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MEMORANDUM

To: Dr. Steven Herrington, Superintendent of Schools

From: Erin E. Stagg, Associate General Counsel

Date: July 23, 2019

Re: Overview of School District Reorganization

I. Reorganization of a School District (Educ. Code § 35511)

An "action to reorganize districts" means either of the following:

(a) An action to form a new school district, which is accomplished through any of, or any combination of, the following:

(1) Dissolving two or more existing school districts of the same kind and forming one or more new school districts of that same kind from the entire territory of the original districts.

(2) Forming one or more new school districts of the same kind from all or parts of one or more existing school districts of that same kind.

(3) Unifying school districts, including the consolidation of all or part of one or more high school districts with all or part of one or more component school districts into one or more new unified school districts.

(4) Deunifying a school district, including the conversion of all or part of a unified school district into one or more new high school districts, each with two or more new component districts.

(b) An action to transfer territory, including the transfer of all or part of an existing school district to another existing school district.

II. Initiating Unification/Reorganization

Unification may be initiated by:

A. County Committee

B. Local Agencies
   1. City Council
   2. Board of Supervisors
   3. LAFCO

C. District Governing Boards

D. District Voters
   1. Ten (10) Percent Petition
   2. Twenty-Five (25) Percent Petition

III. Procedures

Please review enclosed CDE School District Organization Handbook Quick Reference Charts 5.3 – 5.6 and Flowcharts C – F.

Public Hearings are required under each method of initiation and Education Code § 35705.5 requires that at least 10 days before the public hearing, or hearings, the county committee shall make available to the public and to the governing boards affected by the petition a description of the petition, including all of the following:

(1) The rights of the employees in the affected districts to continued employment.

(2) The local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per pupil, for each affected district and the effect of the petition, if approved, on that allocation.

(3) Whether the school districts involved will be governed, in part, by provisions of a city charter and, if so, in what way.

(4) Whether the governing boards of any proposed new district will have five or seven members.

(5) A description of the territory or school districts in which the election, if any, will be held.

(6) Where the proposal is to create two or more new districts, whether the proposal will be voted on as a single proposition.

(7) Whether the governing board of any new district will have trustee areas and, if so, whether the trustees will be elected by only the voters of that trustee area or by the voters of the entire school district.

(8) A description of how the property, obligations, and bonded indebtedness of original districts will be divided.

(9) A description of when the first governing board of any new district will be elected and how the terms of office for each new trustee will be determined.

IV. Substantive Criteria

Education Code § 37573 requires that the following conditions be substantially met to approve a reorganization:

(1) The reorganized districts will be adequate in terms of number of pupils enrolled.

(2) The school districts are each organized on the basis of a substantial community identity.

(3) The proposal will result in an equitable division of property and facilities of the original district or districts.

(4) The reorganization of the school districts will preserve each affected district's ability to educate pupils in an integrated environment and will not promote racial or ethnic discrimination or segregation.

(5) Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

(6) The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the affected districts.

(7) Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

(8) The proposed reorganization is primarily designed for purposes other than to significantly increase property values.

(9) The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the affected district.

(10) Any other criteria that the state board may, by regulation, prescribe.

V. Impacts and Costs

1. Funds, Property and Obligations

2. Certificated Employees
3. Classified Employees
4. Costs of Reorganization Election
5. Timing of new governing board elections

B. Process: Quick-Reference Chart 5.3

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

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

   a. Petition signed by the owner(s) of uninhabited territory; or,

   b. Petition signed by at least 25 percent of the registered voters in the inhabited territory proposed to be reorganized (if the territory proposed for reorganization is located within two or more school districts, the signatures of at least 25 percent of the registered voters from that territory in each school district are required); or,

   c. Petition signed by a majority of the members of the governing boards of all affected districts; or,

   d. Petition signed by at least 8 percent of registered voters who cast votes in the last gubernatorial election to reorganize a district with over 200,000 ADA into two or more districts.

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

   a. County superintendent must determine sufficiency of petition within 30 days.

   b. A 25 percent or 8 percent petition must be verified by the county department of elections.

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

3. Public Hearings (*EC* 35705, 35705.5). A public hearing in each affected district must be held by the county committee within 60 days of receipt of a valid petition.

   a. Notice of the public hearing shall be given at least ten days in advance of the hearing.

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

4. Notice to Local Agency Formation Commission (*EC* 35700.5). Before initiating proceedings to consider any reorganization plan, the county committee on school district organization shall provide written notice of the proposed action to the local agency formation commission for the affected area.

5. County Committee Study of the Unification (*EC* 35753). The county committee must determine the impact of the unification on the conditions listed in *Education Code* Section 35753.

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

   a. Within 120 days of the first public hearing, the county committee must make a recommendation to approve or disapprove the petition.

   b. The county committee may make a recommendation regarding the area of election.

   c. The county committee transmits the petition, report, and recommendations to the State Board of Education.

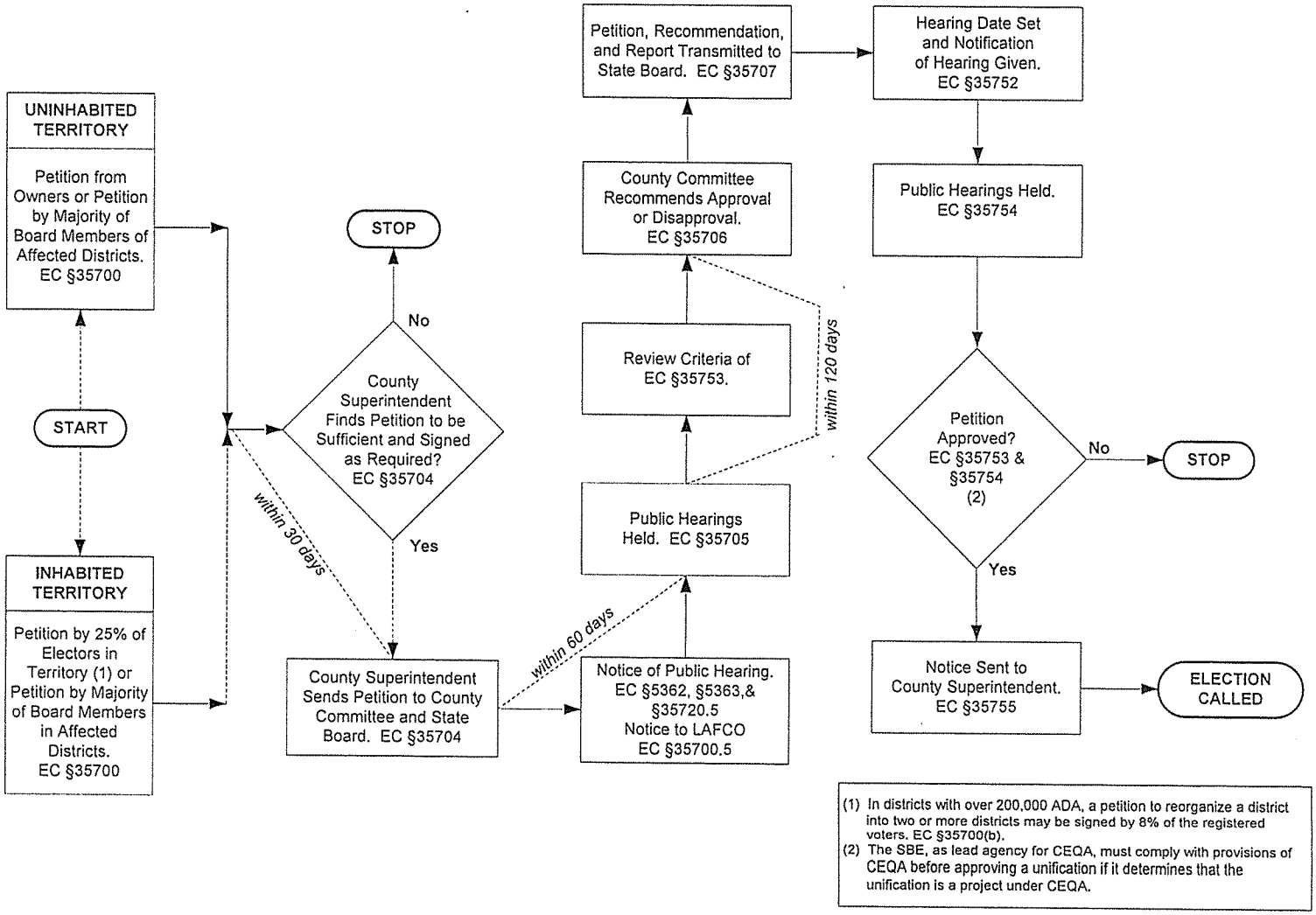
   d. The State Board of Education complies with the requirements of CEQA.

   e. The State Board of Education holds required public hearings.

   f. The State Board of Education approves or disapproves the petition.

   g. If approval is given and an election is required, the county superintendent calls an election in an area determined by the State Board of Education.

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



(1) In districts with over 200,000 ADA, a petition to reorganize a district into two or more districts may be signed by 8% of the registered voters. EC §35700(b).
(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 5.4

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.

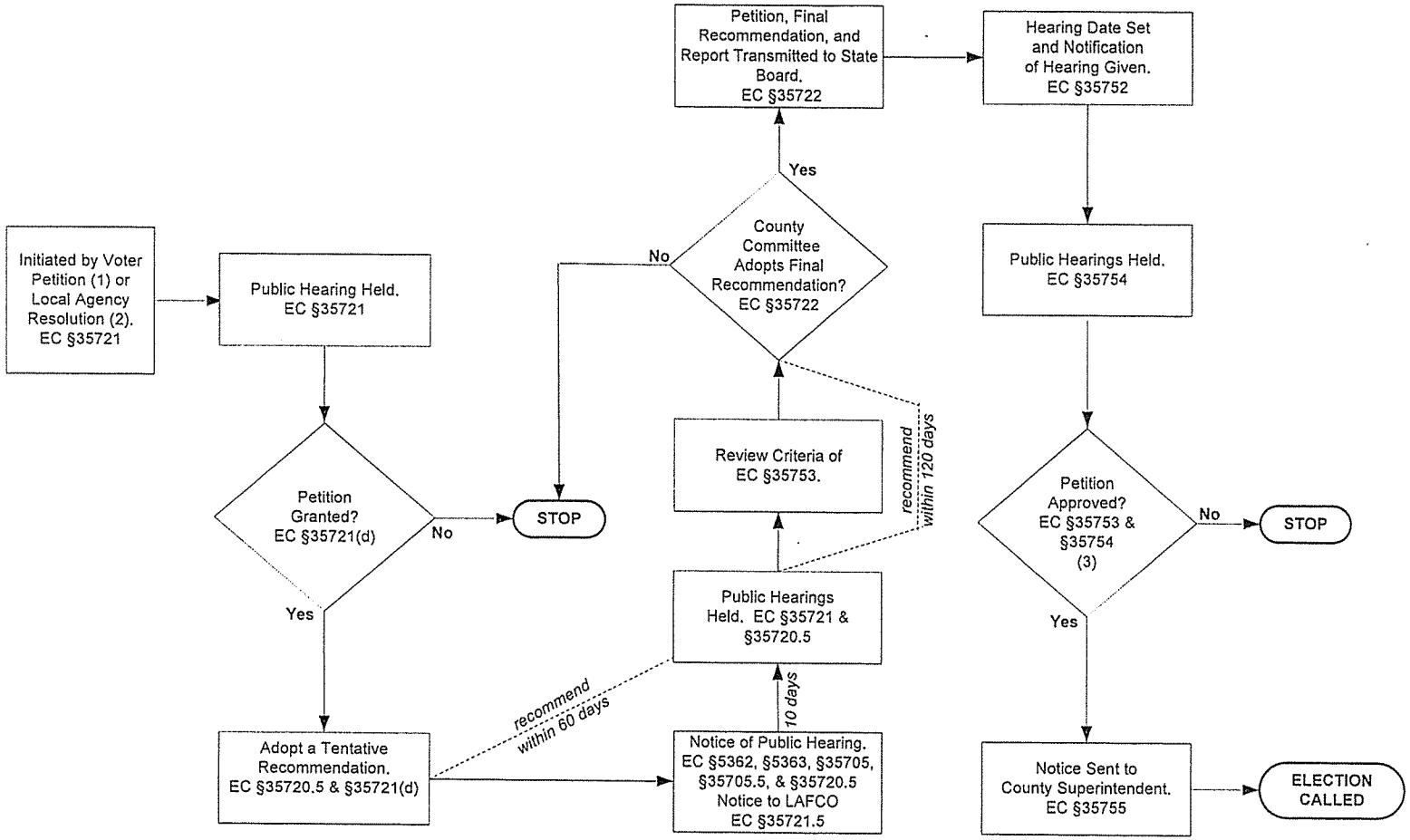
   d. The State Board of Education complies with the requirements of CEQA.

   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.

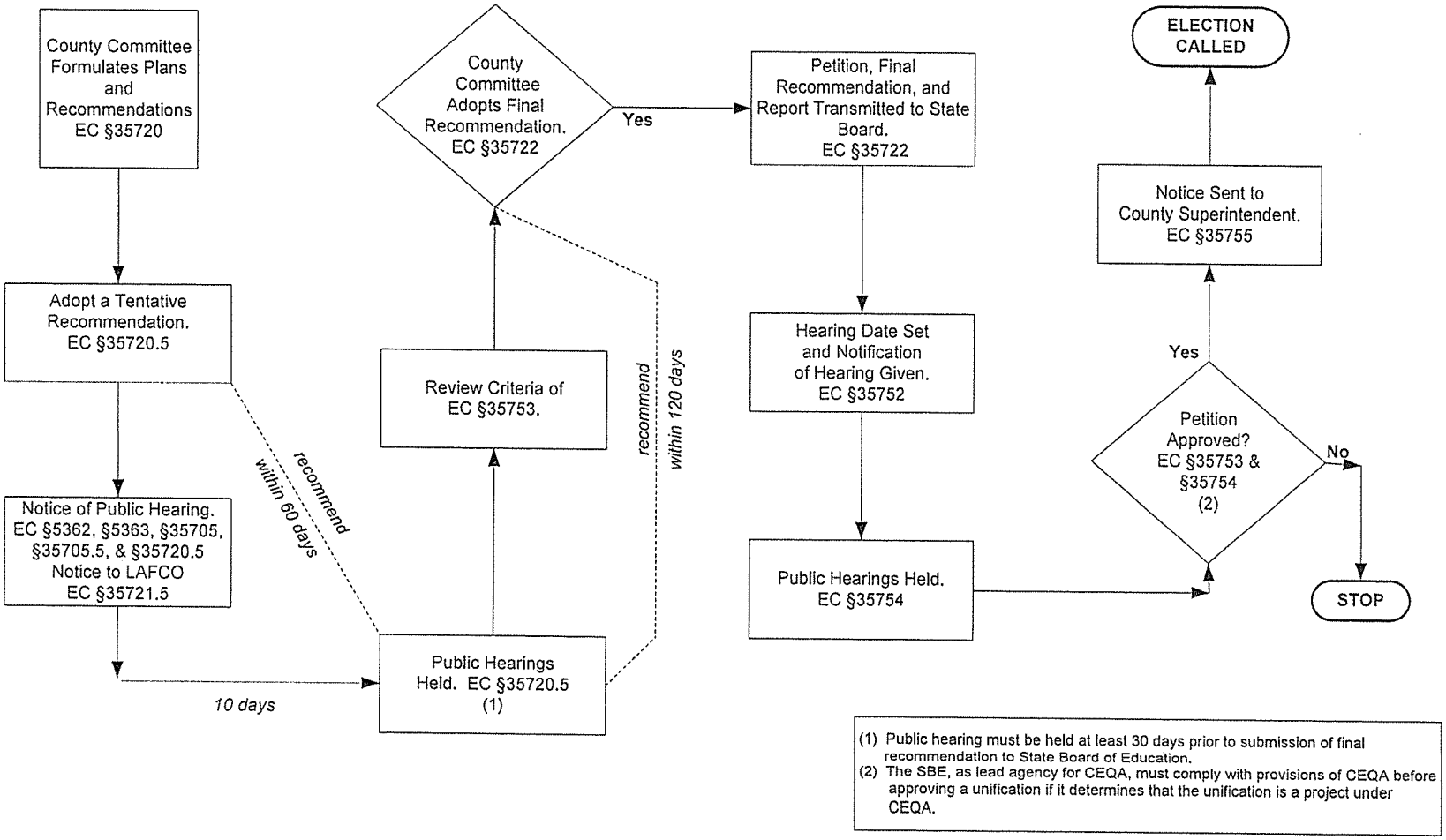
d. The State Board of Education complies with the requirements of CEQA.

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.

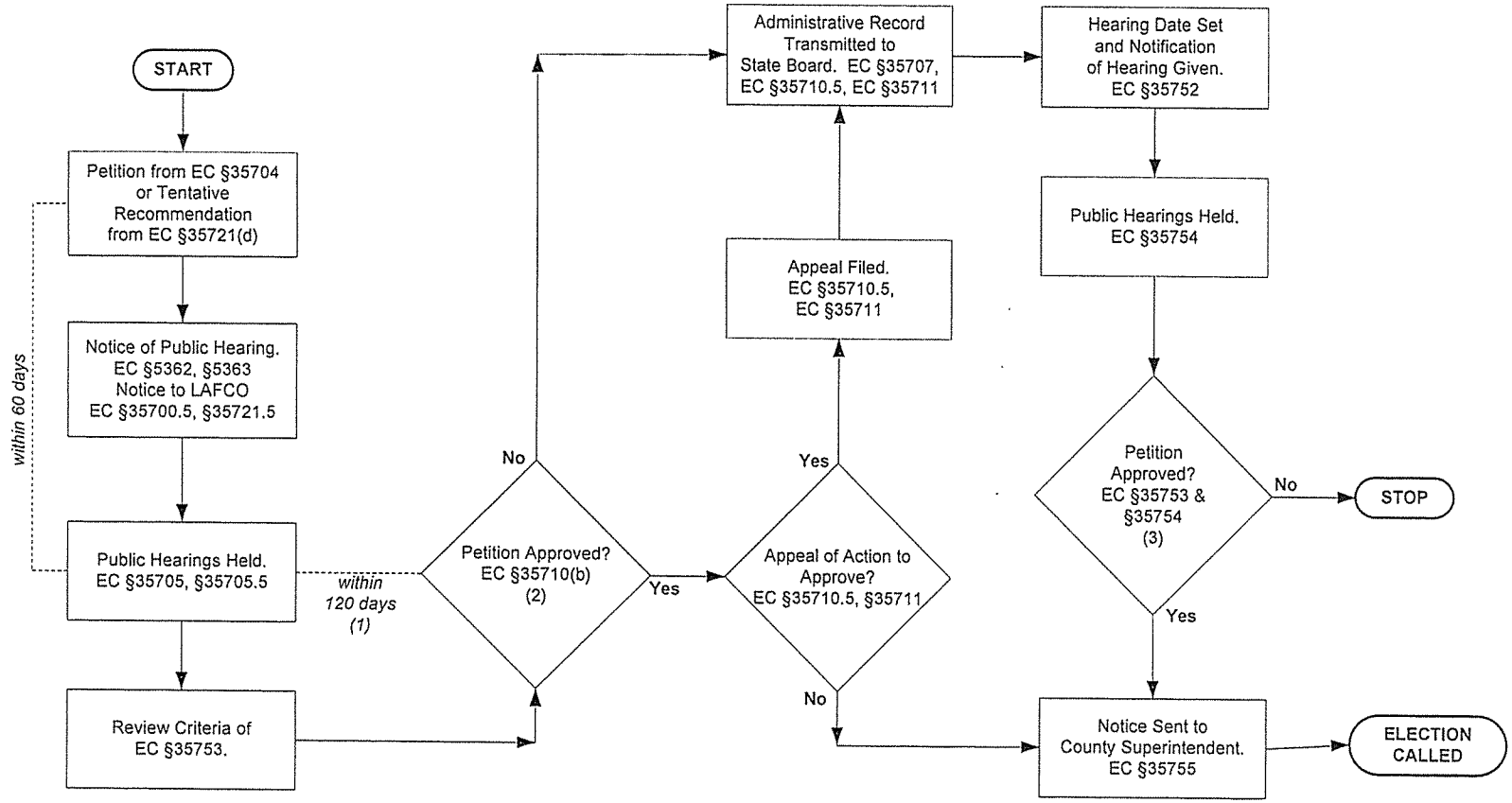
   b. Affected school districts shall file a notice of appeal within 30 days after the final action of the county committee.

   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.