606 per student in Santa Monica. The most visible reflection of the difference in expenditures between the two communities is in the class size average/teacher ratio:

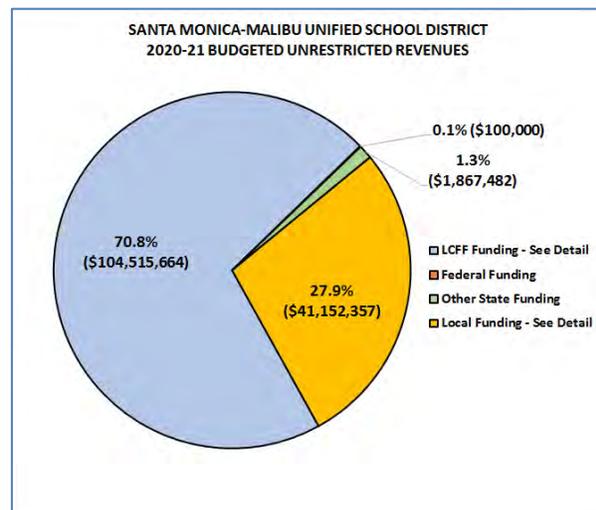
- 18 students per teacher in Malibu elementary schools
- 22 students per teacher in the Santa Monica elementary schools
- 23 students per teacher in the Malibu secondary schools
- 27 students per teacher in the Santa Monica secondary schools



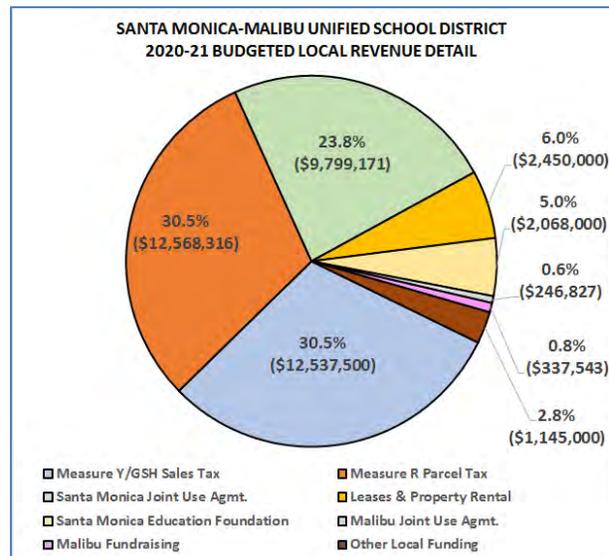
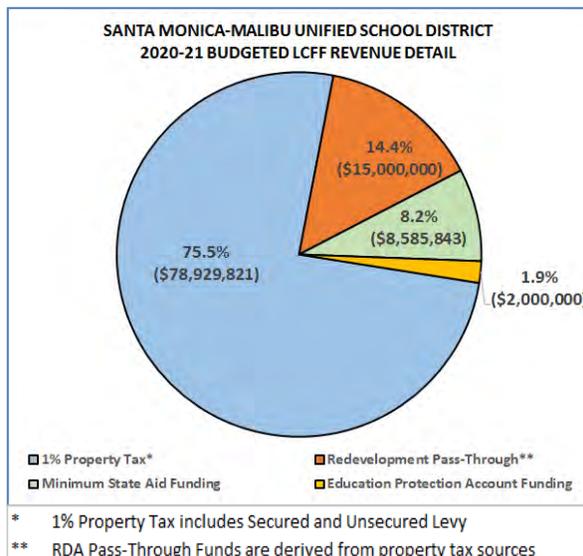
SMMUSD 2020-21 BUDGETED UNRESTRICTED GENERAL FUND REVENUES

LCFF Funding - See Detail	\$ 104,515,664
Federal Funding	100,000
Other State Funding	1,867,482
Local Funding - See Detail	41,152,357
Total General Fund Unrestricted Revenue	\$ 147,635,503
LESS: Special Ed. Transfer	(25,930,920)
LESS: Maintenance Transfer	(5,852,676)
Net General Fund Unrestricted Revenue	\$ 115,851,907

* LCFF Funding consists of local property taxes and other revenues subject to State minimum funding formulas



SMMUSD is required to transfer funding for both special education and facilities maintenance from its General Fund revenues to meet various legal requirements. As such the presented General Fund revenues are reduced to account for these encumbrances.



2020-21 Projected Sources of SMMUSD Unrestricted General Fund Revenue

SMMUSD proportion of 1% LA County Property Tax	Federal Funds	State Funds -EPA -Minimum State Aid -Lottery -Mandated Block Grant -Other	Local Funds
\$94,216,821	\$100,000	\$2,000,000 \$8,585,843 \$1,452,482 \$410,000 \$5,000 Total: \$12,453,325	<ul style="list-style-type: none"> ▪ SM Measure YY/GSH Sales Tax: \$12,537,500 ▪ SM/M Parcel Tax – Measure R: \$12,568,316 ▪ Santa Monica Joint Use Agreement: \$9,799,171 ▪ Malibu Joint Use Agreement: \$246,827 ▪ SM Ed Foundation: \$2,068,000 ▪ Malibu Centralized Fundraising: \$337,543 ▪ Leases & Property Rentals: \$2,450,000 ▪ Other Local Funds \$1,145,000 ▪ Special Education Contribution: (\$25,930,920) ▪ Major Maintenance Contribution: (\$5,852,676) Total: \$41,152,357 = Revenue \$9,368,761 = Net Revenue after (Contributions)

6. Is there a significant difference in achievement between the schools in Malibu and the schools in Santa Monica?

No. Both Santa Monica and Malibu schools are highly ranked by every publication that ranks California's public schools, and with good reason. U.S. News and World Report has named both Santa Monica High School and Malibu High School as Top High Schools in the nation and state, reporting Samohi with the ranking of 914 in the nation and 134 in the state and Malibu High School for rankings of 817 and 125, respectively in 2019.

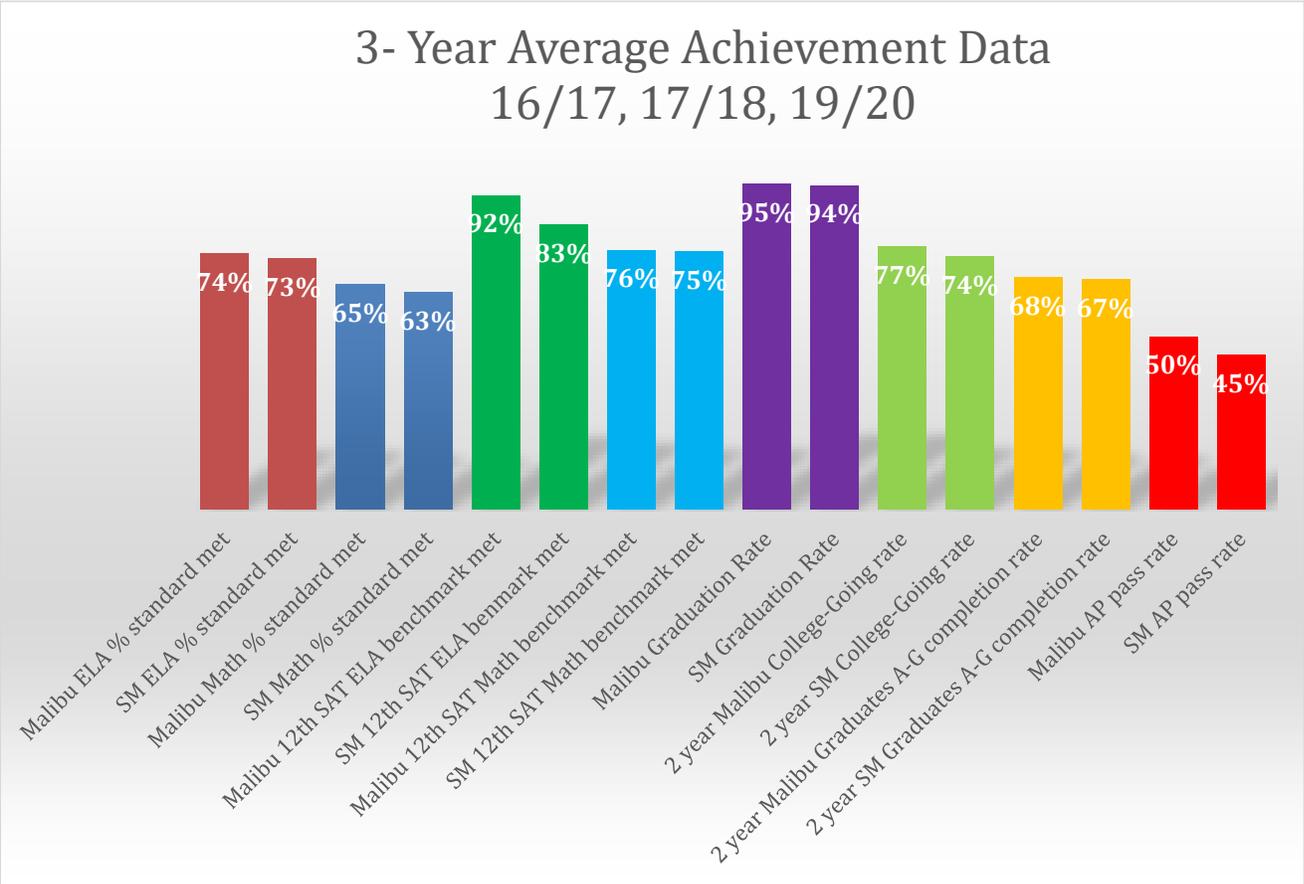
In terms of academic achievement, Newsweek ranks Malibu High at 1371 and SAMOHI High at 981 in the 2020 National Rankings. Their California rankings are 193 and 139, respectively.

Below is a side by side and graphed comparison of how students in the Malibu schools compare with the students in Santa Monica schools:

Academic Indicator	Malibu Schools			Santa Monica Schools		
	16-17	17-18	18-19	16-17	17-18	18-19
ELA CAASPP results	73.70	75.26	74.52	71.68	73.17	74.29

Math CAASPP results	69.76	65.34	61.22	64.14	62.12	63.43
12th SAT ELA	94.57	89.72	90.28	84.19	78.20	86.41
12th SAT Math	75.00	73.83	77.78	67.10	61.61	68.64
Graduation Rate	96.3	91.1	96.8	95.0	92.7	95.3
College-Going rate	81.0	72.1	N/A	75.1	72.2	N/A
Graduates A-G completion rate	74.5	60.7	N/A	65.7	68.2	N/A
AP results- % pass	51%	49%	51%	42%	46%	47%

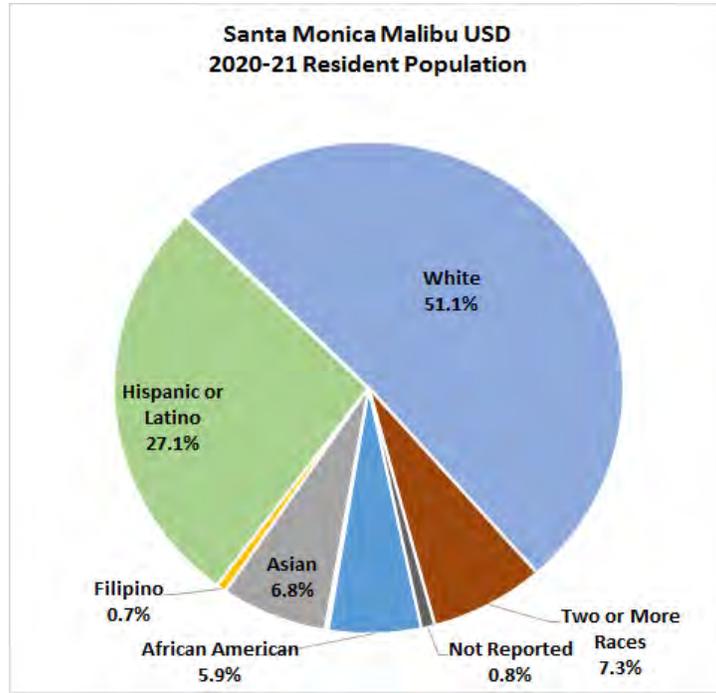
Source: California Department of Education



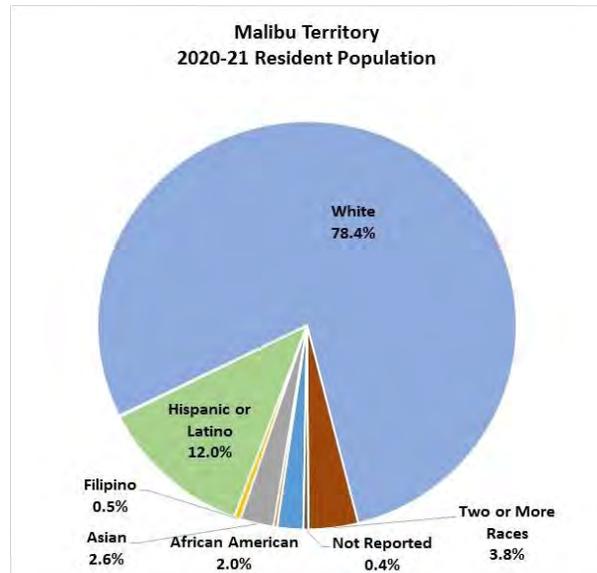
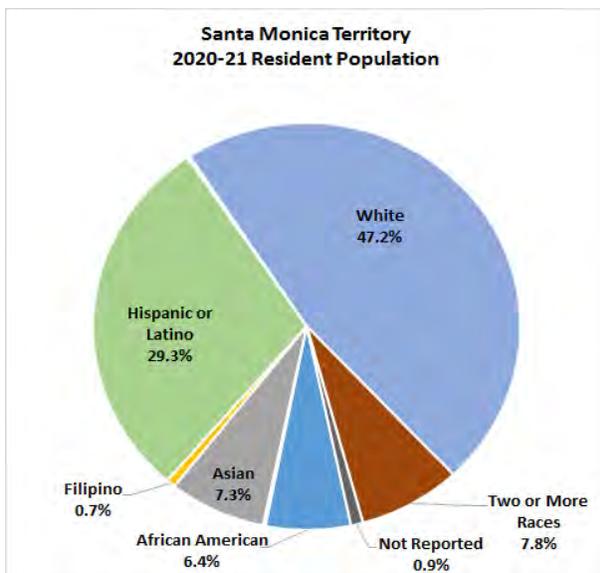
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7. What would the resident demographic composition by enrollment be of each new district if SMMUSD is divided as proposed by the City of Malibu?

As proposed, Malibu USD will become a significantly less diverse district, while receiving a significantly higher per pupil revenue.



This graph shows the current enrollment demographics for the entire SMMUSD for school year 2020-21, exclusive of current interdistrict transfer students.



These graphs show what the enrollment demographics would be for each newly-formed school district if the district were divided as proposed by the City of Malibu, exclusive of current interdistrict transfer students.

8. What happens to interdistrict transfer permit students, who make up almost 14% of the current enrollment in Malibu, if the City’s Petition is granted?

A newly created Malibu Unified School District would need to decide how to deal with current interdistrict transfer permit students, who currently increase diversity. There is no mechanism in place to guarantee the acceptance of any future interdistrict transfer permits in a newly-created Malibu Unified School District. In fact, as a smaller, basic-aid district with higher expenses, there is actually a financial disincentive to accept new interdistrict transfer permit students.

9. What is the process for determining whether the City of Malibu can create its own school district for its residents?

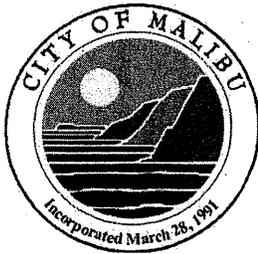
The Los Angeles County Committee on School District Organization (“Committee”) is the governing body that reviews and approves such proposals. Since the City initiated the Petition, the Committee will conduct at least one “preliminary hearing” where it will decide whether to “tentatively” approve or deny the proposal. If “tentative” approval is obtained, then a series of public hearings are held in the territories to be reorganized, ultimately culminating in a final approval or disapproval from the Committee (which approval or disapproval may be appealed to the California State Board of Education.) If the proposal is denied at the “preliminary hearing” the process concludes, resulting in a final denial of the proposal.

If approved (and after the exhaustion of appeals, if any) then an election is called where the voters can decide whether or not to approve the proposal. Whether the voters will consist of all of the voters in the entire SMMUSD or only the voters in the City of Malibu will be determined at a later point in time.

Without the benefit of a mutual agreement between the City of Malibu and the SMMUSD, the entire process can take several years.

10. What is the City of Santa Monica’s position on the City of Malibu’s Petition?

The City of Santa Monica City Council voted 7-0 on Nov. 10, 2020 to send a letter to LACOE affirming support for the split, but only if the terms of the separation, including but not limited to the division of revenues and assets, are “fair and just” to students in Santa Monica schools and provides robust and equal educational opportunities for both Malibu and Santa Monica students.



City of Malibu

23825 Stuart Ranch Road • Malibu, California • 90265-4861
Phone (310) 456-2489 • Fax (310) 456-3356 • www.malibucity.org

August 31, 2017

Sent via Email to [Deegan Allison@lacoed.edu](mailto:Deegan_Allison@lacoed.edu)

Dr. Allison Deegan
Regionalized Business Services Coordinator
Los Angeles County Office of Education
Committee on School District Organization
9300 Imperial Highway
Downey, CA 90242

RE: Petition for Unification of a Malibu Unified School District

Dear Dr. Deegan:

At its Regular meeting on September 15, 2015, the Malibu City Council adopted Resolution No. 15-60 authorizing transmission of the petition for unification of a Malibu Unified School District.

As the petition was not filed with the County Office of Education at that time, a copy of the City Council's resolution is included with this letter in order to begin the process for unification. The City Council and the Malibu community are eager to move this process forward as quickly and expediently as possible, so please advise what additional information or documentation is required.

We appreciate your assistance in this very important matter. If you have any questions, please contact me at (310) 456-2489 ext. 226 or RFeldman@malibucity.org.

Sincerely,

Reva Feldman
City Manager

Attachment: City of Malibu Resolution No. 15-60

Cc: Mayor Peak and Honorable Members of the Malibu City Council

RESOLUTION NO. 15-60

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU
AUTHORIZING TRANSMISSION OF THE PETITION FOR UNIFICATION OF
A MALIBU UNIFIED SCHOOL DISTRICT TO THE LOS ANGELES COUNTY
SUPERINTENDENT OF SCHOOLS

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. The City of Malibu and the unincorporated area surrounding the City of Malibu (collectively, Greater Malibu), is currently within the territory of the Santa Monica Malibu Unified School District (SMMUSD).

B. Greater Malibu, and specifically the City of Malibu, has developed significantly since Greater Malibu was organized as part of SMMUSD.

C. Under current law, the organization of SMMUSD, including both Santa Monica and Greater Malibu, would not be permissible as California Education Code Section 35543, enacted in 1980, provides that "a school district shall not be formed or reorganized to include territory which is separated from other portions of the territory of the district by the territory of one or more other school districts." Greater Malibu is separated from Santa Monica by the Los Angeles Unified School District.

D. The City of Malibu was incorporated in 1991 and Greater Malibu, despite significant population growth, strives to maintain its rural character, while Santa Monica has developed into a densely-populated, urban community. As those distinct communities have developed, children residing in Greater Malibu have, since 1992, attended public schools from kindergarten through 12th grade entirely within the City of Malibu.

E. The city centers of Malibu and Santa Monica are separated by several miles, and Santa Monica and Malibu have become distinct communities.

F. For several years, concerned residents and community groups within Greater Malibu have expressed the desire to organize a separate Malibu school district.

G. SMMUSD's central office is located in Santa Monica, a significant distance from even the closest portions of Greater Malibu.

H. Residents of Malibu have expressed concern and frustration that they are not adequately represented by the SMMUSD governing board due to its at-large system of election, and that their concerns about the policies and practices of SMMUSD go largely unaddressed. At-large elections have been known to have this effect where there is a minority community distinct from the overall community, regardless of whether the minority community is a racial/ethnic minority, socio-economic minority, geographic minority, or any other minority community with interests distinct from those of the majority.

I. The City of Santa Monica adopted a city charter in 1947 that requires its city council and the governing board of SMMUSD to be elected at-large, and that charter provision prevents SMMUSD from adopting district-based elections.

J. The principle civic group that has advocated for the organization of a Malibu Unified School District, Advocates for Malibu Public Schools (AMPS), has worked cooperatively with SMMUSD staff to investigate the feasibility and desirability of organizing a Malibu Unified School District from the existing territory of SMMUSD, and in that effort retained the services of WestEd to prepare a report on the feasibility and desirability of the contemplated unification using data in a large part generated by SMMUSD.

K. The comprehensive report of WestEd, completed on July 16, 2015, confirms that unification of a Malibu Unified School District is both feasible and desirable.

L. The nine criteria for unification of a school district set forth in California Education Code Section 35753 are all satisfied by the contemplated organization of a Malibu Unified School District.

M. The unification of a Malibu Unified School District from the existing territory of SMMUSD will benefit all children in Santa Monica, as well as Greater Malibu, as each of the two resulting school districts will:

- Be better suited to utilize the unique resources, and address the particular needs, of their respective communities
- Have more funds for educating each student than the existing SMMUSD, pursuant to the State's school funding formulas
- Be capable of implementing the distinct educational philosophies of their respective communities
- Continue to promote sound educational performance with no disruption to educational programs
- Not result in a significant increase in school housing costs or otherwise have an adverse effect on the fiscal status of any district

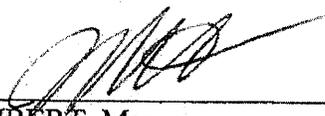
N. Organization of a Malibu Unified School District enables all residents of Greater Malibu to have representation on their local school board through the adoption of by-trustee-area elections.

O. Unification of a school district may be initiated by a resolution of a city council that has jurisdiction over at least a portion of the affected area, pursuant to California Education Code Section 35721(c).

SECTION 2. The City Council does authorize transmission of the petition for unification of a Malibu Unified School District to the Los Angeles County Superintendent of Schools.

SECTION 3. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 16th day of September 2015.



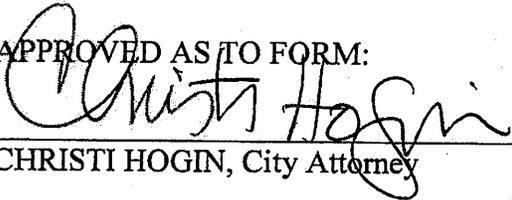
JOHN SIBERT, Mayor

ATTEST:



HEATHER GLASER, Acting City Clerk
(seal)

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-60 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 16th day of September 2015 by the following vote:

AYES: 5 Councilmembers: House, La Monte, Peak, Rosenthal, Sibert
NOES: 0
ABSTAIN: 0
ABSENT: 0



HEATHER GLASER, Acting City Clerk
(seal)

PREFACE

Most people see school districts as stable or even permanent governmental entities. School district boundaries, however, do change. Territory is transferred from one school district to another, districts are divided or combined with their neighbors, and some districts are terminated. This handbook describes how these changes come about.

This handbook was originally developed in 1993, and revised in 1997, through the joint efforts of the California State Board of Education, the California County Superintendents Educational Services Association, the Fiscal Crisis and Management Assistance Team, and the California Department of Education (CDE). Since 1998, portions of the handbook are updated by the CDE with input from school district organization staff from county offices of education across the state. The handbook is intended as a resource for county committees on school district organization, school district governing boards and administrators, and interested members of the public.

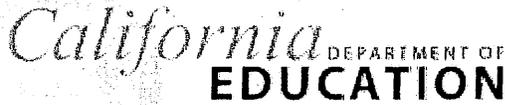
Any comments or suggestions regarding the content of this handbook should be sent to:

School Fiscal Services Division
Charter Apportionments and District Reorganization
California Department of Education
1430 N Street, Suite 3800
Sacramento, CA 95814

NOTES:

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

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District Organization

Reference for procedures and responsibilities for all parties involved in the school district organization process.

[Chapter 1](#) | [Chapter 2](#) | [Chapter 3](#) | [Chapter 4](#) | [Chapter 5](#) | [Chapter 6](#) | [Chapter 7](#) | [Chapter 8](#) | [Chapter 9](#) | [Chapter 10](#) | [Chapter 11](#) | [Chapter 12](#) | [Appendixes](#)

Handbook users frequently want to access specific chapters rather than the entire publication. This Web site is designed to allow selection, reading, and downloading of individual chapters as Microsoft Word (DOC) documents. To identify the chapter containing the specific items of interest, click on a chapter number below to upload that chapter in DOC format, or scroll down for more information about each chapter.

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

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A tool is available to assist LEAs with calculating blended LCFF funding rates for reorganizing school districts. To request a copy of the instructions and Excel file please contact pase@cde.ca.gov.

Preface

[Handbook Description](#) (DOC)

Most people see school districts as stable or even permanent governmental entities. School district boundaries, however, do change. Territory is transferred from one school district to another, districts are divided or combined with their neighbors, and some districts are terminated. This handbook describes how these changes come about.

Chapter 1

[Introduction](#) (DOC)

This chapter lists the source documents, laws, and regulations that are the foundation for the other chapters in this handbook. There are also definitions of common terms used throughout the document. The last section in the chapter discusses the process by which certain functions listed as the responsibilities of the county board of supervisors may have been transferred to the county superintendent of schools.

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Chapter 2

History of School District Organization in California (DOC)

This chapter will be useful to community members, school district administrators, and county committees on school district organization alike to know the history of the changes in school district organization. The chapter discusses the various methods used over the years by the Legislature to attempt consolidation and overall reduction in the number of school districts.

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Chapter 3

Organization and Responsibilities of the County Committee (DOC)

The county committee on school district organization has a major role in the review and approval of proposals to change school district organization in the county. This chapter discusses how the members are selected, how committees should function, and how they are financed. In 32 counties in the state, the functions of the county committee on school district organization have been transferred to the county board of education. A list of counties in both categories can be found at the end of this chapter.

This chapter will be of greatest help to county committee members and to county superintendents of schools. They can use this chapter to aid them in calling elections and meetings for the county committees.

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Chapter 4

Roles and Responsibilities of the State Board of Education and the California Department of Education (DOC)

This chapter discusses the authority and responsibilities of the State Board of Education in school district organization and the assistance and support provided to the State Board by the California Department of Education. The chapter distinguishes between the roles of the county committee on school district organization and of the State Board. Petitioners and county committee members alike will find it useful in understanding what happens to school district organization proposals after the county committee has acted.

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Chapter 5

Reorganization of School Districts in California (DOC)

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

- The 25 percent petition process
- The 10 percent petition process
- The guidelines and rules followed by the State Clearinghouse in the Governor's Office of Planning and Research in administering the California Environmental Quality Act (CEQA) and regulations.

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

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Chapter 6

Legal Criteria Governing Reorganization Proposals (DOC)

This chapter discusses the requirements of *EC* Section 35753 in detail and how the State Board of Education would apply the criteria of Section 35753. Any school district reorganization proposal presented to the county committee and State Board of Education must meet those requirements. Both the State Board of Education and county committees on school district organization are required to evaluate a reorganization proposal and make determinations that the criteria are substantially met. The chapter will be of particular value to members of county committees to assist them in understanding the legal criteria governing reorganization proposals.

Upon receiving the plans and recommendations for a proposal from the county committee, the State Board of Education must hold public hearings on all petitions other than those involving transfer of territory. (*EC* 35752)

The State Board of Education also may review a petition for any reorganization (including a territory transfer) upon an appeal by the chief petitioners of the affected school districts. Appeals of decisions made by county committees to the State Board of Education are allowed under the provisions of *EC* sections 35710.5 and 35711.

The State Board may approve proposals for the reorganization of districts if the board has determined, with respect to the proposal and the resulting districts, that all the minimum conditions under *EC* 35753 are substantially met. These conditions, the statutes and regulations governing the conditions, and guidelines to evaluate the conditions are listed below. (*EC* 35753)

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Chapter 7

Public Hearings and Election Procedures (DOC)

This chapter lists the requirements for elections and public hearings as they pertain to school district organization, presents the calendar for elections, and discusses setting the area in which to conduct the elections. The area of election has been the subject of several significant court decisions, making this chapter of particular value to legal counsel involved in school district organization proposals. County committee members and petitioners for school district organization change will also find the information useful.

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Chapter 8

School District Formation Guidelines (DOC)

This chapter provides information for newly elected governing boards, administrators, other staff, and constituents. A management plan encompassing the interim and operational periods should be prepared as a foundation for the formation of a school district.

Section A, "The Interim Period," provides guidelines on tasks to be accomplished in the time span between the date of the successful election and July 1 of the following year, the date on which the new district becomes fully operational for all purposes. During this interim period the new district is organized administratively, and significant policy and planning decisions must be made. Major components are defined and included in a formal written management plan. Table 8.1 is a worksheet listing tasks to be accomplished during the interim period.

Section B, "The Design Period," uses the management plan to define how the district will operate day to day. Table 8.2 is a worksheet listing tasks to be accomplished during the design period.

Section C, "The Implementation Period," discusses the school systems implementation master plan, which specifically identifies all systems supporting the school district. This plan serves as a blueprint to give direction to the incoming operations team and as a reference for the governing board, providing accountability to the community. Table 8.3 lists major tasks to be accomplished during the implementation period.

Sections of this chapter contain lists of issues to be considered by a new governing board when a new school district is established. They are not necessarily applicable to all new districts and should not be considered exhaustive lists. Each governing board of a new district needs to address issues relevant to that specific district. As with other areas of school district organization, guidance from experts (including legal counsel) familiar with local issues should be sought.

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Chapter 9

The Effects of School District Organization (DOC)

This chapter lists the various effects of a school district organization change on a school district and its employees, property, funds, obligations, bonded indebtedness, and revenue limit. This information is valuable to diverse groups during the processing of a school district organization proposal. An understanding of the legal requirements will be useful to petitioners, electors, and county committees when considering whether a school district organization proposal should be recommended for approval. New governing board members also will find this chapter useful because these requirements must be implemented once the school district organization proposal has been approved and a majority of the voters in the district have voted in favor of the proposal.

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Chapter 10

Other Functions of the County Committee (DOC)

County committees on school district organization have additional responsibilities in processing proposals regarding the structure, membership, and areas of representation of members of school district governing boards. These requirements are unique to county committees and constitute a major portion of their workload. This chapter is particularly important for committee members.

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Chapter 11

The Appeals Process (DOC)

Chapter 11 provides a brief summary of the appeals process related to transfers of territory from one school district to another. The issues that may be appealed, the timeline, the steps the appellant must follow, and the options available to the State Board of Education are presented. This chapter will be particularly useful to individual petitioners or school districts contemplating the filing of appeals with the State Board of Education.

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Chapter 12

Procedures for Reorganizing Community College Districts (DOC)

The legal requirements for district reorganization that apply to community college districts are discussed in this chapter. Procedures affecting community colleges are included in this handbook because county committees on school district organization have responsibilities affecting the community college districts. Legal requirements covering postsecondary education may be found in *EC*, Division 7, "Community Colleges," Section 70900 et seq. Specific information on community college district reorganization or formation is covered in Part 46, chapters 1 through 5, Section 74000 et seq. (see also Section G in this chapter). Otherwise, the functions performed by the State Board of Education for school districts serving kindergarten through grade twelve are performed for community college districts by the Board of Governors of the California Community Colleges. The legal requirements affecting community college districts are published here for the convenience of the county committees on school district organization.

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Appendixes

Appendix A: (DOC)

State Board of Education Regulations and Criteria Regarding School District Organization

Appendix B: (DOC)

Sample Bylaws of the County Committee on School District Organization

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Reorganization of Districts under the Jurisdiction of Different Counties

Appendix D: (DOC)

State Board of Equalization Change of Jurisdictional Boundary

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Sample Petition for Transfer of Territory

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Sample Notice of Preparation of Draft Negative Declaration/Mitigated Negative Declaration

Appendix G: (DOC)

Environmental Checklist Form

Appendix H: (DOC)

California Environmental Quality Act Forms

Appendix I: (DOC)

California Environmental Quality Act (CEQA) Filing Fee No Effect Determination Form

Appendix J: (DOC)

Guidelines for Public Hearing Agenda

Appendix K: (DOC)

Suggested Procedures for a Public Hearing Conducted by the County Committee on School District Organization

Appendix L: (DOC)

Sample Initial Agenda for the Governing Board of a New School District

Appendix M: (DOC)

Handbook for Conducting Racial And Ethnic Studies in School Districts

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Questions: Principal Apportionment Section | pase@cde.ca.gov | 916-324-4541

Last Reviewed: Friday, March 24, 2017

B. Process: Quick-Reference Chart 5.4

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

1. Initiation of Proposals for Unification (*EC 35720, EC 35721*)
 - a. Petition signed by at least 10 percent of the registered voters of the entire school district; or,
 - b. Petition signed by at least 5 percent of the registered voters to reorganize a district with over 200,000 ADA into two or more districts; or,
 - c. Resolution approved by a majority of the members of a city council, county board of supervisors, governing body of a special district, or local agency formation commission.
2. Preliminary Hearing (*EC 35721*)
 - a. Following the hearing, the county committee must grant or deny the petition.
 - b. If the petition is granted, the county committee must adopt tentative plans and recommendations and hold one or more public hearings.
3. Public Hearing (*EC 35720.5, 35721*). The county committee is required to hold a public hearing in the area proposed for reorganization. The public hearing should be held no later than 60 days after adopting a tentative recommendation.
4. Notice of Hearing (*EC 35705, 35705.5, 35720.5*). The county committee shall send a notice to the governing board of each school district involved and to the chief petitioners as appropriate at least ten days prior to the hearing. The notice must contain information about the time, place, and purpose of the hearing. The notice of the public hearing must be either:
 - a. Posted at three public places in the school districts involved and at every school in each school district involved, or
 - b. Published in a newspaper of general circulation published within the school district, or, if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district.

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

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

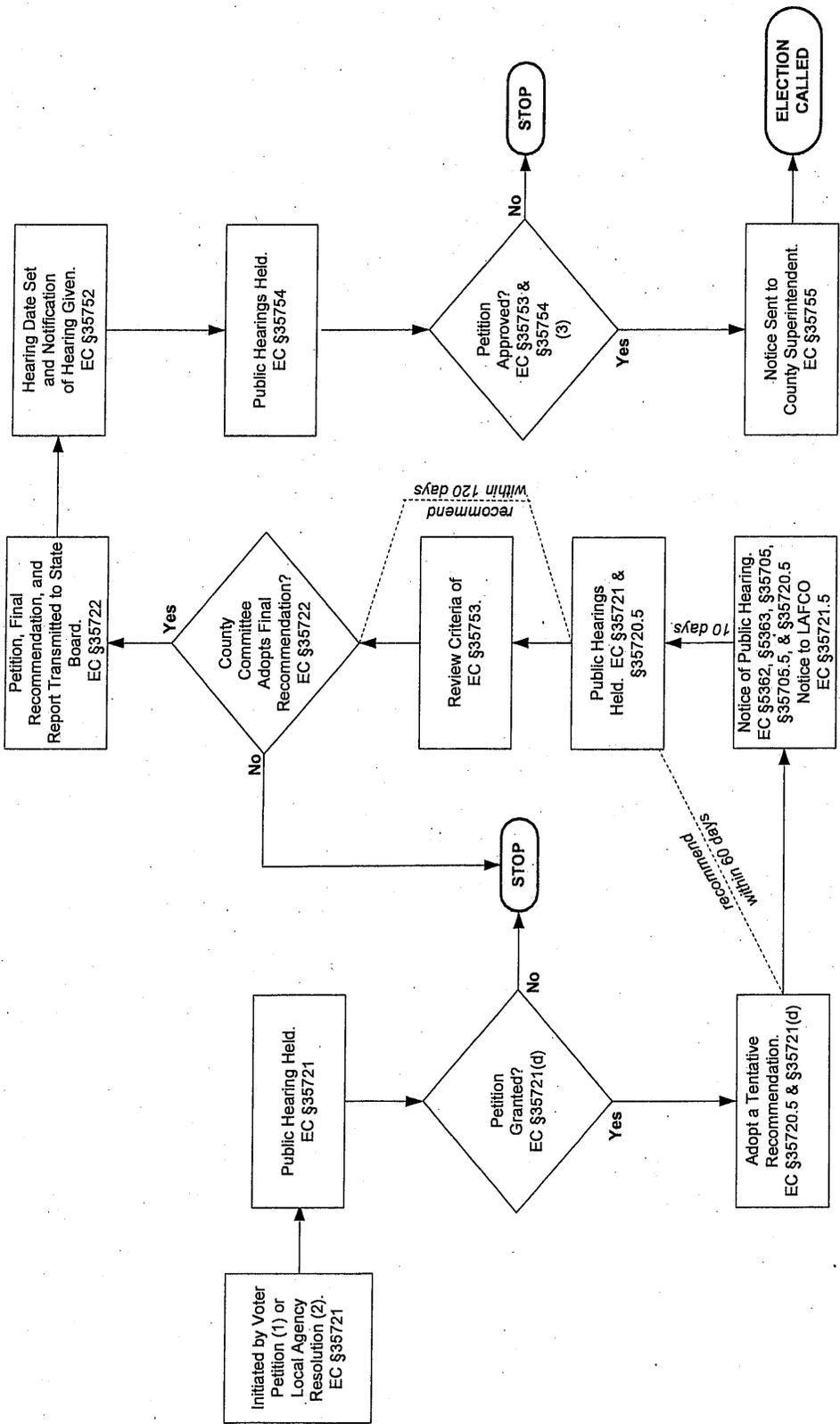
Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

6. County Committee Study of the Unification (*EC* 35706, 35709, 35710, 35722). The county committee study must determine the impact of the unification on the conditions listed in *Education Code* Section 35753.

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

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

UNIFICATION INITIATED BY 10% PETITION OR LOCAL AGENCY



(1) A petition to reorganize a district shall be signed by at least 10 percent of the registered voters of the entire district. EC §35721(a) In districts with over 200,000 ADA, a petition to reorganize a district into two or more districts may be signed by 5% of the registered voters. EC §35721(b).
 (2) The city council, county board of supervisors, governing body of a special district, or LAFCO may initiate a proposal to reorganize a district. EC §35721(c)
 (3) The SBE, as lead agency for CEQA, must comply with provisions of CEQA before approving a unification if it determines that the unification is a project under CEQA.

B. Process: Quick-Reference Chart 5.5

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

1. Proposal formulated under the direction of SBE (*EC 35720*)
2. Public Hearing (*EC 35720.5, 35721*). The county committee is required to hold a public hearing in the area proposed for reorganization. The public hearing should be held no later than 60 days after adopting a tentative recommendation.
3. Notice of Hearing (*EC 35705, 35705.5, 35720.5*). The county committee shall send a notice to the governing board of each school district involved and to the chief petitioners as appropriate at least ten days prior to the hearing. The notice must contain information about the time, place, and purpose of the hearing. The notice of the public hearing must be either:
 - a. Posted at three public places in the school districts involved and at every school in each school district involved, or
 - b. Published in a newspaper of general circulation published within the school district, or, if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district.

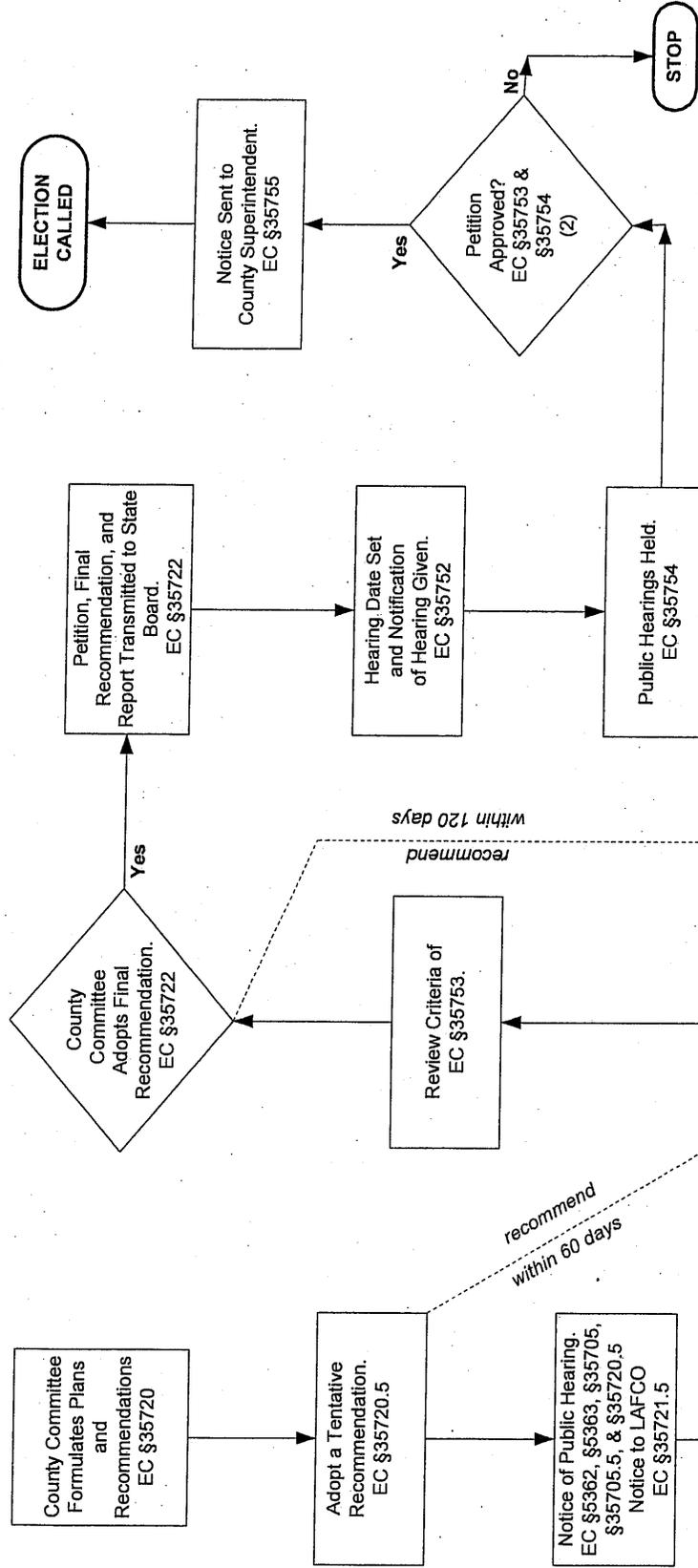
A description of any additions and amendments to the petition must be made available to the public and to the governing boards affected by the reorganization at least ten days before the public hearing. The county committee may add to the petition any of the appropriate provisions specified in *Education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

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

Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.
5. County Committee Study of the Reorganization (*EC 35706, 35709, 35710, 35722*). The county committee study must determine the impact of the reorganization on the conditions listed in *Education Code* Section 35753.

6. Approval Process (EC 35722, 35752 through 35755)
 - a. Within 120 days of the first public hearing, the county committee should make a final recommendation to approve or disapprove the plan or petition.
 - b. The county committee may make a recommendation regarding the area of election, if required.
 - c. The county committee transmits reports and recommendations to the State Board of Education.
 - d. The State Board of Education complies with the requirements of CEQA.
 - e. The State Board of Education holds required public hearings.
 - f. The State Board of Education approves or disapproves the plan or petition.
 - g. If approval is given and an election is required, the county superintendent calls an election in an area determined by the State Board of Education.

COUNTY COMMITTEE PLANS AND RECOMMENDATIONS



(1) Public hearing must be held at least 30 days prior to submission of final recommendation to State Board of Education.
 (2) The SBE, as lead agency for CEQA, must comply with provisions of CEQA before approving a unification if it determines that the unification is a project under CEQA.

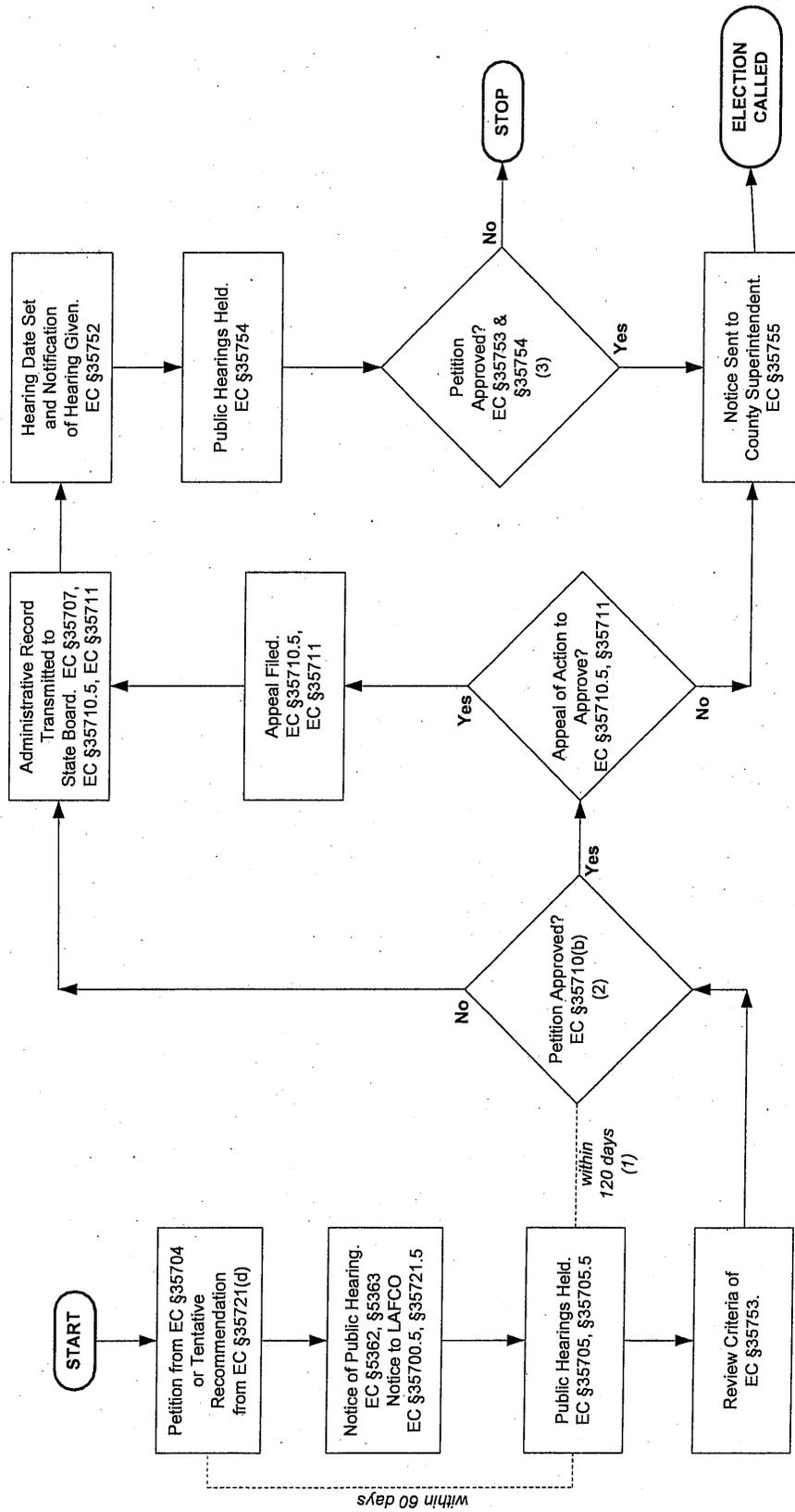
B. Process: Quick-Reference Chart 5.6

UNIFICATION APPROVED
BY THE COUNTY COMMITTEE
(See Flowchart F)

1. Proposals Eligible for Approval by County Committee
 - a. Petitions for unification under *EC* 35700 (see Quick Reference Chart 5.3, step 1); or
 - b. Tentative recommendation adopted by the county committee pursuant to *EC* 35721 (see Quick Reference Chart 5.4, step 2[b]).
2. Conditions Required for Approval by County Committee (*EC* 35710[b])
 - a. County superintendent grants approval authority to the county committee.
 - b. The governing board of each affected school district consents to the petition.
 - c. The secretary of the county committee enters into an agreement for all affected districts to share costs of complying with the California Environmental Quality Act.
3. Public Hearings (*EC* 35705, 35705.5). A public hearing in each affected district must be held by the county committee within 60 days of receipt of a valid petition.
 - a. Notice of the public hearing shall be given at least ten days in advance of the hearing.
 - b. County committee may add to the petition any of the appropriate provisions specified in *EC* sections 35730 through 35738.
4. Notice to Local Agency Formation Commission (*EC* 35700.5, 35721.5). Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the LAFCO for the affected area.
5. CEQA Review (*Public Resources Code* sections 21000 through 21177). The county committee must determine the impact that the reorganization may have on the environment prior to approving the unification.

6. County Committee Study of the Unification (*EC 35753*). The county committee study must determine the impact of the unification on the conditions listed in *Education Code Section 35753*.
7. Approval Process (*EC 35710*)
 - a. If the conditions of *Education Code Section 35710* are met, the county committee may approve or disapprove the unification within 120 days of the first public hearing or within 120 days of CEQA compliance if CEQA is required.
 - b. If the county committee disapproves the unification, the petition is transmitted to the State Board of Education pursuant to *Education Code Section 35707(a)* and heard by the State Board of Education pursuant to *Education Code Section 35708*. The approval process then follows steps 6(d) through 6(g) of Quick-Reference Chart 5.3. In such cases, the State Board of Education becomes the lead agency for purposes of CEQA.
 - c. If the county committee approves the unification, the county superintendent must call an election in an area determined by the county committee.
8. An action by the county committee approving a petition for unification may be appealed to the State Board of Education by the chief petitioners or one or more affected school districts. (*EC 35710.5*)
 - a. Appellants, except for affected school districts, shall file with the county committee a notice of appeal within five days after the final action of the county committee.
 - b. Affected school districts shall file a notice of appeal within 30 days after the final action of the county committee.
 - c. Within 15 days after filing the notice of appeal, appellants shall file a statement of reasons and factual evidence.
 - d. Within 15 days of receipt of the statement of reasons and factual evidence, the county committee shall send to the State Board of Education the statement and the complete administrative record of the county committee proceedings.
9. Any person questioning the finding of the county committee that the proposed reorganization will not adversely affect the racial or ethnic integration of the schools of the districts affected may appeal a decision based on that finding to the State Board of Education within 30 days after the final action of the county committee. (*EC 35711*)

UNIFICATION APPROVED BY COUNTY COMMITTEE



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

**SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION**

Resolution

In Opposition to the Unification Petition Submitted to LACOE by the Malibu City Council

On Dec 17, 2015, this school board unanimously resolved its desire for the co-existence of a Santa Monica Unified School District and a Malibu Unified School District as two excellent school districts serving their respective communities and providing the best educational opportunities for their respective students, as long as it can be accomplished in a manner that does not have a negative impact on the financial condition of the remaining Santa Monica Unified School District.

WHEREAS, the Malibu City Council adopted a resolution on September 15, 2015, to authorize transmission of a petition for unification of a Malibu Unified School District to the Los Angeles County Superintendent (LACOE), but did not send the resolution to LACOE at that time; and

WHEREAS, on August 31, 2017, the City of Malibu's City Manager transmitted the Malibu City Council's September 15, 2015, resolution to LACOE's Committee on School District Organization; and

WHEREAS, the Santa Monica-Malibu Unified School District Board of Education has a fiduciary responsibility to the entire District and has been diligently looking for a pathway to unification that ensures that there would not be a substantial negative effect on the fiscal condition of either the remaining Santa Monica Unified School District (SMUSD) or the newly created Malibu Unified School District (MUSD) and is continuing that pursuit; and

WHEREAS, the Malibu City Council's resolution authorizing transmission of the petition for unification does not address the negative fiscal impacts to SMUSD, as described in reports submitted by the Malibu Unification Negotiations Committee and School Services of California; and

WHEREAS, on November 27, 2017, the Malibu City Council took action to request that LACOE schedule its first hearings for consideration of the petition for unification after mid-February, 2018 pursuant to the School Board request, and also requested that its unification petition dated September 15, 2015, "be revised to consider a reasonable financial proposal for an orderly transition period, and consider adding a 'by district voting' component." The City Council's requests were submitted to LACOE's Committee on School District Organization on or about November 29, 2017.

THEREFORE, BE IT RESOLVED, that the Santa Monica-Malibu Unified School District Board of Education opposes the Malibu City Council's petition for unification, adopted by the Malibu City Council on September 15, 2015, and submitted to LACOE on August 31, 2017.

BE IT FURTHER RESOLVED, that the Santa Monica-Malibu Unified School District Board of Education opposes the financial proposal amending the Malibu City Council's petition as approved by the City Council on November 27, 2017, since it is not adequate to address the impacts on a newly constituted SMUSD. School Services of California's financial analysis is currently still underway.

BE IT FURTHER RESOLVED, the Santa Monica-Malibu Unified School District Board of Education reserves its right to address, in detail, whether each of the conditions for unification set forth in California Education Code Section 35753 are met by the petition.

BE IT FURTHER RESOLVED, that the Santa Monica-Malibu Unified School District Board of Education directs the Superintendent to forward this resolution to the Los Angeles County Committee on School District Organization for its consideration when deliberating on the Malibu City Council's petition for unification.

PASSED AND ADOPTED by the Santa Monica-Malibu Unified School District Board of Education on this 14th day of December 2017 by the following vote:

AYES: 6
NOES: 1
ABSTAIN: 0
ABSENT: 0



Dr. Richard Tahvidaran-Jesswein, Board President



Dr. Ben Drati, Superintendent

EASTSHORE CONSULTING

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June 25, 2019

Via Electronic Mail

To: Christine N. Wood
Best Best & Krieger LLP
300 South Grand Avenue, 25th Floor
Los Angeles, CA 90071

CC: Ben Drati, Superintendent
Santa Monica Malibu Unified School District

David A. Soldani
Atkinson, Andelson, Loya, Rudd & Romo

Re: SMMUSD Proposal for Establishment of an Independent Malibu USD

Ms. Wood,

In 2015, members of the greater Malibu community, represented by Advocates for Malibu Public Schools (AMPS), brought forward a proposal to de-annex territory from the Santa Monica Malibu Unified School District (SMMUSD) for the purpose of forming a new Malibu Unified School District. On September 16, 2015, the City Council of the City of Malibu approved Resolution 15-60, evoking Education Code Section 35721(c), to initiate a unification process for the greater Malibu territory.

Throughout 2016 and into 2017, SMMUSD and the City of Malibu worked in collaboration to identify a pathway for the potential formation of a new Malibu Unified School District, culminating in the Malibu Unification Negotiations Committee (MUNC) report. The MUNC report, released in February of 2017, provided an agreed upon framework to address many of the issues associated with the division of school territory for the formation on a new Malibu Unified School District. However, it appears the MUNC report did not result in a definitive revenue sharing methodology which was acceptable to all parties. Additionally, some ancillary matters remained open for discussion, primarily related to mitigation of unforeseen future liabilities.

Examinations of options for revenue sharing continued through 2017; however, it appears that no single sharing formula was able to create a sufficient balance in funding between the proposed Santa Monica Unified School District and the new Malibu Unified School District. Analysis indicated that the resulting formation of two separate unified school districts from the existing SMMUSD territory would result in negative impacts with respect to “per pupil” funding for the proposed Santa Monica Unified School District student population. These findings prompted the Board of Trustees of the SMMUSD to adopt a resolution in opposition to the petition as structured by the City of Malibu.



In early 2018, additional examinations of revenue sharing options were conducted by School Services of California. Based on that examination, it was assumed that property tax revenues would be split on the basis of taxable property values in each territory. However, the examination was not able to identify a methodology for equitable per pupil funding and, instead, contemplated a prolonged arrangement in which the proposed Malibu Unified School District would set aside significant amounts of funding to make annual “true-up” payments to the proposed Santa Monica Unified School District which would partially mitigate per pupil funding differentials.

In March of 2018, SMMUSD engaged a new team of consultants to examine revenue sharing options. Based upon the analysis of the new team, it was determined that equitable per pupil funding could be achieved via allocation of property taxes between the proposed entities on a per pupil basis. In using this allocation, it would be viable to achieve comparable per pupil funding between the proposed entities at the time of formation and projected funding growth in each area would not diverge as significantly over time as other proposed methodologies. Furthermore, such an arrangement could mitigate the need to make annual payments between each proposed entity. Based on this analysis, the SMMUSD Board opted to proceed with negotiations with City of Malibu staff, seeking to proceed toward the division of territory on a basis that provides a much closer balance in total per pupil funding than prior proposals.

SMMUSD Proposed Revenue Allocation Methodology

The SMMUSD is proposing that existing combined General Fund revenue be allocated in a manner that provides for as close to equal funding on a per pupil basis for each of the subsequent entities as possible. To achieve this goal, General Fund revenues are grouped into four broad categories.

1. *LCFF Revenues* – consisting of revenue sources which are included in annual LCFF computations
2. *State and Federal Revenues* – consisting mostly of revenue sources which are tied to student demographics
3. *Unrestricted Local Revenues* – consisting of locally generated funding for which there are not restrictions on the location of such revenues’ use
4. *Restricted Local Revenues* – consisting of locally generated funding for which there are restrictions on the location of such revenues’ use

Within these categories, certain revenues are governed by provisions of State and Local laws which dictate how they will be allocated to school districts. To the extent possible, SMMUSD would propose that revenue be allocated in alignment with existing governing laws. Within these revenue categories, there are limited opportunities to dictate how revenues are allocated short of special legislation.

LCFF Revenue Allocation Methodology

The single largest category of General Fund revenues are LCFF Revenues. Normally, these revenues would be allocated to a District under the provisions of the LCFF formula which accounts for certain student demographic factors in determination of funding minimums. The source for such funding is a combination of local property taxes and, to the extent such taxes do not meet minimum funding requirements, additional funding from State sources. In the event that a district should receive property taxes in excess of LCFF minimum funding levels, State funding becomes limited to minimum State Aid funding with the district keeping funding above the minimum levels (commonly referred to as “basic aid”).

It is important to note that the current SMMUSD entered basic aid status in 2017-18; however, it may not retain such status in the current 2018-19 fiscal year. It is currently projected that



SMMUSD will remain close to the LCFF minimum funding levels over the next few years – but, over the long term, will likely be basic aid.

Internal to the LCFF computation, there are several material sub-categories of revenue including:

1. *State Aid* – funding provided by the State for mandated requirements and, if applicable, funding to meet minimum requirements under LCFF
2. *Educational Protection Act* – funding provided under Prop. 30 to augment school funding
3. *Secured Roll Taxes* – funding from County property tax apportionments
4. *Other Property Taxes* – funding from unsecured property taxes and other minor property tax levies
5. *Educational Revenues Augmentation Fund* – “ERAF” funding, applicable to non-basic aid districts
6. *Redevelopment* – Redevelopment pass-through payments from incremental property taxes levied within RDA project areas

State Aid Allocation Methodology

Due to the current near or in basic aid status of SMMUSD, the District has been assigned a minimum State aid funding amount which is not expected to materially change unless the District should fall significantly out of basic aid status. This amount is provided to cover certain mandated costs and would be allocated to the proposed entities on a per pupil basis.

Education Protection Act Allocation Methodology

EPA revenues are a result of passage of Prop 30 in 2012, and amended and continued by passage of Prop 55 in 2016. Because provisions of EPA are tied to the former revenue limit funding methodology for school districts and are allocated based upon an ADA based formula, it is projected that the allocation of these revenues will follow ADA in the subsequent SMUSD and MUSD. It should be noted, however, that this revenue source is projected to lapse in 2031, unless actions are taken at the State level to extend EPA beyond that year.

Secured Roll Property Taxes Allocation Methodology

Secured property tax revenues are allocated to the SMMUSD on the basis of a Property Tax Ratio (PTR) established pursuant to Prop 13. This ratio, initially established with the implementation of Prop. 13, was based upon the operating budgets for entities in place at the time of implementation. The PTR for each entity establishes its share of the 1% property tax levy collected countywide. The PTR for each entity is updated annually based upon growth within a territory as compared to growth throughout the county in a manner that generally increases its share of countywide taxes if assessed valuation within its territory grows at a rate faster than other entities.

Subsequent to computation of the PTR, territories which included Redevelopment Agencies have a portion of the gross PTR reduced to meet obligations of RDAs. Such reductions are in part returned to school district via pass-through payments which are accounted for in the Redevelopment revenue category. Specific to the SMMUSD, there are two active RDA project areas which receive a portion of the property taxes generated within SMMUSD. Both RDA project areas are located within the Santa Monica portion of the territory.

Based upon conversation with Los Angeles County, it has been determined that the allocation of the gross PTR between proposed entities would be provided as a result of the negotiations between the entities. This allocation will form the basis under which current property tax revenues are allocated. Additionally, it was confirmed with the County that the territory which retains existing RDA project areas will continue to have their gross PTR reduced to meet RDA obligations. However, areas without RDA project areas would not be impacted by RDA reductions to the gross PTR.



SMMUSD proposes that the existing PTR be allocated to the proposed SMUSD and MUSD based upon the student populations being served in each territory, roughly in alignment with ADA. While the proposed Santa Monica Unified School District would continue to experience a reduction for RDA activities until the termination of RDA project areas, it would also receive a portion of those funds back through pass-through payments reflected in the Redevelopment revenue category.

Other Property Taxes Allocation Methodology

Other taxes consist mostly of unsecured tax revenues which are also allocated using the PTR methodology. Additionally, these other property taxes include items with a high degree of volatility but limited magnitude, such as supplemental tax collection and prior year tax collections. SMMUSD proposes that unsecured property taxes would follow the PTR allocations established for secured property tax allocations. Additionally, it is proposed that the other items in this category be allocated using the normal County methodologies in place for such allocations.

ERAF Allocation Methodology

ERAF funding is not provided to basic aid districts. To the extent either proposed entity is not a basic aid district, it may receive ERAF revenues pursuant to County formulas. However, because each entity is projected to be a basic aid district under the SMMUSD proposal, such revenues are not anticipated.

Redevelopment Allocation Methodology

SMMUSD proposes that redevelopment funding be allocated to the entity which bears the impact of such funding on its property tax allocations. Since the RDA project areas only exist in the proposed Santa Monica Unified School District territory and its hypothetical PTR would be the only one impacted by redevelopment, all redevelopment revenues would be allocated to the potential Santa Monica Unified School District.

Federal Revenue Allocation Methodology

Federal revenues are generally provided to school districts based upon their demographic characteristics. SMMUSD proposes that these revenues follow the student populations which generate them and be allocated to each district on that basis.

Other State Revenue Allocation Methodology

Other State revenues consist primarily of sources which are allocated by the State on an ADA basis. SMMUSD proposes that these revenues follow the students which generate them, essentially resulting in allocation on an ADA basis.

Local Revenue Allocation Methodology

For the existing SMMUSD, these revenues comprise a significant portion of total General Fund resources and are comprised of various sub-categories, including:

1. *Parcel Taxes*
2. *Sales & Use Taxes*
3. *Site Leases & Joint Use*
4. *Other Local Revenue*

Parcel Tax Allocation Methodology

Property taxes are collected on a per parcel basis. Pending affirmation of a legal opinion that such parcel taxes can be continued subsequent to reorganization of SMMUSD, SMMUSD would propose that such taxes collected within a subsequent territory be retained by that territory.



Sales & Use Taxes

Sales and Use Taxes are collected within the City of Santa Monica only via a measure in conjunction with the City that precludes the use of such funding for an entity which does not educate students from Santa Monica. As such, SMMUSD proposes that these revenues be allocated to the potential Santa Monica Unified School District.

Site Leases and Joint Use

Traditionally, site lease revenues have been provided back to the site for enhancement of programs. SMMUSD proposes that such site lease revenues continue to operate in the same manner.

Other Local Revenue

Generally, it appears that all other local revenue sources are not material.

Summary

It is the general belief of the SMMUSD that the division of territory should not result in a reduction in opportunities on either side. While it will be up to the governing boards of each entity to determine the specific programs, it is the belief that funding on a per student basis should be somewhat similar during the initial period after territory is divided. It is the belief of the SMMUSD that the revenue sharing proposal outlined herein will achieve that goal without the need to facilitate sizable funding transfers on an ongoing basis between entities, which may be subject to appropriations by future boards and also interfere with the normal LCFF computations that may not correctly account for such transfers in minimum funding computations.





BEST BEST & KRIEGER
ATTORNEYS AT LAW

Indian Wells
(760) 568-2611

Irvine
(949) 263-2600

Manhattan Beach
(310) 643-8448

Ontario
(909) 989-8584

300 South Grand Avenue, 25th Floor, Los Angeles, CA 90071
Phone: (213) 617-8100 | Fax: (213) 617-7480 | www.bbklaw.com

Riverside
(951) 686-1450

Sacramento
(916) 325-4000

San Diego
(619) 525-1300

Walnut Creek
(925) 977-3300

Washington, DC
(202) 785-0600

Christine N. Wood
(213) 542-3861
Christine.Wood@bbklaw.com

September 5, 2019

VIA ELECTRONIC MAIL

David A. Soldani
Atkinson, Andelson, Loya, Ruud & Romo
10 River Park Place East, Suite 240
Fresno, CA 93720
Email: dsoldani@aalrr.com

RE: City of Malibu SMMUSD Territory Transfer Counter Proposal

Dear Mr. Soldani:

This letter is a response to the Santa Monica Malibu Unified School District's (SMMUSD) proposal to the City of Malibu (City) dated June 25, 2019.

The City has engaged in this 17-month negotiations with the general principle that the division of territory should not result in a reduction in opportunities on either side, despite the many inequities Malibu students face every year as constituents of the SMMUSD: limited foreign language offerings; no dual immersion program; downgraded music and arts programs; no early college track; no wellness resources; and no facilities management (until this school year). Nevertheless, the City participated in these negotiations in a good faith attempt to reach a mutually beneficial territory transfer. Instead, the City believes SMMUSD has been immovable in its approach to these negotiations and has insisted on a revenue sharing methodology that provides a significant transfer of wealth from Malibu residents to the proposed Santa Monica Unified School District (SMUSD).

Specifically, there is fundamental difference between the two pending proposals. The City has proposed a revenue sharing agreement in which property taxes are split based on assessed value with equalization payments back to the proposed SMUSD, but has been willing to negotiate the form and timing of these equalization payments. SMMUSD has proposed a revenue sharing agreement in which the property tax ratio is divided on pro rata share that results in a permanent redistribution of the Malibu property owner's assessed value, and refuses to offer or consider any other variation on this methodology. While the City still fundamentally disagrees with any proposal that results in a permanent redistribution of assessed value, the City is also encouraged by a plan that creates a school district for Malibu residents who are hungry for local control and equitable educational opportunities.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

September 5, 2019
Page 2

Therefore, the City is willing to acquiesce to SMMUSD's methodology, as described in the June 25, 2019, proposal, if the parties can also agree to the following concessions.

- City requests that SMMUSD account for additional sources Local Revenue, specifically Sales & Use Tax and Site Lease, in its financial model so that the allocation of the Property Tax Ratio more accurately reflects the revenues available to SMMUSD.
- SMMUSD must agree to cover Malibu Unified School District's start-up costs, including capital build-up costs, potential land acquisition, the cost of erecting a district headquarters, the cost of procuring M&O tools and vehicles, reserves comparable to those reserves maintained by SMMUSD, as well as a separate reserve for the OPEB obligation.
- Recognizing that smaller school districts naturally have greater administrative costs, SMMUSD must agree to factor this in to its financial model so that the allocation of the Property Tax Ratio more accurately covers the Malibu Unified School District's administrative costs until the residents of Malibu pass a replacement parcel tax.
- Create a Joint Powers Authority that will cover both parties in lawsuits that may result from existing PCBs and any other liabilities stemming from this territory transfer.
- The parties will agree to recalibrate the property tax ratio split at the conclusion of the 50-year revenue sharing agreement so that the Malibu property owners are able to recapture their assessed value. The City understands this will require agreement from the LA County Assessor's Office.

With these concessions, the City believes it would be able to rescind the Petition for Unification that is before the Los Angeles County Office of Education and enter into a revenue sharing agreement that creates the Malibu Unified School District.

We look forward to your response.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

September 5, 2019
Page 3

Regards,

A handwritten signature in cursive script that reads 'Wood'.

Christine N. Wood

for BEST BEST & KRIEGER LLP

EASTSHORE CONSULTING

FINANCIAL ADVISORY & FACILITIES PLANNING · FISCAL CONSULTING · ELECTION STRATEGIES & PUBLIC RELATIONS

November 5, 2019

Via Electronic Mail

To: Christine N. Wood
Best Best & Krieger LLP
300 South Grand Avenue, 25th Floor
Los Angeles, CA 90071

CC: Ben Drati, Superintendent
Santa Monica Malibu Unified School District

David A. Soldani
Atkinson, Andelson, Loya, Rudd & Romo

Re: SMMUSD Proposal for Establishment of an Independent Malibu USD

Ms. Wood,

Thank you for your correspondence dated September 5, 2019. Based upon our review of that correspondence, it is the understanding of the Santa Monica-Malibu Unified School District (SMMUSD/District) that all parties are willing to proceed with negotiation of a potential agreement for the establishment of a Malibu Unified School District with the allocation of the existing District Property Tax Ratio between a proposed Santa Monica Unified School District and a proposed Malibu Unified School District on a basis aligned with student enrollment within each proposed district as compared to the combined enrollment for both proposed entities at the time of division. The methodology proposed and analysis conducted herein are for the purposes of facilitating further discussion by the parties. As this document has not been approved (or presented to) the full Board of Santa Monica Malibu Unified School District, it is not a formal counterproposal that would become a binding agreement upon Malibu's concurrence to its terms. Any final proposal/agreement must be approved by the District governing board at a duly noticed public meeting.

It is our goal, however, to gauge whether we can reach a consensus on the issues raised herein with the intent of thereafter, presenting to the Board a framework that we can represent has the concurrence of the Malibu Petitioner.

The District has reviewed the five requested "concessions" included in your September 5th correspondence. Based upon conversations with District staff and certain members of the SMMUSD governing board, please find our responses to the requested concessions below.

RESPONSES TO INDIVIDUAL CONCESSION REQUESTS

- 1) *City requests that SMMUSD account for additional sources Local Revenue, specifically Sales & Use Tax and Site Lease, in its financial model so that the allocation of the Property Tax Ratio more accurately reflects the revenues available to SMMUSD.*

The District has reviewed its modeling and affirmed that the information previously provided does indeed include "Sales & Use Tax" as well as Site Lease revenues. Specific to Sales and Use Tax revenues, SMMUSD receives a portion of two voter approved sales and use tax measures. The first, Measure Y, was placed on the November 2010 ballot by the City of Santa Monica and was successfully enacted by the voters. Measure Y provided for a 0.5% increase in the Sales and Use Tax rate within the City of Santa Monica. Measure Y was considered in conjunction with an advisory measure, Measure YY, which asked voters to provide guidance on the earmarking of 50% of Measure Y revenues to support local education.

Measure GSH was a Transaction and Use Tax placed on the November 2016 ballot by the City of Santa Monica. Measure GSH was considered with an advisory companion measure to allow for community input on the allocation of Measure GSH revenues. The advisory measure, Measure GS, was approved by a majority of voters and indicated that if Measure GSH was successful, half of the revenue generated by Measure GSH would be earmarked to improve and maintain local public schools.

Pursuant to Measures YY and GS, the SMMUSD has received 50% of the 0.5% Transaction and Use Tax enacted by Measures Y and GSH. Combined, these revenues currently provide the District with approximately \$16 million in annual revenues. However, these revenues are subject to volatility associated with economic activity within the City of Santa Monica.

SMMUSD would like to point out that the allocation of Measure Y and GSH funds has been discussed with the City of Santa Monica and it is the District's understanding that the Measure Y and GSH taxes which are only levied within the boundaries of the City of Santa Monica can only be utilized to support the educational entity serving the City, if unification occurs.

Additionally, the allocation of Measure Y and GSH funding is at the discretion of the City of Santa Monica as Measures YY and GS are advisory in nature and not legal restrictions on allocation of Measure Y and GSH funding.

As such, SMMUSD has modeled projected Measures Y and GSH revenues accruing to the proposed SMUSD. It is the District's understanding that such funding is geographically constrained and upon a split would be required to fund the district serving the City of Santa Monica.

While Measures Y and GSH funding is not allocated to Malibu, total per pupil revenues for the proposed Malibu USD (MUSD) are projected to exceed those of a proposed SMUSD after a few years. This funding equity is a result of the proposed Malibu USD being more reliant on locally generated property tax revenues. Revenue equity for the proposed Santa Monica USD (SMUSD) would be more reliant on, and assume the risks of, Measures Y and GSH which are based upon more volatile sales tax generation.

We have attached the resolutions adopted by the City of Santa Monica authorizing Measures Y, YY, GSH and GS for reference.

- 2) *SMMUSD must agree to cover Malibu Unified School District's start-up costs, including capital build-up costs, potential land acquisition, the cost of erecting a district headquarters, the cost of procuring M&O tools and vehicles, reserves comparable to those reserves maintained by SMMUSD, as well as a separate reserve for OPEB obligation.*

The District has reviewed these requests and would point out that the modeling of the District's proposal indicates that the Malibu USD would be provided with slightly higher per pupil revenues to accommodate many of the requested considerations. Additionally, the modeling has always included annual capital outlay expenditures of \$250,000 to accommodate the acquisition of a District office for the proposed MUSD.

Specific to capital build-up costs, potential land acquisition and the cost of erecting a district headquarters, based on the modeling, it is the belief of SMMUSD that such costs can be accommodated under the proposed revenue allocations so long as they are reasonable. SMMUSD has not been provided with information from the Malibu team as to the sufficiency of the \$250,000 annual capital outlay expenditures but notes that as proposed the allocation of revenues can accommodate a higher level of expense. Additionally, the proposed Malibu USD may opt to make use of some portion of the SFID GO Bond measure proceeds for its territory as a portion of funding to meet the need of a District Office.

With regard to the cost of procuring M&O tools and vehicles, it is the understanding of SMMUSD that allocation of the existing SMMUSD inventory would be conducted in accordance with the provisions agreed to by the Malibu Unification Negotiations Committee (MUNC) as outlined in its February 24, 2017 report. Pursuant to that agreement, busses currently utilized within each territory would be allocated to the entity serving that territory. With respect to tools, it is believed that those allocated at the site level would remain with such sites and any shared tools between the two territories are believed to be limited in scope and if required can either be allocated or valued to facilitate compensation in lieu of allocation.

With respect to fund balance allocations, it is the understanding of SMMUSD that this allocation is prescribed in the February 24, 2017 MUNC report. Specific to the General Fund, the allocation was determined to be on an ADA basis. This same ADA allocation basis was employed in the provided modeling we have shared. SMMUSD believes that this ADA based fund balance allocation could be augmented via mutual agreement to potentially mitigate the need for discrete monetary transfers upon a split.

Finally, with respect to OPEB related balances the District would note that such funding may be dedicated to qualified employees and that the District has been addressing its OPEB obligations primarily on a pay-as-you-go basis. Additionally, because such benefits are a collective bargaining matter, input from employee unions may be required. We note that certain code sections governing the formation of school districts may also apply as to rights of employees. However, to the extent there is a basis to transfer such funding, held in agency for employees, to the entity which they serve subsequent to a split, the District does not object.

- 3) *Recognizing that smaller school districts naturally have greater administrative costs, SMMUSD must agree to factor this into its financial model so that the allocation of the Property Tax Ratio more accurately covers the Malibu Unified School District's administrative costs until the residents of Malibu pass a replacement parcel tax.*

The modeling which was provided includes a pro-rata allocation of existing salaries plus an additional \$500,000, inflated over time to accommodate for additional administrative staffing.

The District is willing to consider some additional expense in its analysis if justified and reasonable.

With respect to the statement related to provision of time until “residents of Malibu pass a replacement parcel tax, the District reiterates that continuation of the parcel tax is critical to achievement of a successful proposal and that such continuation **must be** determined prior to any territory split. Because student generation rates within the Malibu territory are lower than the Santa Monica territory, the continuation of the Parcel Tax is essential to creating equity in total per pupil funding.

The continuation of the existing Measure R has always been foundational to any agreement and that has never changed. Review of prior legal analysis of the matter conducted by the MUNC indicates diverging opinions on the parcel tax treatment subsequent to a split. Additionally, the District and its team have reviewed the matter of continuation of the parcel tax and believe that there may be pathways to achieve its continuation for all parties. The District will support efforts to determine if continuation within each territory for the benefit of each proposed school district can be achieved. However, if it is determined that electoral action to continue the MUSD portion of the tax is required, such question must be linked to any electoral action related to formation of MUSD. If it is determined that electoral action is required to maintain the SMUSD portion of the parcel tax, that would be a non-starter for SMMUSD.

As long as it is understood that continuation of the parcel tax at existing levels is a condition which must be satisfied to facilitate a territory split, the District believes that the issue can be addressed to each party’s satisfaction.

- 4) *Create a Joint Powers Authority that will cover both parties in lawsuits that may result from existing PCBs and any other liabilities stemming from this territory transfer.*

It was the understanding of the District that the creation of a JPA to address such liabilities was agreed to in concept.

- 5) *The parties will agree to recalibrate the property tax ratio split at the conclusion of the 50-year revenue sharing agreement so that the Malibu property owners are able to recapture their assessed value. The City understands this will require agreement from the LA County Assessor’s Office.*

The District is unclear as to how such a provision would work but points out that it was intended that the proposed split of the property tax ratio may be revisited within a short period of time to ensure that it was functioning as intended. If divergences in excess of an agreed upon threshold were met, the allocation could be adjusted at that time. If it is the intent of this “concession” to allow for a significant modification of the property tax ratio after the passage of 50 years to a methodology not based on enrollment, it creates concerns about a potential cliff effect in which revenues are radically shifted endangering future educational programs. The cliff effect is one of the primary reasons that the School Board rejected the MUNC proposal and would likely cause this agreement to be rejected for the same reasons. Unlike the MUNC proposal, the proposed methodology provides for a permanent split of the property tax ratio, allowing each District’s portion to grow at its own rate, thus it does not make sense to re-calibrate the property tax ratio split at the end of 50 years.



SMMUSD PROPOSAL RESTATEMENT

Taking into account the requested concessions, please find the following reiteration of a methodology the SMMUSD believes provides for a realistic potential separation of territory to form a Malibu Unified School District.

SMMUSD believes the best method to allocate revenue from the existing combined General Fund would be to allocate to each entity on the following basis:

LCFF Revenues – including the portion of 1% property taxes allocated to SMMUSD based on its property tax ratio – could be allocated on an enrollment/ADA basis with the exception of Redevelopment related reductions and resulting pass-through revenues which are geographically linked to the Santa Monica Territory. Such redevelopment related reductions and resulting revenues would be allocated to the proposed SMUSD. With respect to the required split of the property tax ratio, strict alignment with enrollment would not be a prerequisite and some modest augmentation to account for ongoing operational inefficiencies for a smaller district and the continuation of existing programs provided exclusively within the Malibu territory would likely be workable for the District. It is the preference that one-time impacts of the proposed territory transfer not be mitigated through the property tax ratio allocation as they compound beyond the period of need causing total funding to diverge on a per pupil basis.

Federal Revenues – which are generally provided based upon student demographics – would be allocated to the student populations which generate such funding.

Other State Revenues – which are generally provided by the State on an ADA basis – would be allocated to the student population which generate such funding.

Local Revenues – which include four categories (Parcel Taxes, Sales & Use Taxes, Site Lease & Joint Use and Other Local Revenues) – would be allocated differently depending on their category. Parcel taxes would be retained in the territory from which they are generated. Sales & Use Taxes would be retained by the proposed SMUSD which serves the City of Santa Monica where such taxes are generated. Site lease revenues would continue to be allocated to the sites which generate them. Joint Use revenues would be allocated to the entity providing educational services in which such sites are located.

SUMMARY

We are pleased that the City of Malibu is willing to further explore a revenue sharing methodology that we believe preserves the existing programs enjoyed by all SMMUSD students and we feel would provide the resources required to allow for creation of a successful Malibu Unified School District. We believe that the majority of the listed concessions are already or could be accommodated. While the District notes that certain concessions related to the division of assets are beyond the scope of a revenue sharing agreement, such requests appear to be reasonable and within the scope of what can be accommodated. With respect to operational funding, the District recognizes that there are inherent operational inefficiencies which result from being a smaller district, and inevitably some disruption would be incurred by each entity as it sizes to serve a smaller student population. Indeed, it may be viable to craft in the final agreements some opportunities to share services for a limited period of time. The District believes the methodology it has identified could accommodate these inefficiencies but notes that both entities would be affected. Furthermore, if current allocations of funding to ameliorate such inefficiencies are not sufficient, the District would be willing to entertain augmentation of the property tax ratio if such amounts are reasonable and ensure continuation of programs of all students.

The District could agree in concept to a framework which utilizes a JPA to address PCB and territory transfer-related liabilities. The District will need some clarification on the specific intent of the final concession pertaining to adjusting revenue allocation after 50 years. The District will also need agreement on the proposed method to insure the continuation of the parcel tax. With those items the District believes that there is realistic a pathway forward.

If there is agreement between the City and District on the overall framework for revenue sharing and the points outlined in your letter we would recommend continuing conversations while work is done to ensure the proper augmentation for MUSD expenditure requirements and updating of financial modeling (to reflect the most current information) is conducted to allow the governing bodies of each entity to fairly evaluate the proposed pathway. Additionally, we would recommend some discussion of the procedural steps which would be required to proceed if so directed by each governing body.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Indian Wells
(760) 568-2611

Irvine
(949) 263-2600

Manhattan Beach
(310) 643-8448

Ontario
(909) 989-8584

300 South Grand Avenue, 25th Floor, Los Angeles, CA 90071
Phone: (213) 617-8100 | Fax: (213) 617-7480 | www.bbklaw.com

Riverside
(951) 686-1450

Sacramento
(916) 325-4000

San Diego
(619) 525-1300

Walnut Creek
(925) 977-3300

Washington, DC
(202) 785-0600

Christine N. Wood
(213) 542-3861
Christine.Wood@bbklaw.com

April 21, 2020

VIA ELECTRONIC MAIL

David A. Soldani
Atkinson, Andelson, Loya, Ruud & Romo
10 River Park Place East, Suite 240
Fresno, California 93720
Email: dsoldani@aalrr.com

re: City of Malibu & SMMUSD Territory Transfer Next Steps

Dear Mr. Soldani:

This letter provides the City of Malibu's ("City") update on next steps in regards to the proposed Santa Monica Malibu Unified School District (the "District" or "SMMUSD") territory transfer.

When we met on Tuesday, March 3, 2020, the District representatives requested that the City provide a status update and/or a timeline of when we would complete the following tasks:

- Special Legislation to Preserve the Measure R Parcel Tax
- Financial Review and Projections by City's Experts, including the creation of a start-up budget for the [proposed] Malibu Unified School District
- Review of Financial Assumptions at the Conclusion of the 50-Year Agreement

Before the City provides a status update on these items, it is important to place these tasks in context.

On September 5, 2019, the City made a huge gesture and accepted the District's methodology for revenue sharing after the territory transfer, despite the City's belief that the District's proposal is a *permanent redistribution of property tax dollars* from Malibu to Santa Monica. At that time, the City requested that the District agree to the following five concessions:

- (1) District account for the all leasing revenues, including the hotel leases, in its local revenue projections.
- (2) District fund the proposed MUSD's start-up costs, including the erection of a district headquarters.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

April 21, 2020
Page 2

- (3) District adjust its financial model to properly account for the additional operational expenses inherent in operating a smaller school district.
- (4) District agree to creating a JPA that would cover future liabilities deriving from the non-operational SMMUSD.
- (5) District agree that the future districts will revisit the financial assumptions in the revenue sharing agreement at the conclusion of the 50-year agreement term.

In response to the City’s effort to reach an agreement in these negotiations, the District sent the City a letter on September 11, 2019, asserting that “it is crucial to the financial health of both entities that the parcel tax continue and as a result, the District is loath to put the parcel tax at risk in this process.” Furthermore, in its November 5, 2019, correspondence to the City, the District stated that the parcel tax issue could be addressed “[a]s long as it is understood that continuation of the parcel tax at existing levels is a condition which must be satisfied to facilitate a territory split.” The District additionally contended that many of the revenue and expense concessions that the City requested were already provided for in the District’s financial models.

Hence, the City’s next step was to confirm the revenue and expense concessions were, in fact, in the financial models, and to address the issue of the parcel tax. The City hired Ryland School Business Consulting (“Ryland SBC”) to review the District’s financial models and it began working with its State representatives to consider the feasibility of special legislation that would allow the City and the District to retain the Measure R parcel tax. Here are the updates to this work.

- **Special Legislation to Preserve the Measure R Parcel Tax**

The City was pleased to find that its State representatives were open to sponsoring special legislation that would allow the City and the District to retain Measure R Parcel Tax. Since we needed to move quickly in order to have any legislation presented in the 2020 Legislative Session, the City provided proposed language that amended Government Code section 50079.2.

Then, much to the surprise of the City, the District expressed consternation that special legislation was being considered in an attempt to preserve the Measure R parcel tax—the same parcel tax that the District was “loath to put at risk.” The parties met on March 3, 2020, to discuss the special legislation prior to the March 5th SMMUSD Board Meeting at which the Board of Education would consider a formal board declaration supporting the special legislation. At our March 3rd meeting, the District Board members who were present (Board President Jon Kean, School Board Vice President Laurie Lieberman, and School Board Member Richard Tahvildaran-Jesswein) assured the City that other decision makers on the Board wanted to be sure the City was working on its other deliverables before the District expended any political capital on the special legislation—a position that completely ignored



BEST BEST & KRIEGER
ATTORNEYS AT LAW

April 21, 2020
Page 3

the fact that the City had virtually agreed to all of the District's terms thus far. The City representatives present, including Mayor Karen Farrer and City Councilmember Rick Mullen assured them the City was still working on the other issues, but that those were minor considering that no territory transfer could proceed without preserving the parcel tax.

At the March 5th School Board meeting, the Board considered the formal declaration supporting the special legislation, understanding that "support of special legislation is not the equivalent of an approval of a unification of a new school district." City Councilperson Rick Mullen attended the March 5th Board Meeting to reiterate the City's commitment to preservation of the Measure R Parcel Tax. Again, to the City's surprise, Board President Kean discouraged the Board from issuing the formal declaration in support of the special legislation to preserve the parcel tax. After discussion, the matter was set for action at the next Board Meeting scheduled for March 19, 2020. Unfortunately, due to the ongoing pandemic and Governor Newsom's stay-at-home orders, the item was not discussed at the March 19th meeting and now the State Legislature is only considering emergency legislation for the remainder of the 2020 Legislative Session.

The City shares the District's position that the Measure R parcel tax should be preserved and believes the District's formal support of this effort is paramount to continued negotiations between the parties.

- **Financial Review and Projections by City's Experts**
Ryland SBC is continuing to conduct its review of the District's financial models. At this point, the City is not able to confirm that the revenue and expense concessions that the City requested are, in fact, in the financial models. However and more importantly, there seem to be some fundamental assumptions and calculations within the District's financial model that make for an overall flawed analysis. The City is awaiting a final report from Ryland SBC and expects to be able to respond to the District's November 5, 2019, correspondence by June 1, 2020, although this timeline may need to be modified based on the availability (or lack thereof) of data from the State and the County due to the ongoing pandemic.
- **Review of Financial Assumptions at the Conclusion of the 50-Year Agreement**
In its November 5, 2019, correspondence, the District indicated that it would be concerned about reviewing the assumptions in its financial models at the conclusion of the 50-Year Agreement because of "a potential cliff effect in which revenues are radically shifted endangering future educational programs." The City believes this statement is evidence that the proposed revenue sharing agreement is a permanent redistribution of property tax dollars and is exactly why the review is necessary.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

April 21, 2020
Page 4

The City initially disagreed with a 50-year agreement in any form because it was a substantial commitment of future MUSD resources to support the future SMUSD's educational programs. No distinct tax base, whether property owners through property tax or local businesses through sales tax, should underwrite the education of students in another jurisdiction. In order for the City to agree to the District's methodology, it must agree to review the financial assumptions at the conclusion of the agreement in order to promote both jurisdictions to make whatever operational decisions are necessary to allow for inevitable financial independence.

The City will be in contact with the District on or before June 1, 2020, regarding its Financial Review and Projections by Ryland SBC. Additionally, the City looks forward to the District's response to the City's position on the parcel tax legislation and the review of the financial assumptions at the conclusion of the revenue sharing agreement.

Sincerely,

A handwritten signature in cursive script that reads 'C Wood'.

Christine N. Wood
for BEST BEST & KRIEGER LLP



OCTOBER 12, 2020

City Council Meeting

Item No. 7.A.
Update on School District Separation

INTRODUCTIONS

Christine Wood

- Best Best & Krieger Law

LaTanya Kirk-Carter

- Kirk Carter & Associates

Cathy Dominico

- Capitol Public Finance Group

Terri Ryland

- Ryland School Business Consulting

REVIEW OF SMMUSD FINANCIAL MODEL FOR REORGANIZATION

Permanent redistribution of property tax revenue from the Malibu community to the Santa Monica community

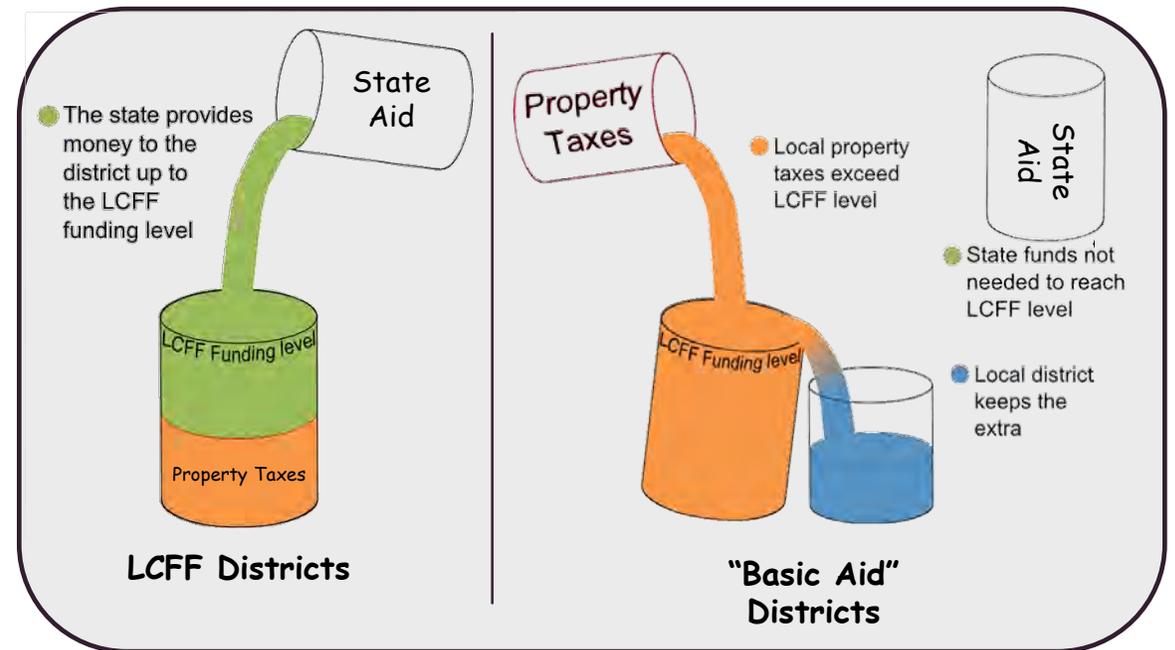
- Over the first 10 years, this would total approximately \$250 million
- Over the first 50 years, this would total approximately \$4 billion

Other revenues currently used for operations, but not part of the LCFF funding calculation, were not considered as part of the basis for revenue redistribution

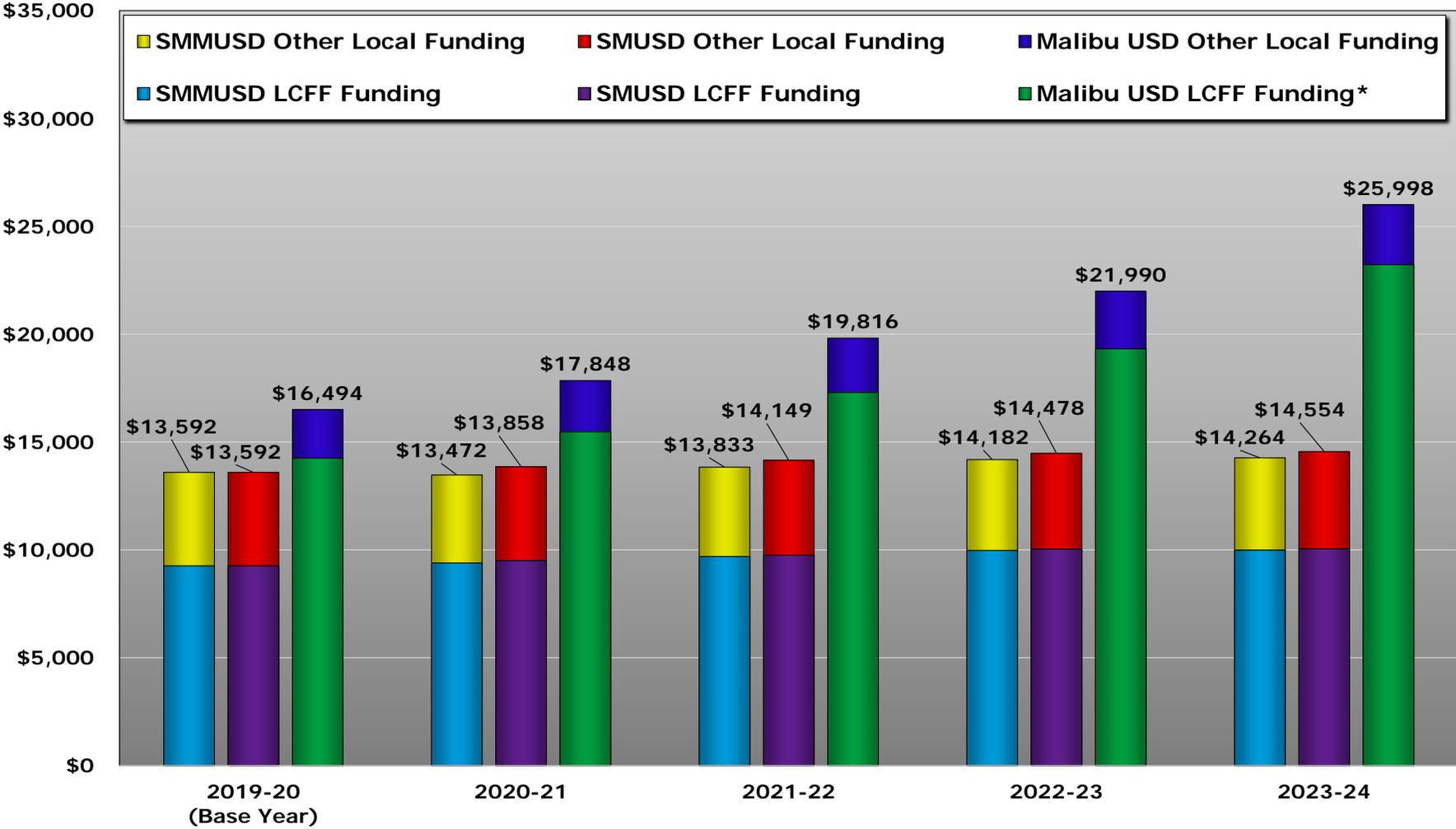
- *Key Finding: The School District's analysis goes beyond what is typically required for a reorganization and unfair to Malibu community.*
- *Recommendation: Utilize the California Department of Education (CDE) criteria as prescribed in the Education Code to allocate revenue and evaluate the feasibility of a reorganization.*

CDE'S REORGANIZATION CRITERIA PROVIDES GUIDANCE ON THE ALLOCATION OF FUNDING

- Two of the nine criteria specifically address operational funding
 - Criterion 5: the reorganization cannot result in a substantial increase in costs to the State
 - Criterion 9: the reorganization will not cause a substantial negative effect on the fiscal status of the proposed districts
- SMMUSD is currently a "basic aid" district
 - Initially after reorganization, Malibu USD would continue to be basic aid, but SMUSD would not
 - Without adjustment, this would result in an increase in costs to the State
- To keep the State whole, Malibu USD would need to allocate a portion of its property taxes to SMUSD until it reaches basic aid
 - This results in a much smaller loss of property taxes to Malibu without harming SMUSD



Projected Per Pupil Funding for SMMUSD Compared to Santa Monica USD and Malibu USD



* Malibu USD LCFF funding is shown net of property tax transfer to SMUSD.

PER PUPIL FUNDING POST-REORGANIZATION

- State and Local per pupil funding for both districts would exceed the current per pupil funding of SMMUSD, when accounting for all operating revenues
 - Demonstrating that there would not be a negative effect on the fiscal status of the future districts

- *Key Finding: After an initial review of CDE's nine reorganization criteria, it is reasonable to expect that a reorganization is feasible.*



Item No. 7.A.
Update on School District Separation



SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

October 28, 2020

City of Malibu
Reva Feldman, City Manager
via email: rfeldman@malibucity.org

Dear Reva,

We have been working in good faith with the Malibu City Council to find an approach that allows the separation of the SMMUSD into two separate districts with equity and fairness for all students as the guide. We had made substantial progress toward an equitable financial solution and then the pandemic struck.

Last week, without contacting the district, the Malibu City Council abandoned our collaboration, making a unilateral decision to pursue the [petition](#) it filed with the Los Angeles County Office of Education (LACOE) on Aug. 31, 2017. We are disappointed in what appears to be a retreat to a position we thought we had all moved beyond in our discussions. We are deeply skeptical of what we've seen thus far.

From what was shared at the City Council meeting on October 12, it appears that Malibu has chosen to move forward with an approach that would separate SMMUSD into two very unequal districts — where Santa Monica students receive approximately half of what Malibu students will receive on a per student basis within five years. Equity and fairness appear to have disappeared from the formula.

The [presentation slide](#) shown at the Malibu council meeting clearly reflects the inequities in regard to estimated per pupil funding. Their projections demonstrate Malibu starting at \$16,494 per student, while students in Santa Monica would be funded at \$13,592. Based on the Malibu formula for revenue growth, in year five, Malibu students will receive \$25,998 per student, while Santa Monica per student funding will be \$14,264: a five-year growth rate of 58% in Malibu vs 5% in Santa Monica. To further disadvantage Santa Monica students, that nominal annual growth is based on a set of assumptions for local revenues in Santa Monica that are unrealistic.

On top of the unfairness, this action comes at a time when we are all addressing a worldwide pandemic. Our teachers, administrators and staff are all working hard to provide the best distance learning education possible for all students in Malibu and Santa Monica. The district is following comprehensive county protocols in preparation for schools to reopen as soon as it is safe to do so.

The School Board voted to oppose a similar approach on Dec. 14, 2017 in this [resolution](#). Our consultants will be preparing a detailed analysis and response to the Malibu City Council's petition. Additionally, LACOE will be scheduling a public hearing following the reinstatement of the petition.

On behalf of the children and families of both Santa Monica and Malibu, SMMUSD remains open to returning to the negotiating table in order to continue working collaboratively towards a thoughtful and strategic plan that will allow for the successful creation of two new school districts.

If City Council chooses to return to the negotiating table and embraces a genuine effort at addressing serious equity concerns, they have our commitment that the Santa Monica-Malibu Unified School District delegation will be ready to work with you. We are firmly focused on the future.

Sincerely,



Dr. Ben Drati, Superintendent, SMMUSD

cc:

Malibu City Council
SMMUSD board members
Santa Monica City Council
SMMCTA president
SEIU president
SMMPTA
Community for Excellent Public Schools
Santa Monica Boys & Girls Club
Malibu Boys & Girls Club
AMPS
Media
SMMUSD parents
SMMUSD staff
Santa Monica Education Foundation
Financial Oversight Committee
M-FDAC
SM-FDAC
District Advisory Committees / DELAC
Santa Monica City Manager
Santa Monica City Attorney
SMMUSD community email list
Santa Monica Chamber of Commerce
Santa Monica for Renter's Rights
Senator Ben Allen
Assemblyman Richard Bloom
Supervisor Sheila Kuehl
Senator Henry Stern
Samohi Puente
AAPSSG



City of Malibu

23825 Stuart Ranch Road • Malibu, California • 90265-4861
Phone (310) 456-2489 • Fax (310) 456-3356 • www.malibucity.org

November 2, 2020

Sent via Email to BDrati@smmusd.org

Dr. Ben Drati, Superintendent
Santa Monica-Malibu Unified School District
1651 16th Street
Santa Monica, CA 90404

RE: Petition for Unification of a Malibu Unified School District

Dear Dr. Drati:

We are in receipt of your [letter](#) dated October 28, 2020, in which you express disappointment “in what appears to be a retreat to a position [you] thought we had all moved beyond in our discussions.” We understand and share your disappointment, but let’s take a moment to correct the record for those who have only recently been apprised of our progress.

First, your October 28th letter was the first correspondence we have received from Santa Monica-Malibu Unified School District (“District” or “SMMUSD”), despite our two attempts to engage in dialogue with the District on remaining terms material to our negotiated agreement. In both our letters of [April 21, 2020](#) and [June 1, 2020](#), we asked the District to clarify its position on (1) the parcel tax special legislation, and (2) the City’s proposal to revisit the redistribution of Malibu property taxes to the Santa Monica community after the 50-year term of the negotiated agreement had expired. We never heard back from the District about either issue, so it seems a bit disingenuous to claim that the City “abandoned our collaboration.”

Second, as you are fully aware, the City asked for time to have a third-party review the District’s financial projections and methodology since the District claimed that its methodology was the only way to accomplish two feasible and independent school districts in the Santa Monica and Malibu communities. We made it clear in both our April 21, 2020 and our June 1, 2020, correspondence that we intended to brief the Malibu City Council before sharing the findings of our review with the District. We knew there would be incredible interest by Malibu residents and we hoped that in-person meetings would resume after the summer. When we realized that in-person meetings were further out than anticipated, we chose to brief the Council on October 12, 2020 during a virtual meeting to facilitate meaningful input from Malibu residents. We followed that Council meeting with a Town Hall meeting that took place on October 28, 2020, further affording Malibu residents an opportunity to ask questions and be heard on the issue of school separation. All of these meetings and briefings have been public and completely transparent.



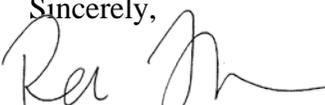
Third, your statements about the presentation shown at the Malibu City Council meeting are misleading, and your link omitted the [entire presentation](#). It is correct that per pupil funding for the two future school districts will not be the same, but that is the case across all of the school districts in the State. On a per pupil basis, the two new school districts will end up with higher per pupil funding than the current SMMUSD because, in addition to the general property taxes, the Santa Monica-generated local taxes (i.e., sales taxes, parcel taxes, joint use, and redevelopment taxes) will all remain with the future Santa Monica USD, boosting their funding far above the average per pupil funding in districts with far less community support. Even with this reality, we tried for two years to come to a reasonable solution that provided the future Santa Monica USD with additional property tax revenue from the Malibu community in an effort to create a form of equity. However, the District refused to consider any methodology that did not result in a permanent redistribution of Malibu property taxes – a formula that could have totaled \$4 billion over the proposed 50-year term. This is not an acceptable solution for Malibu residents, as reflected in the City Council’s October 12th action.

Finally, the City has always been and remains interested in a thoughtful and strategic plan that will allow for the successful creation of two new school districts. In fact, we understood that one impediment to reaching an agreement was the need to resolve how both new districts would be able to retain their respective parcel taxes, as detailed in your letter dated September 11, 2019. As the parties agreed during negotiations, the City approved a [formal declaration](#) supporting special legislation to preserve the Measure R parcel tax. However, to the City’s surprise, the District’s Board declined to approve a formal declaration supporting the special legislation at its March 5, 2020 Board meeting after Board President Kean discouraged the declaration. This was one of the final demonstrations by the District that it was not being forthcoming during our negotiations, thereby prompting the City Council’s October 12th action.

The City Council and the residents of Malibu remain committed to an independent and locally controlled Malibu Unified School District. Even though the path of a negotiated agreement did not work, the City still hopes that the District will cooperate as the City pursues its Petition for Reorganization through the LACOE County Committee. In this spirit of cooperation, we ask that you forward our letter to the entities identified below to whom your October 28, 2020 letter was addressed and whose exact identities cannot easily be determined by the City (see list labeled “cc from SMMUSD”). Alternatively, we can request a copy of the distribution list under the California Public Records Act. Please confirm when you have completed this transmission.

Obviously, we all agree it is the interest of both communities to allow for the successful creation of two new school districts. We look forward to working with the District to accomplish this.

Sincerely,


Reva Feldman
City Manager



cc: Mayor Farrer and Honorable Members of the Malibu City Council
Honorable Henry Stern, California State Senate, 27th District
Honorable Ben Allen, California State Senate, 26th District
Honorable Richard Bloom, California State Assembly, 50th District
Honorable Sheila Kuehl, Los Angeles County Board of Supervisors, 3rd District
Mayor Kevin McKeown and Honorable Members of the Santa Monica City Council
Honorable Members of the SMMUSD Board of Education
Dr. Allison Deegan, Los Angeles County Office of Education (LACOE)
Lane Dilg, Interim City Manager, City of Santa Monica
George Cardona, Interim City Attorney, City of Santa Monica
Kasey Earnest, Executive Director, Malibu Boys & Girls Club
Craig Foster, President, Advocates for Malibu Public Schools (AMPS)
Malibu Facility District Advisory Committee (M-FDAC)
Laurel Rosen, President/CEO, Santa Monica Chamber of Commerce
Santa Monicans for Renter's Rights
Max Arias, Executive Director, Service Employees International Union (SEIU) Local 99
Sarah Braff, President, Santa Monica-Malibu Classroom Teachers Association (SMMCTA)
Linda Greenburg, Executive Director, Santa Monica Education Foundation
Gabrielle Cohen, President, Santa Monica-Malibu PTA (SMMPTA) Council
City of Malibu Media

cc from SMMUSD:
SMMUSD Parents
SMMUSD Staff
SMMUSD Financial Oversight Committee
Santa Monica Facility District Advisory Committee (SM-FDAC)
SMMUSD District Advisory Committees/DELAC
SMMUSD Community Email List
Samohi Puente
AAPSSG
Media





Home > Opinion > Columns > Letter to: Nov. 04, 2020 at 6:00 am

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Letter to the Editor – Open Letter to Ben Drati

Guest Author - 4 months ago - No tags

NEWSLETTER



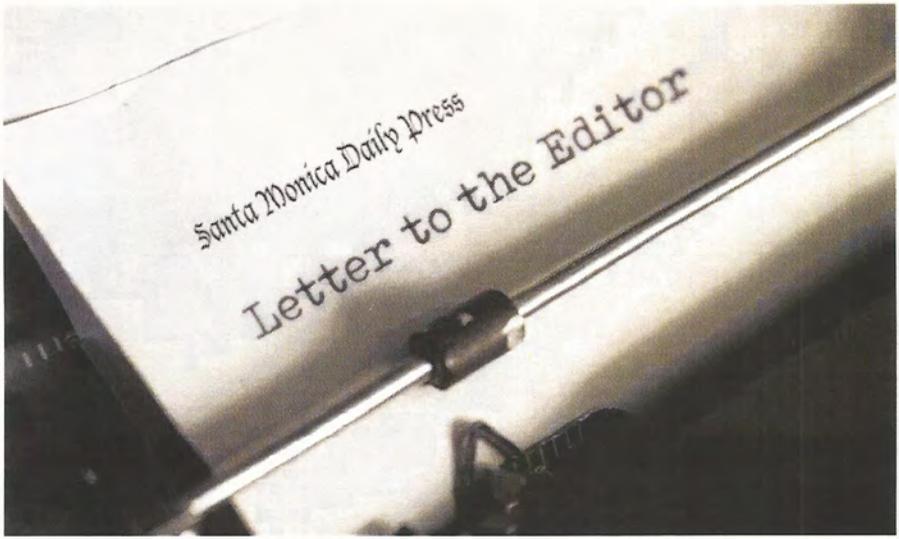
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LATEST POSTS





Dr. Drati, your recent email to all school district parents was equal parts deeply offensive, wildly hypocritical and completely inappropriate.

The city of Malibu recently chose to withdraw from fruitless, never-ending negotiations with SMMUSD and, instead, to take its grievances to the proper authorities. That is not bad faith, that is common sense after five years of constantly receding goal posts in what has become an utterly selfish, bordering on narcissistic, school district bargaining position. Please spare us your talk of “equity” when your district and ours and any combination thereof will have more money per student than 99.9% of California’s 1,000 school districts. You want “equity?” How about you give \$4,000 per student to Compton Unified right now



COLUMNS NEWS

WELCOME TO S BUSINESS

David Pisarra 11 hours ago

FIND ME ON SOCIALS



to create “equity” where it really means equity. What you mean is extortion: Malibu gives you \$4 billion over the next 50 years for the right to what every other school district in this state has by law: contiguous borders and local control.

This is not an abstract political exercise. Under Santa Monica’s rule, Malibu’s lost 35% of our students in six years. Our 100% Santa Monica school board chose not to remove deadly carcinogenic PCBs from Malibu schools until forced to by a federal court because it would be too expensive for Santa Monica. You chose not to close our schools the night of the Woolsey fire as we requested, costing many their possessions, some, perhaps, their homes but thankfully none their lives, this time. And you continue to cut teachers, staff and programs which might have allowed Malibu schools to fight to retain students in this district-induced enrollment slide because we’re “too expensive.” Santa Monica has grievously harmed our public schools and continues to do so as it acts in the interests and at the direction of the 85% of district voters that live in Santa Monica.

Let’s talk bad faith. In 2016, six highly respected community members were appointed, three by you, three by us, to a committee. The MUNC it was called and its job was to find an orderly financial transition to your and our independence. After 14+ months, they unanimously

agreed they'd reached the objectives you'd set, a smooth, positive financial transition to political independence. Your board voted 6-1 to reject your own committee's recommendations and indeed your own goals. Now you demand as the price of Malibu's freedom that Malibu residents sign over billions of dollars of their property taxes to Santa Monica for 50 or more years.

The saddest part for me is that you, Dr. Drati, are the superintendent of all the kids. You should not be spewing baseless insults and taking sides. It's bad enough when the Santa Monica elected school board violates its trust but heartbreaking when you do it. Shame on you all.

Craig Foster is a member of the SMMUSD Board.

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 ADD A COMMENT



SANTA MONICA - MALIBU UNIFIED SCHOOL DISTRICT

November 5, 2020

Dear Editor,

A letter written by Craig Foster, one of our SMMUSD School Board colleagues, was published this week in various local outlets. It leveled some very harsh, inflammatory and unfair accusations at Superintendent Ben Drati concerning recent developments about “unification” (separation of Santa Monica and Malibu schools into two separate and distinct districts).

In this day and age, it is increasingly critical to our discourse that we acknowledge over and over again that everyone is entitled to an opinion, but not to their own version of the facts. As board members, we feel compelled to set the record straight by addressing the factual inaccuracies and baseless assertions raised in the letter.

First, Dr. Drati serves as the superintendent for *all* 9,700 students in SMMUSD, not just the students who live in Santa Monica. To imply anything else perpetuates a fallacy that is dragged out every so often by Malibu residents who support separation from SMMUSD and actively seek examples of their perceived mistreatment by the district to justify that action. In fact, over the past few years, significant progress has been made to enhance Malibu schools’ local control over fundraising, construction, and curricular choices. Dr. Drati has been a leader in helping SMMUSD achieve these very interests. The unification proposal submitted unilaterally by the Malibu City Council ignores two years of discussions and negotiations that have been grounded in an abiding belief in the possibility of an equitable separation of our two communities to form two school districts. As the guardian of all students in the school district, Dr. Drati had no choice but to respond as he did in his letter. The Malibu City Council’s petition not only seeks to severely reduce student opportunity in Santa Monica where 87% of the students in the district attend school, but it also ignores the manner in which schools have been funded in California for more than 40 years.

Some important facts to know about the process to date:

1. The negotiating teams were very close to an agreement which would have accomplished equity for *all* students when the Malibu team stopped communicating and ultimately made a decision to re-file its petition with the County without observing the common courtesy of sharing their intentions with our superintendent (or any of us).
2. There have been attempts to deliberately draw attention away from the stunning inequity in Malibu’s proposal by pointing to how well-off SMMUSD is compared with other districts, as if that somehow justifies the harm that would come to the larger and more diverse part of the district that is in Santa Monica. This misdirection is intended to take the focus off of the real issue at the heart of this controversy; namely, *equity*. Let’s be clear: Malibu’s proposal would leave the students of Santa Monica worse off than they would have been if we remained SMMUSD while simultaneously creating a small, 1,250-student, largely white, highly affluent school district in Malibu.
3. After the City of Santa Monica and its voters have repeatedly voted to tax themselves to provide additional funding for ALL students for years – those in Santa Monica and Malibu – Foster has the audacity to imply that the property taxes that are paid by Malibu residents should all go solely to support only the dwindling numbers of students in



SANTA MONICA - MALIBU UNIFIED SCHOOL DISTRICT

Malibu schools, a position grounded in a completely inaccurate understanding of the way school funding works in California.

4. Any attempt to blame the declining enrollment in Malibu's schools on SMMUSD is absurd and dishonest as are mischaracterizations of the PCB and the Woolsey fire responses. Furthermore, accusations about cutting teachers and programs in Malibu belie reality. In truth, SMMUSD spends more per student in Malibu than in Santa Monica, the student to teacher ratio in Malibu schools is lower than in Santa Monica, and we continue to support measures that help Malibu schools stay vibrant despite their small numbers. Malibu's schools are highly ranked by every publication that indulges in the ranking of California's public schools, and with good reason.
5. To talk about the "price of Malibu's freedom" and attempt to draw bizarre parallels between Malibu's desire to separate and actual freedom movements is sadly in keeping with the dangerous direction of our country in which seeking the common good is no longer a shared value. It is increasingly being replaced by greed and selfishness and the "I've got mine" mentality exhibited by the Malibu City Council.

Make no mistake, Dr. Drati is, and has always been, fiercely committed to providing opportunities for all students in SMMUSD. His responsibility does not change once he drives north on PCH and Foster well knows that. Dr. Drati's commitment to equity is one of the reasons he enjoys the support of all Board members. The Santa Monica-Malibu Unified School District must always make decisions based on the best interests of its students in Santa Monica AND Malibu. Dr. Drati is the Superintendent of students in both of our communities. To attack him as being biased in favor of Santa Monica is not merely false, but it is unacceptable coming from someone who has spent six years serving both communities and who knows better.

To reiterate, we believe there is a pathway for the creation of two independent school districts, but that pathway is inseparably connected to the principle of equity. We remain committed to continuing down the same path of negotiating an equitable separation that we embarked upon arm-in-arm with the City should the City wish to do so.

Sincerely,

Jon Kean, President
Laurie Lieberman, Vice President
Richard Tahvildaran-Jesswein, Board Member
SMMUSD Board of Education

**Intercultural Equity and Excellence
District Advisory Committee (IEEDAC)
Santa Monica-Malibu Unified School District**

Statement Regarding the City of Malibu Petition for Unification

The City of Malibu petition, if granted, would result in a Malibu public school district whose students receive an education (with respect to programming and administrative initiatives and supervision) that is significantly more racially isolated than at present. This is of great concern to the IEEDAC. The diversity of the campuses – students and staff – will be negatively impacted.

Furthermore, the petition uses a revenue division formula that provides substantially less funding per pupil to Santa Monica students relative to students in Malibu. These terms are unacceptable and must be rejected.

The Malibu proposal, as written, is a clear violation of the spirit of the Serrano decision and a giant step backward toward the separate and unequal public education that the leaders of the civil rights movement fought against.

January 2021



NAACP SANTA MONICA / VENICE

December 18th, 2020

Mr. Darrell Goode
NAACP Branch President
2633 Lincoln Blvd #359
Santa Monica, Ca. 90405

Dear: Santa Monica Malibu Unified School District,

On behalf of NAACP, I am formally submitting this letter to strongly oppose the City of Malibu's (Malibu's) petition to secede Malibu from the Santa Monica-Malibu Unified School District (District).

After extensive conversations with the District, and after reviewing the petition, Malibu's petition personifies everything that our organization fights against on a daily basis.

The most alarming component of the petition is that it seeks to redline the Malibu school community away from the Santa Monica school community. In doing that, Malibu has made it clear that they do not prioritize the value of diversity. Instead, as evidenced by their petition, they are seeking to create a school district that will be predominantly white, and over time, has the potential of having little to no diversity.

What is further troubling about that fact is that, through our research, we were notified of the fact that students of color going to school in Malibu already feel segregated and not included in the community. If this petition is approved, that feeling of segregation will be further exasperated.

To our organization, it is alarming that, in 2020, we are forced to fight against redlining practices that history has so clearly demonstrated to have been the chief tool utilized to segregate communities and create inequality.

What guarantees that Malibu's redlining petition will create serious and irreparable injury to diversity in the region is the fact that Malibu is seeking to create a new school district that will be heavily financed by Santa Monica's taxpayers, as the Santa Monica-Malibu Unified School District is primarily financed by the residents of the City of Santa Monica.

Recognizing this fact, Malibu's petition does not just create walls, it will also severely impact Santa Monica's students, as they will have less dollars in their classrooms. Dollars that Santa Monica residents happily invested into the District to serve students in both communities. If Santa Monica Residents knew that the dollars, they have invested in both communities would be used to selfishly supplant shared property taxes for the benefit of Malibu residents only, we are certain they would not have been so willing to make those investments.

To our organization, it is unconscionable to support a petition that is so clearly seeking to promote both racial and financial inequality.

Therefore, we are against any effort that at some point in the future that adversely affect the City of Sant Monica students financially with any financial formula reduction per student.

On behalf of the NAACP Santa Monica Venice Branch, we implore you to vote against the City of Malibu's petition to secede from the Santa Monica-Malibu Unified School District. As a legislative body, you have the power to send a clear signal that redlining practices will no longer be tolerated in our community.



Sincerely,

Darrell Goode
Branch President
NAACP Santa Monica Venice Branch

December 4, 2020

Sent via e-mail and U.S. mail

Los Angeles County Committee on School District Organization
Octavio Castelo, Secretary to the County Committee
9300 Imperial Highway
Downey, CA 90242
Castelo_Octavio@lacoed.edu

Dear Los Angeles County Committee on School District Organization members:

The ACLU Foundation of Southern California opposes the City of Malibu's ("Malibu") petition to secede Malibu from the Santa Monica-Malibu Unified School District ("SMMUSD" or the District"). The Malibu City Council's petition (the "Petition") does not substantially meet the conditions set forth in Education Code section 35753(a), which state that proposals for reorganization may be approved only when it "will result in an equitable division of property and facilities of the original district or districts" and "will preserve each affected district's ability to educate pupils in an integrated environment and will not promote racial or ethnic discrimination or segregation."¹ The Petition fails to satisfy both of these requirements because it will have a deleterious impact on all students in the District, depriving them of equal educational opportunity by increasing racial segregation and by reallocating funding between students in an inequitable and unfair manner. Specifically, the Petition will create a new school district that comprises mostly white students and will confer a greater share of per pupil funding on those students. It will create a dual-track system of education, disadvantaging the District's students of color by drawing resources away from them, even though they traditionally have needed greater supports and had poorer student outcomes than their white counterparts. Accordingly, we ask the Los Angeles County Committee on School District Organization (the "Committee") to deny Malibu's Petition and to ensure that the District's schools remain integrated and fairly funded.

It is well established that segregation in schools severely harms all students and communities. "The consensus of nearly 60 years of social science research on the harm caused by school segregation is that racially and socioeconomically isolated schools are strongly related to an array of factors that limit educational opportunities and outcomes."² In contrast, "[d]esegregated schools give students of

¹ *Id.* at §§ (a)(3)-(4).

² Gary Orfield and Jongyeon Ee, *Segregating California's Future: Inequality and Its Alternative 60 Years after Brown v. Board of Education*, The UCLA Civil Rights Project at 20 (May 2014), <https://bit.ly/2VvdF5f>.

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*deceased

all races the opportunity to learn and work with children from a range of backgrounds.” Such schools “foster the critical thinking skills that are increasingly important in today’s multiracial society, as they help students understand a variety of different perspectives” and reduce student stereotyping, heighten students’ ability to make friends across racial lines, and improve student of color achievement with no corresponding decrease in achievement by white students.³ Students attending less segregated schools are “more likely to seek out integrated colleges, workplaces, and neighborhoods later in life,” thereby reducing segregation well beyond public schools.⁴

Recognizing these harms, the California Constitution provides that all students are entitled to an equal opportunity to education.⁵ The Constitution prohibits the state government from denying a person equal opportunity under the law, which includes establishing or maintaining a racially segregated education system.⁶ Indeed, all California public school districts must take feasible steps to alleviate segregation regardless of its cause.⁷ Further, state and federal civil rights laws prohibit discrimination against protected classes, including discrimination on the basis of race, ethnicity, or nationality.⁸ Finally, the California Education Code allows school district reorganization only if it “will preserve each affected district’s ability to educate pupils in an integrated environment and will not promote racial or ethnic discrimination or segregation.”⁹

Malibu’s Petition will impermissibly increase segregation by drawing two separate school districts that would be grossly racially imbalanced. Currently, the District’s total enrollment reflects 51.1% white students, 27.1% Latinx students, 6.8% Asian students, 0.7% Filipino students, 5.9% Black students, and 7.3% multi-racial students.¹⁰ The Petition, however, will carve out an enclave in Malibu, which will create a new overwhelmingly white district. The Santa Monica district likely will shift from a district comprising a majority of white students (51.1%) to one comprising a majority of students of color (51.5%).¹¹ In contrast, the proposed Malibu district is expected to serve mostly white students (78.4%), which will cause the percentage of students of color to reduce by more than half: 12% Latinx, 2.6% Asian, 0.5% Filipino, 2% Black, and 3.8% bi-racial.¹² Accordingly, the Petition will necessarily exacerbate racial segregation, to the detriment of students attending both proposed districts.

Amplifying the harm caused by the segregation, the Petition would concentrate school funding on Malibu, the proposed district that would serve far more white students. According to the District’s projections, within five years, students in the proposed Malibu district would be receiving \$37,599 per student, while students in the proposed Santa Monica district would be receiving only \$15,486.¹³ This proposed reallocation of resources is particularly egregious because the District has long worked to close the opportunity gap between its white students and students of color. In 2016, the District

³ *Id.* at 22.

⁴ *Id.* at 23.

⁵ *Butt v. State of California*, 4 Cal. 4th 668, 685 (1992).

⁶ Cal. Cont. art. I § 7, Art. 4, § 16(a).

⁷ *Crawford v. Bd. of Educ.*, 17 Cal. 3d 280, 289 (1976).

⁸ *See, e.g.*, Cal. Gov’t Code § 11135; Cal. Educ. Code § 220; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.*

⁹ Cal. Educ. Code § 35753(a)(4).

¹⁰ *Frequently Asked Questions: Malibu Unification (Separation)*, Santa Monica-Malibu Unified School District at 6 (Nov. 23, 2020), <https://www.smmusd.org/UnificationFAQ>.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 1-2.

procured a study by Dr. Pedro Noguera to assess inequities in the district and provide recommendations on how to improve outcomes for certain student groups. Dr. Noguera found that the District's best efforts failed to "reduce[] disparities in student achievement or produce[] significant or sustainable improvements in academic outcomes for African American and Latino students, English language learners, children with learning disabilities and low-income students generally[.]"¹⁴ And these issues persist today. According to the 2019 school dashboard data, across the District, white students outperform Black and Latinx students in graduation rates, English language arts testing, math testing, and level of preparedness on the college/career indicator.¹⁵ In contrast, Black and Latinx students are more likely to be chronically absent than white students, and Black students are more likely to be suspended than white students.¹⁶ The Petition's inequitable allocation of resources will impede the District's ability to continue pursuing strategies to close the opportunity gap, directly contravening the requirements of Education Code section 35753(a)(3)-(4).

Notably, other school districts attempting analogous plans have been subject to litigation. For example, the California Attorney General filed a lawsuit against Sausalito Marin City School District for pursuing a similarly segregative plan.¹⁷ That district maintained two schools: Willow Creek, an integrated school serving a diverse student population, and Bayside MLK, a segregated school serving almost entirely students of color. The district diverted more resources towards Willow Creek, which caused Bayside MLK to suffer from "years of rapid staff turnover, inadequate class offerings, excessive discipline and substandard academic performance."¹⁸ Following extensive negotiations, that district ultimately settled with the Attorney General in August 2019, agreeing to integrate the schools,¹⁹ and the school board subsequently moved to divert approximately \$1 million from Willow Creek to Bayside MLK.²⁰

Similarly the Eleventh Circuit Court of Appeals recently found that an effort to split off a majority white town into its own school district from a broader Alabama school district that comprises majority students of color²¹ constituted impermissible segregation, in violation of a standing desegregation order.²² The court found impermissible segregation because, among other reasons, the advocates of the plan acted with a discriminatory purpose, the plan would cause many students to attend less racially diverse schools, and it would send "messages of inferiority" to the students of

¹⁴ Pedro Noguera, *et al.*, *The Current State of Equity and Opportunities to Learn in the Santa Monica-Malibu Unified School District: Findings and Recommendations* (Apr. 7, 2016),

<https://www.smmusd.org/cms/lib/CA50000164/Centricity/Domain/1792/Noguera/EquityReport040716.pdf>.

¹⁵ California School Dashboard, Santa Monica-Malibu Unified (2019) (last visited Dec. 2, 2020), <https://www.caschooldashboard.org/reports/1964980000000/2019>.

¹⁶ *Id.*

¹⁷ Complaint for Injunctive Relief, No. CGC-19-578227, County of San Francisco Superior Court (Aug. 8, 2019), <https://oag.ca.gov/system/files/attachments/press-docs/SMCSD%20Filed%20Complaint.pdf>.

¹⁸ Dana Goldstein and Anemona Hartocollis, 'Separate Programs for Separate Communities': California School District Agrees to Desegregate, *The New York Times* (Aug. 9, 2019), <https://nyti.ms/2ZXv9ru>.

¹⁹ Final Judgment, No. CGC-19-578227, County of San Francisco Superior Court (Aug. 8, 2019), <https://oag.ca.gov/system/files/attachments/press-docs/SMCSD%20-%20Final%20Judgment.pdf>.

²⁰ James Rainey, *A Tiny Marin County District Got California's First School Desegregation Order in 50 Years*, *Los Angeles Times* (Sep. 22, 2019), <https://www.latimes.com/california/story/2019-09-21/desegregation-order-sausalito-marin-county>.

²¹ Emma Brown, *A Southern City Wants to Secede From Its School District, Raising Concerns about Segregation*, *The Washington Post* (Aug 26, 2016), https://www.washingtonpost.com/local/education/a-southern-city-wants-to-secede-from-its-school-district-raising-concerns-about-segregation/2016/08/25/13ce5398-694f-11e6-99bf-f0cf3a6449a6_story.html.

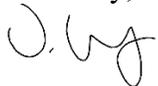
²² *Stout by Stout v. Jefferson Cty. Bd. of Educ.*, 882 F.3d 988, 1006-12 (11th Cir. 2018).

color.²³ Here, Malibu's Petition is poised to have a similar impact on the District's students, not only increasing racial segregation but also directing more funding towards its white students, who already enjoy better outcomes.

* * *

In summer 2020, the District published a comprehensive "anti-racist social agenda."²⁴ In his statement announcing the ambitious program, Superintendent Drati stated "[w]e have a responsibility to ensure equity and opportunity for all students while working at the same time to create a better and more just world for our students to inherit . . . we stand with our communities in supporting anti-racism policies and reforms that will provide equity, diversity, and inclusion."²⁵ The ACLU Foundation of Southern California applauds the Superintendent and District's commitment to social and racial justice but fears that achieving these goals will become impossible if the Petition succeeds. For the reasons discussed, the Committee must abide by its obligations under Education Code section 35753(a)(3)-(4) and deny Malibu's Petition. The District's students deserve to attend schools that remain diverse and fairly funded, and the Board must not intensify existing inequities and establish a new system of have-and have-nots. Please reach out to me at vlung@aclusocal.org or 213-835-7420 if you have any additional questions or would like to discuss further.

Sincerely,



Victor Leung
Director of Education Equity | Deputy Litigation Director
ACLU Foundation of Southern California



Melissa Goodman
Director of Advocacy | Legal Director
ACLU Foundation of Southern California

cc:

Dr. Ben Drati, Superintendent
Craig Foster, Board of Education Member
Jon Kean, Board of Education Member
Maria Leon-Vazquez, Board of Education Member
Laurie Lieberman, Board of Education Member
Richard Tahvildaran-Jesswein, Board of Education Member

²³ *Id.*

²⁴ Clara Harter, *School District Shares Anti-Racist Social Justice Agenda*, Santa Monica Daily Press (Aug. 27, 2020), <https://www.smdp.com/school-district-shares-anti-racist-social-justice-agenda/195896>.

²⁵ Dr. Ben Drati, *Superintendent's Message: Commitment to Anti-Racism*, Santa Monica-Malibu Unified School District at 1 (Jul. 23, 2020), <https://www.smmusd.org/cms/lib/CA50000164/Centricity/Domain/1792/Drati-AntiRacism072320.pdf>.

Schools

Will Santa Monica Students Pay The Price If Malibu Separates?

A proposed Malibu Unified School District raises questions over diversity — with a majority of white students benefiting from separation.

By Nicole Charky, Patch Staff

Mar 24, 2021 1:13 pm PT

Like 4 Share



Santa Monica and Malibu could separate into two districts. (Shutterstock)



SANTA MONICA, CA — To understand the questions raised over creating a separate Malibu Unified School District and disbanding from Santa Monica Malibu Unified School District — it's important to follow the money — and know the costs of this potential split.

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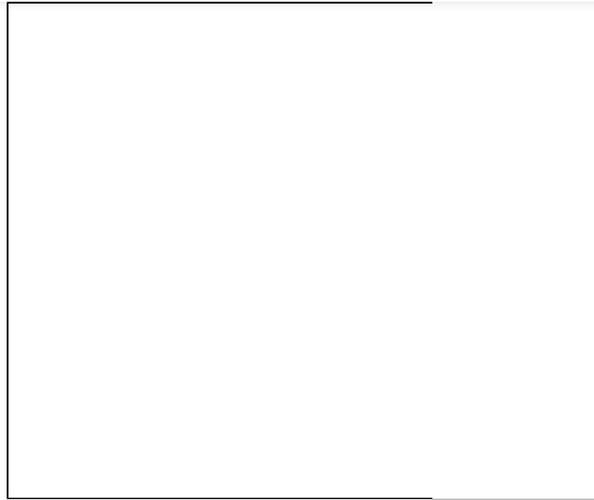
The Santa Monica City Council announced its support for splitting Santa Monica and Malibu into two separate, independent school districts — only if the terms of separation, including the division of revenues and assets, are fair and just to Santa Monica students and schools, and provide robust and equal education for students in both Malibu and Santa Monica, officials said Wednesday.

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During a Santa Monica City Council meeting Tuesday night, the councilmembers described the terms and conditions they would agree to for the split to happen, with several expressing concern over lack of diversity in the proposed Malibu district and how less funding for Santa Monica students could create more inequity among students.

“The Santa Monica City Council will continue to advocate for what is just and what serves the common good of Santa Monica and Malibu students and families alike,” Mayor Sue Himmelrich said. “Slashing diversity and per pupil funding for Santa Monica students alone is inappropriate and will damage academic and social equity across all of the students and families served by SMMUSD.”





The 13-item motion came at the request of Mayor Sue Himmelrich, Mayor Pro Tem Kristin McCowan, and Councilmember Phil Brock after an April 17 date was set for the Los Angeles County Committee on School District Organization to hear Malibu’s petition to split from SMMUSD.

In a [letter to the members](#) of the Los Angeles County Committee on School District Organization sent on March 10, Mayor Sue Himmelrich and Mayor Pro Tem Kristin McCowan wrote:

“The Malibu Petition would jeopardize this careful balance and the wellbeing of all SMMUSD students by reducing per pupil expenditures for Santa Monica students for the next quarter century while creating a far better funded and significantly less diverse Malibu USD. Indeed, SMMUSD projections show that in year one of divided districts created under the Malibu Petition, Malibu USD would be approximately 78.4% White with per pupil funding starting at \$27,651, while Santa Monica USD would have the benefit of SMMUSD’s hallmark diversity but be funded at only \$13,759 per pupil (less than half the per pupil expenditure for Malibu USD students). This dramatic inequity would only worsen over time: Pursuant to the proposed formula for revenue growth, Malibu schools would receive approximately \$37,599 per student in year five, while Santa Monica per student funding would be \$15,486.”

“In Santa Monica, we believe that access to opportunities for learning and growing for all



and Malibu communities of ‘extraordinary achievement for all students while simultaneously closing the achievement gap.’ Because the Malibu Petition would be in grave disservice to SMMUSD students, we implore you to disapprove the Malibu Petition and to ensure that, if SMMUSD is to split into two separate districts, the division of revenues and assets will be fair and just to students in Santa Monica schools and provide robust and equal educational opportunities for both Malibu and Santa Monica students.”

SMMUSD Superintendent Dr. Ben Drati voiced concern over projections presented at a Malibu City Council meeting in the fall that separation would result in unequal funding for independent Santa Monica and Malibu districts.

"Their consultants' projections show Malibu starting at \$16,494 per student, while students in Santa Monica would be funded at \$13,592," Drati wrote. "Based on the Malibu formula for revenue growth, in year five, Malibu students will receive \$25,998 per student, while Santa Monica per student funding will be \$14,264: a five-year growth rate of 58% in Malibu vs 5% in Santa Monica."

"Youth and children in Malibu and the surrounding unincorporated area have attended schools within the Santa Monica-Malibu Unified School District (SMMUSD) since prior to the City's incorporation," according to the city of Malibu. "Local school families and community groups have long expressed the desire to separate from SMMUSD to form a separate Malibu Unified School District (MUSD)."

The city filed a petition to separate from SMMUSD in August 2017, arguing that the two communities are far apart, both geographically and culturally, and as a result many parents in greater Malibu have expressed a desire for their own district. The petition also took issue with the school board's at-large elections, which are required by the Santa Monica city charter. Because Malibu's population is only about 15 percent of Santa Monica's, it is often under-represented on the seven-member board. There is currently only one board member, Craig Foster, sitting on the SMMUSD Board. In the 2020 SMMUSD race, no candidates were from Malibu.

In October Malibu City Council voted unanimously to move forward with creating a



“Having sent our children to local Malibu schools, this issue could not be more dear to our hearts,” said Councilmember Karen Farrer and Councilmember Rick Mullen, members of the City’s School District Separation Ad Hoc Committee, in a statement. “We are disappointed in the SMMUSD negotiations but are encouraged by the work that has been done and are very excited to be moving the City’s petition for unification of a Malibu Unified School District forward.”

The city of Malibu has asked residents to [share public comments](#) on why they want a separate school district.

- Patch Editors Michael Wittner and Nicole Charky contributed to this report.

[RELATED: Drati 'Deeply Skeptical' Of Malibu School Separation Plan](#)

