



*Janus – a Roman  
two-headed god, the  
patron of civil and  
social order*

**An  
Administrative  
Janus  
Elected and Appointed  
County Superintendents of  
Schools in California**

Report Prepared for the  
**Sonoma County Board of Education**  
and  
**Sonoma County Superintendent of Education**

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January 2006

**An Administrative Janus**  
**Elected and Appointed County**  
**Superintendents of Schools**  
**in California**

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## Executive Summary

### Study Context and Focus

Undertaken at the request of the Sonoma County Board of Education and Sonoma County Superintendent, this research report examines the rationale and electoral feasibility for changing the position of Sonoma County Superintendent of Schools from an elected to an appointed office. The Executive Summary, below, summarizes key findings and observations.

- Converting the current elected superintendent's position elected to an appointed office requires voter approval; something, that despite a handful of attempts elsewhere, has not occurred in California.
- Proponents assert that a governance structure where the superintendent stands for election results in greater public control of schools; more responsiveness to citizens' needs, a decrease high executive turnover, and serves as a safeguard against potential abuses of power.
- Those in favor of appointment of a superintendent point to a school board's ability to select a qualified administrator based upon specific qualifications and county office needs, a perceived increase in administrative efficiency, a value in creating a professional rather than political superintendency, and the virtues of a clear delineation of accountability.
- Empirical evidence for both positions is limited and somewhat inconclusive. Almost no studies exist that meaningfully compare the administrative effectiveness, methods of operation or the educational outcomes in offices with elected versus appointed superintendents.
- Even fewer focus on governance and outcome within contexts similar to those found in California, and all fail to provide even an unequivocal performance metric for evaluating one method of selection versus the other.

### Study Methodology

This report is a qualitative study of the issues raised by the Policy and Procedures Committee, and is based upon a wide variety of written documents and extensive interviews. Written materials were gathered in from historical archives, legal code, academic sources, notes and personal letters, and professional literature. These sources have been documented throughout.

In addition, the report draws heavily from a large numbers of interviews, discussions with policymakers, practitioners, and others regarding the superintendency.

- A total of 83 individuals, many with multiple roles, were interviewed -- some on several occasions. Interviews were conducted both in-person and by phone, with most face-to-face interviews occurring in Sonoma, Sacramento and San Diego counties. Interview times ranged from 20 to approximately 60 minutes. Participants graciously gave of their time, expertise, and divergent perspectives.
- With the agreement of the Policy Committee, a promise of confidentiality was made to each participant and has been respected throughout this document.
- School personnel interviews were conducted among county and district superintendents, school board, and school and county office staff in counties of Sonoma, El Dorado, Napa, Ventura, Marin, Fresno, San Diego, Sacramento, and Santa Clara. The latter three are counties that appoint, rather than elect, their superintendent.
- Local representatives of local media, political consultants, parents, pollsters, the business community, local government officials, professional associations and civic groups were interviewed, in many instances repeatedly, over the study period.
- Also interviewed were representatives of the California County Boards of Education (CCBE), California County Superintendent's Educational Services Association (CCSESA), California School Boards Association (CSBA), Association of California School Administrators (ASCA), California Association of School Business Officials (CASBO), California Department of Education (CDE), California Teachers Association (CTA), executive recruitment firms, and others. In many cases, several representatives of the same group were interviewed.
- Extensive off-the record interviews and conversations were also held with members of press covering state politics, former CEO's of the State Board of Education, two members of the State's Constitutional Revision Commission, a member of the Governor's Performance Review Commission, former and current executive directors of a wide variety of state business groups, educational associations, as well as former California Secretaries of Education, a former State Superintendent, former State Board Members, and current and former legislative staff.

## Report Findings

### *Background*

- California voters have historically been willing to accept some level of administrative ambiguity inherent in power sharing in exchange for a greater public say in choosing public officials. In 1978 Sonoma county voters opted

say in choosing public officials. In 1978 Sonoma county voters opted for an elected superintendent by margin of 89 to 11 percent. (Vote: 73,070 to 9,466)

- County superintendents have been increasingly vested with an expanded role in school oversight and regulation, moving the primary function from providing service to one that is more intensely regulatory, especially in areas of fiscal management, accountability for school performance, and – more recently – program adequacy.
- The cumulative impact of these changes has been to greatly expand the regulatory role of the superintendent and county office of education. Over time, the changes in state statute are likely to require profound changes in local organizational expertise, structure and culture.
- Changes in statute and legal holdings have greatly clarified and strengthened the powers of California’s county superintendents, but have done little to quell the normative argument over what the respective powers of the board and superintendent should have and how they should be exercised.

#### *Comparative Differences – Counties Other Than Sonoma*

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- Differences emerge between county offices that have elected and those that have appointed superintendents, and may be divided into two broad categories: those that relate to differences in (1) the “mix” of discretionary programs implemented by county offices, and (2) the frequency with which various types of issues are brought to a county board as action, as opposed to information, items.
- While there is not an unequivocal relationship, comparison of the discretionary programs implemented by counties suggests those that appoint their superintendent appear more likely to implement discretionary programs.
- The impact of other considerations, such as demonstrated community need, demographics, history, and the relationship with local districts, are also extremely important.
- County offices with an appointed superintendent are more than twice as likely as others to have fiscal matters be presented to the board as “action items.”
- Appointed superintendents appear more likely than elected to seek formal board approval prior to submission of grant applications.
- In a reversal of patterns relating to fiscal and grant approval matters, elected superintendents were more likely to bring policy issues (the Williams settlement example) to the board for approval.

- County boards have little power in terms of personnel. Within these limits, elected superintendents are more likely to bring personnel issues to the board, at least as information items. They are somewhat less likely to bring matters concerning collective bargaining to the board.

### ***Recruitment and Selection***

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- Proponents of appointed superintendents argue that elections rely upon self-recruited candidates and are unlikely to consistently produce an optimal fit between county needs, board goals and superintendent characteristics and qualifications.
- Opponents of change point to relatively high turnover rates for appointed superintendents, expense of recruitment, and an increasingly critical shortage of qualified candidates, including a dearth of meaningful or adequate superintendent preparation programs and the corresponding difficulties in recruitment.
- Factors that have contributed to this problem include an aging candidate pool; the increasing “undo-able” nature of the job; and a general decline in the quality of university programs intended to prepare potential superintendents.
- Options of local districts to give up on these programs and hire “outsiders” – such as former governors or military leaders – is *not* open to counties such as Sonoma, given the statutory requirement that county superintendents possess a California Administrative Credential.
- The job of superintendent, in the view of many, has lost its attractiveness because the roles and responsibilities of superintendents are “blurred or unclear, resulting in confusion between governance and management,” and because salaries and benefits have not kept pace with responsibility and workload.

### ***Political Salience of Issue Statewide***

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- There are conflicts between the State Board of Education and the elected Superintendent of Public Instruction that are in many ways similar to those between the county board and superintendent. The state’s voters have been asked three times to resolve the matter through the Constitutional amendment. All three measures failed resoundingly.
- In the almost 40 years since the last attempt to change the Constitution what has remained constant has been both an underlying conflict in structural authority and an unwillingness to again put the issue before the voters in an attempt to resolve that conflict.

## *Sonoma County Analysis*

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- Little suggests that Sonoma County voter's interest in resolving the structural ambiguity and/or conflict between the board and superintendent is likely to be any greater than that of voters statewide.
- Attempts to change the system of selecting a county superintendent of education have not been successful anywhere in California.
- With the exception of an on-going study (Fall 2005) by the Alameda League of Women Voters, interest in the issue appears to have largely evaporated.
- Recasting the county superintendent as an appointed position is probably not a viable. Reasons include a lack of public interest and low visibility for the office in question, an absence of a defining issue or crisis, the irrelevance of issue of governance change for key interest groups, and a lack of an easily demonstrated benefit arising from making the suggested changes.
- Despite significant efforts to ensure public contact and outreach, neither the county superintendent nor members of the county board of education are particularly visible to voters, either as individuals or in terms of their offices.
- Visibility and electoral competition for the office of county school board is lower. Within the past decade there have only been five contested elections, out of 22 possible trustee openings.
- The effective participation rate for county board elections is among the lowest of any elected office on the ballot, just under 16 percent of registered voters.
- Recent expansions in oversight responsibilities may lead to higher levels of disagreement or conflict between school districts and the county superintendent, with a resulting increase in press scrutiny and public visibility.
- It remains uncertain – in the absence of high levels of conflict, malfeasance or scandal – whether a marginal increase in visibility of the office of superintendent will offset the public's disinterest in the issue.
- Educational governance issues most salient to the Sonoma County press and business communities continue to focus upon possible consolidation of some of the County's 40 school districts.
- From a campaign perspective there would be little support from most organized interest groups for changing the status quo of the superintendent as an elected office. At least some opposition would likely be forthcoming, both from groups that supported the existing superintendent and others that oppose

increasing the number of appointed office holders at the expense of public electoral participation.

- In the view of two prominent local campaign consultants from opposite sides of the political fence there is “just no chance” that the public will vote for something that it perceives as taking power away from itself.
- There is a lack of an easily demonstrated administrative, economic or programmatic benefit for changing how a superintendent is selected.
- Increased administrative efficiency or responsiveness, both key potential benefits perceived by many advocating change are difficult to measure – especially given both their “prospective nature” and lack of empirical validation.
- Given an extremely high potential for a personalization of the issue, most local political analysts saw a referendum as likely to “degenerate into simple name-calling.” Others were quick to worry that – in the words of one – “a needed dialogue might descend into allegations of being a ‘power grab,’ personal vendetta, or worse.”
- Sonoma County has historically not charged the office of education for election costs associated with the election of the superintendent of education.
- The current Superintendent was elected during the 2002 primary election and a general election run-off was not required. Total actual costs for that primary election approximated \$499,800, with the pro-rated share related to the County Superintendent position being estimated at \$254,800. Sonoma County absorbed this cost.
- Costs of a ballot initiative to change the process of selecting the County Superintendent would likely be similar. Expenses related to a ballot measure would be charged, with a current estimate of \$256,300 for primary ballot initiative, and \$173,300 for one placed on the general election ballot.

### Concluding Remarks

- While empirically based comparisons between California Counties with elected and appointed superintendents yield some differences, these appear relatively minor. Counties that appointed their superintendent appear to have implemented more discretionary educational programs – a difference that may largely result from the variations in size and characteristics of their student population. Board meeting agendas from appointing counties are more likely to contain “action” items relating to fiscal matters and – to a lesser degree – grant and program applications.

- Elected superintendents were somewhat more likely to bring personnel matters to the board, usually as some type of information item. To the extent that discussion of the implications of the Williams legal settlement, and resulting legislative change, serves as an indicator of how new and potentially important issues are brought to board attention, elected superintendents appear more likely to involve their boards in discussion, public hearings and study sessions on the topic.
- These are hardly decisive differences, and provide little conclusive evidence that one system of superintendent selection or the other maintains greater public control of schools, is more responsive to citizens' needs, decreases high turnover, or serves as a safeguard against potential abuses of power.
- Suggestions that a board's ability to select a qualified administrator based upon specific qualifications and county office needs are likewise tempered by considerations relating to a decline in the number and quality of the available candidate pool and the potential cost of superintendent recruitment. The cost of the election of a superintendent, while borne by Sonoma county, is not currently assessed to the county office, and can not logically offset the potential cost of a candidate search, especially in light of relatively advanced age of many potential candidates, and the relatively brief tenure of many superintendents in California and elsewhere.
- More significant than these differences is the on-going and impending change in the role and function of the county office. Changes in federal and state programs, legal holdings, and shifts in administrative procedure, have bequeathed to county superintendents rapidly growing responsibilities in the areas of fiscal oversight, accountability, and assessment of educational program adequacy. Whether or not they seek such changes, county superintendents' responsibilities are becoming increasingly regulatory in nature.
- State-level efforts to replace county superintendents and their offices with regional agencies have largely been abandoned – at least for the foreseeable future. Within the context of their existing structure, county offices are in practice becoming more regional. In many rural areas, and for select programs elsewhere, multi-county consortiums have become the norm. In the view of some, this adaptation has served to further reduce the pressure for formal structural change. For the next half-decade at least, therefore, the office of county superintendent with their expanding and changing responsibilities seem likely to remain immune from major structural changes or formal consolidation.
- The current situation of shared governance is likely to prevail into at least the intermediate future. While the existing system is at times cumbersome and frustrating to both board members and superintendents, in absence of legislative modification of either superintendent or board member roles it is unlikely

to change greatly.

- Legislatures have repeatedly strengthened the relative power of the superintendent, usually at the expense of county boards. In several states this process has begun to culminate in making county boards appointed – typically by big city mayors, county supervisors, or governors.
- While most California reformers do not seem to currently envision such changes, in the view of some capitol insiders making boards appointed – as opposed to elected – is at least as likely as a possible expansion of county board member power.
- A more likely source of change in the relative role of county boards, superintendents and offices is the Public Preschool Education Act, now being qualified for the ballot in 2006. If passed, this act will dramatically expand the role of the county offices and superintendents, and will add important new programmatic and fiscal authority to the office of county superintendent.

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# An Administrative Janus – Elected and Appointed County Superintendents in California

Undertaken at the request of the Sonoma County Board of Education and Sonoma County Superintendent, this research report examines the rationale and electoral feasibility for changing the position of Sonoma County Superintendent of Schools from an elected to an appointed office. Such a change would require voter approval; something, that despite a handful of attempts elsewhere, has not occurred in California.

Cogent arguments can be made on both sides of the issue, and can be briefly summarized as follows. Proponents of the current system of electing a County Superintendent assert that the process maintains greater public control of schools, is more responsive to citizens' needs, decreases high turnover, and serves as a safeguard against potential abuses of power. Those in favor of appointment point to a board's ability to select a qualified administrator based upon specific qualifications and county office needs, a perceived increase in administrative efficiency, a value in creating a professional rather than political superintendency, and the virtues of a clear delineation of accountability.

Empirical evidence for both cases is limited and somewhat inconclusive. Almost no studies exist that meaningfully compare the administrative effectiveness, methods of operation or the educational outcomes in offices with elected versus appointed superintendents. Even fewer focus on governance and outcome within contexts similar to those found in California. More critically, the few studies that do exist provide no clear report card – or even an unequivocal performance metric – for evaluating one method of selection versus the other. For example, while at least a few studies appear to suggest that appointed superintendents are likely to be marginally more effective administrators, the same studies point to higher levels of innovation and program improvement among elected superintendents.<sup>1</sup>

## Section I: Study Focus and Structure:

Against this background, the study of examines five distinct aspects of the problem.

- Discussion of roles and responsibilities of County Superintendents and Boards of Education
- Presentation of arguments and rationales for and against selecting a superintendent through election or appointment
- Observable differences in county offices with an appointed and elected superintendents

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<sup>1</sup>For example, McGriff, Bishop and Rice, "Work related behaviors of Elected Versus Appointed Superintendents of Education," Paper presented at the MidWestern Educational Research Association, November 1997.

- Candidate availability and recruitment developments and concerns
- Assessment political considerations and electoral feasibility

Despite the lack of relevant research literature, these questions have been addressed using a broadly comparative case study methodology. A series of structured interviews relating to those governance arrangements that some have seen as contributing to overlapping (or uncertain) functional responsibility and a lack of administrative clarity have been conducted, both within Sonoma and selected other California counties. Besides Sonoma, interviews have been conducted among county and district superintendents, school board, and school and county office staff members in counties of El Dorado, Napa, Ventura, Fresno, Marin, San Diego, Sacramento, and Santa Clara. Given their status as counties that appoint, rather than elect, their superintendent the study has strongly emphasized the latter three counties.

In addition, considerable attention has been focused upon gathering information, materials and opinion from participants in educational policy-making at the statewide level, including representatives of the California County Boards of Education (CCBE), California County Superintendent's Educational Services Association (CCSESA), California School Boards Association (CSBA), Association of California School Administrators (ASCA), California Association of School Business Officials (CASBO), California Department of Education (CDE), California Teachers Association (CTA), executive recruitment firms, and others.

While covering a number of topics, these interviews have sought to build upon work done earlier,<sup>2</sup> and further assess potential ambiguities in the areas of budget making and approval, personnel and collective bargaining matters, and initiation and administration of county programs. Of particular interest have been matters of administrative responsibility, efficiency and clarity.

Programmatically, interviews focused upon the role and function of the superintendent, county boards, and county offices in terms of discharging responsibilities for statutorily mandated programs such as ROP and county court schools, budgetary oversight and review of district fiscal status, special education and other programmatic responsibilities, and county office role in providing support services and maintaining productive relations with local educational agencies. In addition, because of recent changes in statute, interviews also focused upon changes in county office responsibility and resulting possible shift in the relations with local districts.

A total of 83 individuals, many with multiple roles, have been interviewed at least once. Interviews have been conducted both in-person and by phone, with most face-to-face interviews occurring in Sonoma, Sacramento and San Diego counties. Inter-

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<sup>2</sup> California County Boards of Education *County Boards of Education and County Superintendence Shared Governance in California*, CCBE August 1996 and Murry Haberman, *A Double-Headed System: A History of K-12 Governance in California and Options for Restructuring*, Paper prepared in a response to a request by Senator Dede Alpert. July, 1999 ED437721

view times have ranged from 20 to approximately 60 minutes, and have yielded extensive supplementary materials and documentation.

## Background and Context

Like many states, California has evolved structural and administrative arrangements that result in widespread patterns of “shared governance” between officials with widely divergent political, administrative or electoral bases. California county governments, for example, typically have no less than five elected officials – treasurer, controller, tax collector, auditor, and county clerk – as well as an elected board of supervisors that oversee fiscal policy development and implementation.

In education, the pattern of shared governance that relies upon both an elected board of education and an elected county superintendent mirrors closely the state level division of authority between a gubernatorially appointed State Board of Education, an elected (and Constitutionally mandated) Superintendent of Public Instruction, and – more recently – a Secretary of Education, who sits as a member of the Governor’s cabinet. While defined at least partially in formal statute and case law, and partially in informal practice, the precise mix of responsibility, decision scope, and level of agreement on policy and procedure between the various parties in each of these cases varies over time and as issues develop.

Despite conflict that has occasionally arisen from this governance structure, California voters have historically been willing to accept some level of the administrative ambiguity inherent in power sharing in exchange for a greater public say in choosing public officials. For example, under terms of a Constitutional Amendment (ACA 77 Greene) approved by voters in 1976, non-charter California counties had the option of determining the choice of County Superintendent of Public Instruction through either election or through appointment by the County Board of Education. In June 1978, Sonoma county voters opted for an elected superintendent by margin of 89 to 11 percent. (Vote: 73,070 to 9,466)

In general these results were similar to the other 46 General Law (non-Charter) counties; all of which opted for a Superintendent who was elected rather than appointed. The exception to the pattern of electing a county superintendent in California is found only among the 11 Charter counties. In five of these counties – Sacramento, Los Angeles, San Diego, Santa Clara and San Francisco – the Superintendent is appointed. In Los Angeles, the county board of supervisors also appoints the Board of Education.

Within California’s Constitutional and statutory rules, changes to this selection mechanism would require approval by a simple majority of the county electorate. To date, despite several attempts in counties other than Sonoma, efforts to have voters approve a change from an elected to appointed County Superintendent have not been successful.

## Previous Discussions of the Issue

Against this background, a number of studies have examined the impact of the shared governance in California education. Two of the most salient – one by CCBE on county level structure,<sup>3</sup> the other commissioned by the Legislature on the office of State Superintendent<sup>4</sup> – focus upon problems in structural arrangements that some have seen as contributing to overlapping (or uncertain) functional responsibility and a lack of administrative clarity.

Of particular concern to authors of the 1996 CCBE report were potential ambiguities in the areas of budget making and approval, personnel and collective bargaining matters, and initiation and administration of county programs. The report concludes, generally, that despite attempts at clarification in Statute and case law, some areas of interpretation regarding scope and authority of boards and superintendents continue to exist in each of these arenas. Both reports provide a useful analytic framework, and are relied upon heavily within this report.

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<sup>3</sup>California County Boards of Education *County Boards of Education and County Superintendents Shared Governance in California*, CCBE August 1996

<sup>4</sup>Murry Haberman, *A Double-Headed System: A History of K-12 Governance in California and Options for Restructuring*, Paper prepared in a response to a request by Senator Dede Alpert. July, 1999 ED437721

## **Section II: Roles and Responsibilities of County Superintendents and Boards of Education**

At the crux of questions relating to the method of selecting a county superintendent lay a number of structural, legal and political ambiguities over the administrative and policymaking roles of the county board and the superintendent. These cannot be examined without some recognition of major changes and increased oversight responsibilities placed during the past decade upon county superintendents and the offices that they administer.

This section provides an overview of key changes in county superintendent and county office function and authority. It also reviews statutory powers of both the superintendent and county board of education, and of areas of conflict – actual and potential – between them.

### **Growth in County Office Responsibility**

In the years since 1855 when county superintendents were established as an independent and separately elected office, the county offices of education that they administer have evolved from primarily providing direct instruction, especially in rural unincorporated areas, into service agencies that provide technical, training and administrative assistance to local districts. Within the past six years, however, county superintendents have also been vested with an expanded role in school oversight and regulation. In the view of many the cumulative impact of these trends has changed the function of their offices from being principally one of providing service to one that is more intensely regulatory.<sup>5</sup> In particular, county superintendents have been provided extensive regulatory authority in areas of fiscal management, accountability for school performance, and – more recently – program adequacy.

#### ***Fiscal Oversight.***

While there were many stages in the growth of county office responsibility for fiscal oversight, at least a major cause of more recent changes can be found in the 1991 bankruptcy of Richmond School District and the fiscal collapse of several other districts that were preparing to seek emergency loans from the state. The state's response was to pass AB1200, authored by then Assembly member (later State Superintendent) Delaine Eastin.

In addition to dealing with the immediate bankruptcy, AB1200 established requirements that county superintendents and school districts work cooperatively to improve fiscal procedures, standards and accountability. In particular, AB1200 expanded the role of county superintendents in monitoring school districts and mandates that they

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<sup>5</sup> AB1200 – as amended by AB1708

intervene, under certain circumstances, to ensure districts can meet financial obligations.

The legislation defined several types of "fiscal crises" that would prompt a county superintendent to intervene in a district: a disapproved budget, a qualified or negative interim report or recent actions by a district that lead the county superintendent to conclude that the district will not be able to meet its financial obligations. It also spelled out procedures by which a county office monitors, assists, warns, or intervenes in the fiscal operation of a school district.

Between 1991 and the present, there has been a steady, but significant growth in the fiscal oversight function of California's county offices of education. Perhaps the most significant of these came in 2004 with Assembly Bill 2756 (Daucher). This legislation greatly expands the AB1200 process by requiring on-going monitoring of local district spending, authorizing county superintendents to conditionally approve – and not just accept or reject – annual district budgets, and further authorized the county superintendent to impose a budget on any district that fails to adopt a budget as required by August 15. In addition, county superintendents are now required to report to the State Superintendent of Public Instruction on the financial condition of the school district and on proposed remedial actions, as well as to take "all actions that are necessary to ensure that the district meet its financial obligations."<sup>6</sup> Finally, AB 2756 makes the county superintendent's exercise of fiscal oversight responsibilities subject to monitoring by the State Superintendent of Public Instruction and imposes penalties if the superintendent is not effective in resolving the fiscal problems of the school district.<sup>7</sup>

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### ***Accountability for School Performance***

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With the advent of the 1999 California's Public Schools Accountability Act (PSAA) and the Federal No Child Left Behind legislation (NCLB) in 2001, the changes in the role of the county superintendents and county offices of education accelerated and became more profound. To the function of fiscal oversight was added major new roles in accountability for school performance.

Under terms of California's 1999 Public Schools Accountability Act (PSAA),<sup>8</sup> most superintendents and county offices undertook a reporting role for schools academic performance scores (API's). In addition, they were assigned major responsibilities in the Immediate Intervention/Under performing Schools program, and – at least in principle – were responsible for direct management of schools that failed to meet their API target. Superintendents were also expected to serve on hearing boards for principals that were being removed from failing district schools. In addition, county offices of education have historically administered Golden State Exams (GSEs), and have assumed major responsibilities for the Alternative School Accountability Model

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<sup>6</sup> *Education Code* § 42127.6 (a)(1))

<sup>7</sup> *Education Code* § 42127.6 (k))

<sup>8</sup> *Education Code* § 52053-52055.55

(ASAM) system that provides performance data on the approximately 1,260 alternative schools serving highly at-risk students.

No Child Left Behind (NCLB) was the 2001 reauthorization of the Federal Elementary and Secondary Education Act (ESEA) originally enacted in 1965. Under that act, county superintendents assumed major new training and oversight roles as part of the California's agreement with the Federal Government<sup>9</sup> for implementing NCLB in California. These continue to evolve and expand, as county offices are increasingly used as regional data collection entities and technical resources. As one observer noted: "Because of the extremely burdensome requirements for performance data county offices have begun to supplant the State Department of Education in many crucial areas of school accountability."

### ***Program Adequacy***

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A new and potentially larger set of oversight functions also came in 2004 from legislation resulting from settlement of the Williams case. Without doubt the most important was the requirement that county superintendents now must ensure the adequacy of educational services for all students.

The most sweeping change was SB550 (Vasconcellos) that expanded requirements and scope for school monitoring and examination. Superintendents are now required to annually present "a report to the governing board of each school district, the county board of education and to the board of supervisors in his/her county describing the "state of the schools" ranked in deciles 1-3 of the 2003 base Academic Performance Index (API)." <sup>10</sup>

The intent that the county superintendents take on a larger regulatory role is clear from the additional mandates to which the legislation held county offices and superintendents. These include requirements that:

- School monitoring visits are to be "conducted at least annually" and that not less than 25% of the visits be unannounced.
- Superintendents must: 1) ensure students have access to "sufficient"<sup>11</sup> instructional materials; 2) assess compliance with facilities maintenance to determine the condition of a facility; and 3) determine if accurate data has been provided for the annual school accountability report card related to instructional materials and facilities maintenance.

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<sup>9</sup> State of California, *Consolidated State Application Accountability Workbook for State Grants under Title IX, Part C, Section 9302 of the Elementary and Secondary Education Act (Public Law 107-110)*

<sup>10</sup> Senate Bill 550 (*Education Code § 1240 2004*).

<sup>11</sup> Sufficiency is measured by determining that every pupil, including English learners, has a textbook in the four core subjects or English language arts, mathematics, history/social science and science to use in class and to take home to complete required homework assignments.

- Beginning with the 2004-05 school year, audits conducted by the county superintendent will begin to include exceptions related to insufficiencies of instructional materials, and teacher misassignments.
- Non-compliance reports must now be sent to the school district and Superintendent of Public Instruction. If sufficient materials are not provided by the end of the second month of the school year, county superintendent is also required to request that the State purchase the necessary textbooks on behalf of the school district.

As of July 2005, Williams settlement clean-up legislation (AB831) added to the responsibility of the county superintendents by requiring that they ensure district textbooks and instructional materials be in compliance with those adopted by the State Board in accordance to Section 51050 of the *Education Code*.<sup>12</sup>

In 2004 an additional piece of legislation, AB3001 (Dymally) also significantly expanded the county office's regulatory role by instituting reporting requirements for county superintendents relative to teacher credentialing and assignments. This legislation required county superintendents:<sup>13</sup>

- To include as a possible intervention the assignment of the Fiscal Crisis and Management Assistance Team (FCMAT) if a school district is certified as qualified or negative. The Superintendent is also required to review teacher hiring practices, teacher retention rates and the extent of teacher misassignment and to provide recommendations to improve the teacher hiring process and the provision of highly qualified teachers.<sup>14</sup>
- To annually monitor school district certificated employee assignments, giving priority to schools ranked in deciles 1-3 of the API, and to assess the effectiveness of district efforts to ensure that any teacher serving in an assignment that requires CLAD or BCLAD certification completes the certification.

The cumulative impact of these changes has been to greatly expand the regulatory role of the superintendent and county office of education. Over time, the changes in state statute are likely to require profound changes in local organizational structure and culture. As noted at the outset, the offices administered by county superintendents are being required to shift from being agencies with an emphasis upon providing technical assistance, into agencies with greatly expanded monitoring and regulatory functions. As district and school performance becomes increasingly regulated under terms of educational accountability, and as county superintendents and county offices become progressively a more important part of the state regulatory mechanism, significant changes will likely be necessary in organizational structure, required em-

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<sup>12</sup> AB831, Chapter 118, was signed by the Governor on July 25, 2005 and takes effect immediately.

<sup>13</sup> AB3001 (Dymally) Chapter 902

<sup>14</sup> In short, to serve as a "gatekeeper" for possible FCMAT review.

ployee skill-sets, and the form and quality of relations between the county and district personnel.

### ***Shifts Toward Regionalism***

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While the regulatory responsibilities of county superintendents continue to increase, a contrary trend can also be documented: one that possibly will in time replace the superintendent and county office with some form of regional administrative structure.

Attempts to gain approval for this type structural change have been on going for at least the past decade, but have been largely unsuccessful. For example, following similar recommendations by the Office of the Legislative Analyst<sup>15</sup> and the Commission of California State Government and Economy, the state's Constitutional Revision Commission opined in 1997 that:

The Constitution should be amended to provide...[that] county school superintendents and boards should be removed from the Constitution. The duties of ... county offices would be determined by statute.<sup>16</sup>

A legislative committee, the Joint Committee to Develop a Master Plan for Education in California, expressed a similar intent in 2002. At least two of the Committee's recommendations echoed and expanded those made earlier.

#### Recommendation 35

The Legislature should initiate a state-level inquiry to examine the best ways to encourage consolidation of county offices into regional entities and/or consolidation of various operational aspects of county offices to organize their services to meet current and emerging district and regional needs, including fiscal oversight and management and administrative assistance.

#### Recommendation 36

County/Regional offices of education should be assigned a set of functions, resources, and authority both to serve local districts in their efforts to provide comprehensive curricula to students and professional development opportunities for professional staff, and to act as monitoring agents on behalf of the State to ensure that every public school meets minimal standards of educational quality.<sup>17</sup>

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<sup>15</sup> Joint Legislative Budget Committee, "Restructuring Public School Finance," *The 1995-95 Budget: Perspectives and Issues*, Office of the Legislative Analyst, p. 141.

<sup>16</sup> California Constitutional Revision Commission, *Recommendation III-B* Sacramento, May 1996

<sup>17</sup> Joint Committee to Develop a Master Plan for Education *The California Master Plan for Education*, July 2002 Draft

Most recently, in 2004, the California Performance Review Commission recommended doing away with county boards, superintendents and offices. The Governor's Commission noted "a regional--rather than a county--system will better serve state citizens at lower cost."<sup>18</sup> In its view, such a new framework "will focus resources more effectively and efficiently; strengthen the role and functions of this intermediate arm of governance; and better serve students and local districts."<sup>19</sup> Such a change was seen as saving \$18,000,000 annually beginning in fiscal year 2007-08, although the report provided few details regarding the nature of the savings.<sup>20</sup>

It is important to note while these various reform proposals would abolish the county level of governance, they also call for increases in monitoring and oversight powers for whatever agency or regional entity replaces the existing structure. In so doing they underscore the intensifying pressure for increased district oversight, and the need to have some governmental entity to augment efforts of the state department of education in complying with the increased demands for educational accountability.

### General Powers of the County Superintendent of Education

In addition to recently added regulatory responsibilities, *Education Code* § 1240 describes the general statutory duties of the county superintendent. These include:

- a) Superintend the schools in his or her county.
- b) Visit and examine each school in his or her county at reasonable intervals to observe its operation and learn its problems.
- c) Distribute all laws, reports, circulars, instructional and blanks that he or she may receive for the use of the school officers.
- d) Keep in his or her office the reports of the Superintendent of Public Instruction.
- e) Keep a record of all official acts and of all proceedings of the county board of education.
- f) Enforce the course of study.
- g) Enforce the use of state textbooks and of high school textbooks regularly

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<sup>18</sup> California Performance Review Commission, *Recommendation ETV05 Regionalize K-12 Educational Infrastructure*, Office of the Governor, Sacramento, January 2005

<sup>19</sup> *Ibid.*

<sup>20</sup> Other savings estimates are higher, if equally unsubstantiated. A winning proposal in the 1993 Pacific Research Institute 2<sup>nd</sup> Annual Privatization contest claimed that county offices of education "...absorb more than \$1.5 billion of the state's \$28 billion education budget." This money, in the view of the report's author "is spent entirely remote from schools. K.L. Billingsley, *Linemen for the Counties: Does California Need County Offices of Education?*

adopted by the proper authority.

- h) Preserve carefully all reports of school officers and teachers.
- i) Deliver to his or her successor, at the close of his or her official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which shall be filed with the State Department of Education,
- j) Submit two interim reports during the fiscal year to the county board of education in accordance with the following:
  - 1. The first report shall cover the fiscal and budgetary status of the county office of education for the period ending October 31.
  - 2. The second report shall cover the period ending July 31.
  - 3. Both reports shall be review by the county board of education and approved by the county superintendent of schools no later than 45 days after the close of the period being reported
- k) When so requested, act as an agent for the purchase of supplies for the city and high school districts in his or her county.
- l) For purpose of *Education Code* § 44421.5, report to the Commission on Teacher Credentialing the identity of any certificated person who knowingly and willing reports false fiscal expenditure data relative to the conduct of any educational program.<sup>21</sup>

In addition, the county superintendent has a large number of other functions. As summarized by the California County Superintendents Association (CCSEA) these include:

#### *Fiscal Accountability*

Although school districts are responsible for their own financial records, county superintendents must review and approve district budgets and ongoing expenditure patterns before they are sent to the California Department of Education. In effect, County superintendents provide the fiscal safety net for all school districts in the state.

#### *Student Services*

County superintendents provide instructional programs for students with unique needs including special education for severely disabled students, court

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<sup>21</sup> Adapted from: California County boards of Education, *Statutory Functions of the County boards of Education and County Superintendent*, March 1997

and community schools for incarcerated and expelled youth, and programs for pregnant or parenting students. In addition, county superintendents operate career and technical education, migrant education, outdoor education, and child-care and child development programs.

#### *Curriculum and Instruction*

County superintendents provide leadership and support to school districts to ensure continuous improvement of curriculum development, classroom instruction, student assessment, teacher preparation, and ongoing professional development to both certificated and classified personnel.

#### *Administrative Services*

County superintendents provide various levels of administrative and educational support services to small and mid-sized districts including supervision of instruction, attendance and health services programs, guidance services, library services, training and education of prisoners, financial services, and cost-saving group purchasing programs.

#### *Personnel Services*

County superintendents monitor and review school district credential assignment practices to ensure valid credential status for certificated staff. County superintendents also assist with recruitment, selection, and retention efforts for classified, certificated, and management employees.

#### *Technology and Telecommunication Services*

County superintendents have established and maintain an integrated voice, video and data link of existing technology networks. County offices of education play an integral role in developing, maintaining, coordinating, and supporting advanced, cost-effective technology delivery systems, services, and curricula that increase learning opportunities for students and expand professional development and information resources to teachers and administrators.<sup>22</sup>

The section above describes general powers and responsibilities of the office. Specific statutory and legal duties and powers of the county superintendent build upon these, but must be discussed within the context of both specific function and the role of the county board of education. The general role of the county board is delineated below.

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<sup>22</sup> Source: California County Superintendents Educational Services Association (CCSESA) Mission & Goals Statement, <http://wwwstatic.kern.org/gems/ccsesaAtWork/brochurerevise.pdf>

## General Powers of the County Board of Education

As characterized by the California County boards of Education (CCBE), county boards of education provide “leadership and citizen input for county educational programs and services operated by the county office of education, including services provided to school districts and the community.”<sup>23</sup> According to CCBE, major roles of the county board include:

1. Working with the county superintendent of schools to establish the direction and priorities for the county office through its budgetary responsibilities
2. Providing community leadership on behalf of the county office and public education

Sample by-laws published by CCBE and CSBA suggest that to fulfill several basic responsibilities a county board shall:

1. Maintain a cooperative and supportive working relationship with local school districts, their school boards and the community
2. Collaborate with the county superintendent so that the shared vision, goals and policies of the county office can be implemented
3. Adopt, evaluate and update policies consistent with the law and the county board’s vision and goals
4. Maintain accountability for student learning in schools and programs operated by the county office
5. Adopt the annual budget and review interim reports of the county superintendent
6. Approve the salary of the county superintendent
7. Review the real property audit and acquire or dispose of real property as necessary for county office schools and programs
8. Adopt policies to ensure that a safe and appropriate educational environment is provided to all county office students
9. Conduct appeals on student expulsions and inter-district transfers

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<sup>23</sup> California County boards of Education, *CSBA Sample Board Bylaw Role of the Board*, California School Boards Association

10. Conduct public hearings when appropriate
11. Fulfill statutory responsibilities in connection with charter schools
12. Provide community leadership on educational issues and advocate on behalf of students and public education at the local, state and federal levels.

Further, and of special importance to CCBE, is the provision contained within *Education Code*, Section § 35160 that stipulates that a “ County board is authorized to establish and finance any program or activity that is not in conflict with, inconsistent with, or preempted by law and which is not in conflict with the purposes for which the county board is established.”<sup>24</sup>

### Where Worlds Collide: Conflict Over Roles And Responsibilities

Despite repeated attempts at clarification by the legislature and courts there remain on-going disagreements regarding the relative roles of county boards and superintendents. The two primary associations representing the interests of each group likewise disagree about the specifics of power sharing and even the extent of the conflict. For example, CCSESA, the association representing the County Superintendents, has gone on record saying that “we believe that the separate responsibilities of county boards and county superintendents are set out with reasonable and sufficient clarity in the *Education Code*.”<sup>25</sup>

California County Boards of Education (CCBE) in their 1996 report on shared governance<sup>26</sup> acknowledged that each entity has “distinct powers and duties specified by statute,” but saw much more overlap and sharing of various functions of governance and administration. Where CCBE saw the relationship as one of “shared governance,” CCSESA could not embrace the use of such a term. In their words “With all respect, we believe that phrase obscures important differences in our individual responsibilities... and invites misunderstanding.”<sup>27</sup>

Areas of potential disagreement are probably best examined in the context of specific functions: a strategy used by CCBE in development of 1997 report on *Statutory*

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<sup>24</sup> Section § 35160 of the *Education Code* became law January 1, 1976. While providing a description of the role and responsibilities of County boards of Education, the legislation specifically suggests “in addressing their needs, common as well as unique...county boards of education, and county Superintendents of schools should have the flexibility to create their own unique solutions.” Further, the statute suggests that “it is the intent of the Legislature that Section 35160 be liberally construed to effect this objective”

<sup>25</sup> CCSESA Board of Directors, *Draft Letter to Dr David Stine*, November 1996.

<sup>26</sup> California County Boards of Education *County Boards of Education and County Superintendents: Shared Governance in California Education*, Report of the *Education Code* Governance Committee, August 15, 1996

<sup>27</sup> CCSESA Board of Directors, *Draft Letter to Dr David Stine*, November 1996.

*Functions of County Boards of Education and County Superintendents.*<sup>28</sup> This report focuses upon the three primary areas of policymaking and potential conflict: budgeting and fiscal responsibility, the personnel function, and control of county programs.

### ***Budgeting and Fiscal Responsibility***

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Key to any discussion of the relative powers of superintendents and boards is budgetary control. Within a fiscally independent county such as Sonoma,<sup>29</sup> the process for budget adoption has four key stages:

Stage 1: The county superintendent of schools submits a proposed budget to the county board of education. Pursuant to the *Education Code*, a proposed budget must take the form specified by the Superintendent of Public Instruction. (*Education Code* § 1621, 14052.)

Stage 2: On or before July 1 of each year, the county board is required to hold a public hearing on the budget as proposed by the superintendent. *Education Code* requires that this hearing must be held prior to adoption by the board and no sooner than three days after the proposed budget is made public. (*Education Code* § 1621,(a).)

Stage 3: By the July 1<sup>st</sup> date, the county board is required to adopt and approve an annual budget that is to be filed with the Superintendent of Public Instruction. (*Education Code* § 1040, 1622,(a).) Should the county board refuse or fail to meet this requirement, the state will not appropriate any state or federal money to that county office for the fiscal year, and appropriate county officials will be notified not to approve warrants issued by the county office of education. (*Education Code* § 42120.)

Stage 4: On or before September 8 county boards of education are required to submit to the Superintendent of Public Instruction budget changes made necessary by revised projections of income and expenditure. This report must also be filed with the county board of supervisors and the county auditor.

In statute the respective budgetary responsibilities of the superintendent and board are at least superficially clear, with the superintendent proposing a budget, and the board reviewing and approving the proposed fiscal plan. The process requires the board to review the annual itemized budget and

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<sup>28</sup> California County Boards of Education, *Statutory Functions of County Boards of Education and County Superintendents*. April 11, 1997

<sup>29</sup> Relative to budgeting and fiscal responsibility, county education agencies take two general forms in California. Most counties, including Sonoma, are fiscally independent of the county board of supervisors pursuant to *Education Code* § 1080. Others, including LA and San Francisco, are not.

...make revisions, reductions or additions to the estimates that the board deems advisable or proper. The itemized estimate cannot be filed by the superintendent until it has been reviewed and approved by the county board.<sup>30</sup>

Said more concretely, the process requires board and superintendent to work together, as the board has no power to draft a budget and the superintendent lacks the power to approve it.

Despite this apparently clear delineation of responsibility, “unanswered questions have emerged”<sup>31</sup> regarding whether superintendents can approve budget revisions, or county boards fund projects that are not included within the superintendent’s budget.<sup>32</sup>

Conflicts in the mid-1990’s between the Mendocino County board and superintendent provide a local example. In addition to other concerns, including the propriety of various payments made to the superintendent, the case specifically raised the structural question of whether a county superintendent may spend funds from an unappropriated reserve without having a budget transfer approved by the county board. At least one legal opinion, provided to the Mendocino board and superintendent, stopped short of absolute clarity. Sections of that opinion suggest the complexity of the issue.

There is no case law which governs, and the interpretation of statute is just that, interpretation...<sup>33</sup>

...

The board has no power to generate the budget and the superintendent...no power to revise the budget. No authority was found to support the county superintendent alone being able to make budget revisions.

Thus it would appear that the county board cannot alone move funds into an un-appropriated account then later appropriate these funds to projects which it wishes to fund. Suggested revisions to the budget seem to be subject to generation by the county superintendent. On the other hand, the county superintendent has no authority to spend or approve the expenditure of any funds which are not appropriated through the budget process. There appears to be a legislative scheme which calls for working together, with a form of veto power in the board...The *Education Code*, however, does not give the board a line item veto like that of the governor.

In a 1995 letter to school legal colleagues, John Bukey, Legal Counsel for the California School Boards Association raised three key questions regarding potential areas

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<sup>30</sup> CCBE, *County Boards of Education and County Superintendents Shared Governance in California Education*, Report of the California County Boards of Education, 1996, Page 2.

<sup>31</sup> John Bukey, Draft letter to Frank Fekete, Schools Legal Services and Robert Henry, School and College Legal Services, November 1, 1995

<sup>32</sup> Ann M. Freers, *Opinion to Questions Regarding Powers of the County Board of Education and County Superintendent of Schools*, Kronick, Moskovitz, Tiedemann and Girard, November 7, 1992

<sup>33</sup> Freers, Op.cit. Page 1.

of conflict between a county board and superintendent.<sup>34</sup>

1. Does the county superintendent have to sign off on the board-adopted budget before it is forwarded to the SPI? In other words, does there have to be agreement before a budget is actually considered adopted?
2. What budgetary changes can the superintendent unilaterally make without prior board approval after the budget is fully adopted in September:
  - a. In respect to additional or new income?
  - b. In respect to shifting money between ‘major categories’ of the budget?
  - c. In respect to shifting money within ‘major categories’
  - d. In respect to reserve accounts.
3. Does the board have any authority to *initiate* budget changes after the budget is fully adopted in September?

Interestingly, according to Bukey, responses to these questions were not completely decisive. Those taking a “strong superintendent” position tended describe county board fiscal functions as almost purely ‘ministerial,’ approving the budget and changes as proposed by the superintendent. In contrast, other respondents accorded the board greater power in terms of budget initiation and change. As several other commentators close to the issue suggested, many of these concerns remain and have not yet been tested or resolved in a court setting.

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### ***The Personnel Function***

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As noted by the CCBE report, “the area that most sharply differentiates the role of county boards of education from school boards in K-12 districts...is their role in personnel issues.”<sup>35</sup> Beyond setting the salary of the superintendent, county boards have little power in terms of hiring of certificated staff, setting salaries of either certificated or classified employees, or evaluating, disciplining, laying off, and dismissing employees. While slight ambiguity does exist in terms of relative powers of county boards and superintendents in terms of hiring certificated staff and some aspects of collective bargaining, the consensus of legal opinion and practice strongly favors superintendents. A relatively recent opinion of the Attorney General severely limits the powers of boards to meet in closed session under terms of the *Ralph M. Brown Act* to discuss either appointment or performance evaluation of certificate or classified employees, or to consider the salaries and compensation paid in the form of fringe benefits.<sup>36</sup> These areas of concern are discussed briefly below.

#### *Certificated Staff*

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<sup>34</sup> John Bukey, Legal Counsel to CSBA, Letter to Frank Fekete, General Counsel, Schools Legal Service, and Robert Henry, General Counsel, School and College Legal Services, November 1, 1995.

<sup>35</sup> CCBE, op.cit., Page 8

<sup>36</sup> California Attorney General, *Opinion 01-505*, April 19, 2002

Little controversy exists regarding the right of the superintendent, and not the county boards, to employ, evaluate and discipline certificated staff. A variety of sections of the *Education Code*, as well as opinions of California's Attorney General,<sup>37</sup> reinforce the point that the superintendent is authorized to appoint, evaluate, and set the salaries of certificated county school employees.<sup>38</sup>

Certificated employees may be hired by the superintendent, through the county school service fund, to provide for the coordination of educational programs among school districts and community college districts. While these services are to be provided "with the approval of the board,"<sup>39</sup> hiring, discipline, and establishment of salaries are the responsibility of the superintendent. For purposes of collective bargaining, the Public Employment Relations Board has determined that the superintendent is the sole employer of certificated employees.<sup>40</sup>

### *Classified Staff*

The CCBE study found that there is no independent authority for classified hiring vested in either the superintendent or board. However, the report's authors also observed that "*Education Code* 1311 specifies the superintendent as the employer", and notes the state attorney general's opinion, cited earlier, that the responsibility for hiring and other personnel matters is in the hands of the superintendent and not the county board. As the CCBE report concludes, "It is highly unlikely that a court would reach a different conclusion."<sup>41</sup>

As with certificated employees, therefore, both prevailing legal opinion and practice suggest that the superintendent, and not the board, is authorized to appoint, evaluate and set employee salaries.

### *Collective Bargaining*

Despite CCBE's characterization of collective bargaining as "truly the most puzzling question faced in delineating the legal functions of the board and superintendent in the area of personnel,"<sup>42</sup> there seems little doubt that the superintendent is the sole employer for collective bargaining purposes. As noted earlier, this view is supported by a 1983 State Public Employment Relations Board case (*Southern Alameda County Teachers Assn. v. Alameda County Board of Education*), and was further confirmed

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<sup>37</sup> California Attorney General, *Opinion 88-901*, March 9, 1989

<sup>38</sup> California *Education Code*, Section 1302. places a \$10,000 limit upon the amount of salary increase that can be granted without notification of the county board, and prohibits increasing of retirement benefits of any employee unless the matter is approved by the county board.

<sup>39</sup> California *Education Code*, Section 1703

<sup>40</sup> See Gov. Code, § 3540.1(k); *Southern Alameda County Teachers Assn. v. Alameda County Board of Education*, etc., PERB dec. no. 323 (June 30, 1983).

<sup>41</sup> CCBE, op.cit, Page 9.

<sup>42</sup> CCBE, op.cit, Page 10

in a 1988 ruling by the California Attorney General.<sup>43</sup>

Despite earlier opinions – such as a 1980 case *Sonoma County Board of Education versus Public Employees Relation Board* which suggested boards were “under a duty to bargain in good faith with representatives of classified service employees”<sup>44</sup> – the Attorney General held that “nothing . . . indicates that the board, as distinguished from the superintendent, is authorized to appoint, discipline, and establish the compensation of those employees.” To do otherwise would, in the words of the Attorney General, create a situation “faced with an unwarranted contradiction” over powers and responsibilities.<sup>45</sup>

*Board and Superintendent Roles Under the Ralph M. Brown Act*

In response to a 2002 request from State Senator Wesley Chesbro, whose district includes portions of Sonoma County, the Attorney General provided an opinion that further clarified the lack of county board powers in matters of personnel. Asked whether county boards may meet to in closed session to discuss either appointment or performance evaluation of certificate or classified employees, or to consider the salaries and compensation paid in the form of fringe benefits, the Attorney General strongly concluded they did not.

Regarding a board’s ability to meet in closed session regarding employee hiring, evaluation or dismissal, the Attorney General noted:

We have previously examined the duties of a board and superintendent. . . [and] concluded that the superintendent, and not the board, is authorized to appoint, discipline and establish salaries of certificated and classified employees. . . . A decision of a superintendent to employ persons in positions requiring certification qualifications does not require consideration by, or approval of, the board. . . . Likewise a superintendent’s decision to employ classified employees does not require the board’s approval or consideration

The purposes of Section 54957 would be ill served by allowing a board to meet in closed session to consider the superintendent’s appointment, employment, evaluation of performance, discipline, or dismissal of certificated and classified school employees.<sup>46</sup>

A similar situation pertained regarding the permissibility of closed meetings related to collective bargaining:

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<sup>43</sup> California Attorney General, *Opinion 88-901*, op.cit.

<sup>44</sup> *Sonoma County Bd. of Education. v. Public. Employee Relations Board.* (1980) 102 Cal.App.3d 689

<sup>45</sup> California Attorney General, *Opinion 88-901*, op.cit.

<sup>46</sup> California Attorney General, *Opinion 01-505*, op.cit. Note: The Opinion noted that a superintendent’s decision to grant a leave of absence to certificated or non-certificated employees does require approval of the board.

We recognize that a board has the responsibility to approve the annual budget...which would necessarily include the results of labor negotiations conducted by the superintendent with his or her employees. While the board has an interest in the ultimate results of these labor negotiations, section 54957.6 is to be construed narrowly in favor of the *Act's* general requirement of holding open and public meetings...Accordingly...we conclude that aboard may not meet in closed sessions under the labor negotiations exemption of the Act.<sup>47</sup>

### ***County Programs***

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Counties offer a widely different mix of program and educational support services. Programmatically, CCSESA differentiates between thirty programs offered at least somewhere in California.<sup>48</sup> Interestingly size of a county's enrollment doesn't directly relate to the number of these programs that have been implemented locally. In According to a 2004 CCSESA survey, Alameda – the state's second largest county – mounts only seven of the 30 programs – the state's fewest. It is followed by Alpine and Del Norte, two of the smallest counties, each with eight. At the other end of the spectrum is San Bernardino with 23 programs. Kern, Los Angeles, and San Joaquin county offices each offer 22 programs. By way of comparison, Sonoma is shown as offering 11.

In its description of county programs CCBE's 1997 report suggests, "unlike budget and personnel issues, the delineation of functions between the county board and county superintendent are relatively non-controversial."<sup>49</sup> County boards have major decision-making roles for only two programs: ROP and Court Schools.

### *Regional Occupational Centers and Regional Occupational Programs*

With the consent of the State Board of Education, county superintendents have the discretionary authority to establish and maintain a Regional Occupational Program (ROP). Unlike most other county programs, state law stipulates a board role in program definition and administration. As noted in the CCBE report:

...once the ROP has been established, state law confers upon the county board the responsibility for adopting the courses of study, evaluating the educational program,, and approving the budget and appropriations for the ROP.<sup>50</sup>

In this sense, ROP functions most similarly to programs operated by LEAs, in that the

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<sup>47</sup> California Attorney General, *Opinion 01-505*, Op.Cit. Note: The Opinion noted that a superintendent's decision to grant a leave of absence to certificated or non-certificated employees does require approval of the board.

<sup>48</sup> California County Superintendents Educational Services Association (CCSESA) *Op.Cit. Instructional Programs Survey*, p65.

<sup>49</sup> CCBE , Op.Cit, Page 12

<sup>50</sup> CCBE, Ibid.

superintendent operates and administers the ROP while the county board functions as a governing and policy-making body.

### *Juvenile Court Schools*

County boards also have a responsibility for policy development and operation of Juvenile Court schools, as authorized by *Education Code* sections 48645-48645.6. These schools serve students who have been incarcerated or placed in group homes, camps, or ranches, as well as students who have been expelled from their home district schools because of a status offense or other infraction or behavior governed by the Welfare and Institution Code or *Education Code*.

The CCBE report suggests, “the law as it relates to juvenile court schools is rather confusing.” According to statute “County boards county board of education shall provide for the administration and operation of juvenile court schools”<sup>51</sup> either operated by the superintendent or under contract with other districts. Confusion, in this view, results from an apparent conflict between the roles of board and superintendent in program planning and implementation.

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Unlike most other programs county boards are granted powers to operate juvenile court schools in a manner that “best accomplishes” the goals stated in the *Education Code*. In addition boards have a defined planning function<sup>52</sup> and are required to “adopt and enforce a course of study and evaluate its program”<sup>53</sup> The CCBE report concludes its analysis of the boards’ role in operation of juvenile courts by noting that “the county board appears to perform a similar (if not greater) role to the one it performs for the ROPs.”<sup>54</sup>

### *County Community Schools*

Board and superintendent roles relative to creation and operation of a community school are more clearly defined. As a “permissive educational program”, county boards “may establish and maintain one or more community schools.”<sup>55</sup> Once established, however, these schools “shall be administered by the county superintendent”<sup>56</sup> with the proviso that “the course of study of a county community school shall be adopted by the county board of education.”<sup>57</sup>

### *Other County Programs*

Special Education, and County School Service Fund Programs provide services either

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<sup>51</sup> *Education Code*, Section 48645.1

<sup>52</sup> *Education Code*, Section 48645.6

<sup>53</sup> *Education Code*, Section 48645.3

<sup>54</sup> CCBE, Op.cit, Page 14

<sup>55</sup> *Education Code*, Section 1980

<sup>56</sup> *Education Code*, Section 1982

<sup>57</sup> *Education Code*, Section 1984

directly or through coordination among school districts. While opinions differ regarding relative roles of the superintendent and board, the most unambiguous involvement of the board in policy-making for these programs is through the budget approval process.

### Section III: Pro and Con: Arguments For and Against An Elected or Appointed County Superintendent

Changes in statute and legal holdings over the past few decades have greatly clarified and strengthened the powers of California’s county superintendents. These changes have done little to quell the normative argument over what respective powers of the board and superintendent should have and how they should be exercised. As noted in the introduction to this study, this is an issue where there are no clear report cards or unequivocal performance metrics.

Over time arguments on both sides have become well developed, with each invoking a number of “incontrovertible” principles of democracy, administrative efficiency and effective governance. In absence of empirical data from plausibly comparable counties in California such claims are difficult to substantiate, especially in terms of the perceived linkage(s) between abstract principle of governance, observable fact and demonstrable outcome. The lack of light, however, should not be confused with an absence of heat over the issue. While the public, and to a large degree the press, may be unaware and uninterested in the conflict, there are strong partisans on both sides.

The section that below summarizes a representative sample of arguments for and against an elected or appointed county superintendent. Based upon more than 80 interviews and discussions, the arguments presented cluster around 10 major issues including (1) legitimacy, (2) neutrality, (3) clarity of roles, (4) public visibility, (5) administrative safeguards, (6) fiscal responsibility, (7) leadership, (8) quality of superintendent, (9) administrative concerns, and (10) program innovation. While doubtless the number of categories could be adjusted, what was significant was the extent to which each of the arguments has a defined constituency.

In public policy studies there is an axiom that ‘where one stands on an issue depends upon where they sit professionally.’ While some contributors saw both sides of the issue, the outlook of most was well predicted by their position and professional standing. Needless to say, proponents saw many of their arguments – however similar – as supporting widely different conclusions. Representative samplings of their arguments are presented below without comment.

<b>Organizing Principle</b>	<b>Arguments for:</b>	
	<b>Elected Superintendent</b>	<b>Appointed Superintendent</b>
<b>Legitimacy</b>	<ul style="list-style-type: none"> <li>Represents education as a whole. No district-based board can be above the fray of the special interests of the regions they represent.</li> </ul>	<ul style="list-style-type: none"> <li>Since they report to the board, an appointed superintendent can represent all districts without regard to being concerned about ‘where the votes are.’</li> </ul>

<b>Organizing Principle</b>	<b>Arguments for:</b>		
	<b>Elected Superintendent</b>	<b>Appointed Superintendent</b>	
<b>Legitimacy</b>	<ul style="list-style-type: none"> <li>• Electing the superintendent is a good system – that feels very powerful to voters.</li> <li>• County board has little legitimacy, due to virtually non-existent contact with local boards and superintendents.</li> <li>• Any superintendent has a hard job – and needs a mandate that comes from being an elected representative.</li> </ul>	<ul style="list-style-type: none"> <li>• Since they are elected by area, the board is more likely to be close to voters than superintendent. If they do their job, board members know what public is thinking.</li> <li>• Appointed superintendent is more likely to be a professional educator, chosen for experience and qualifications.</li> </ul>	
<b>Neutrality</b>	<ul style="list-style-type: none"> <li>• Lack of district-oriented conflict of interest. There are always stronger board members, who tend to represent specific schools or districts, and who will influence an appointed administrator.</li> <li>• Advantage of elected superintendent is to redress the balance of power – An appointed position would give most of the power to large districts such as Santa Rosa.</li> <li>• Appointed superintendents are usually part of the local ‘school culture’ – and may even be from in house. Either way, they may be more inclined to continue running things as they have always been done or less able to motivate other staff to consider new approaches.</li> </ul>	<ul style="list-style-type: none"> <li>• Professionalism of superintendents who have been selected competitively means that they are more likely to see the big picture, and be less parochial or partisan in their views.</li> <li>• Appointed superintendents are more often candidates from outside the area, and are likely to be more neutral and objective in their assessment and actions.</li> <li>• Superintendents who pass through a board screening must be a lot more objective than those who run for office on one issue or another – They simply must look at all sides of every issue.</li> </ul>	

<b>Organizing Principle</b>	<b>Arguments for:</b>	
	<b>Elected Superintendent</b>	<b>Appointed Superintendent</b>
<b>Clarity of Roles</b>	<ul style="list-style-type: none"> <li>• In both law and practice, the county superintendent has a clear role; the county board doesn't and in absence of legislative action won't.</li> <li>• Boards almost inevitably lack an understanding of their role, which sometimes leads to high levels of conflict with the elected superintendent. An appointed superintendent won't change this – just make things worse.</li> </ul>	<ul style="list-style-type: none"> <li>• A dirty secret is that for most boards interest is so low that the elected superintendent has to recruit people to run. When these superintendents speak about “my board” they're not kidding.</li> <li>• Appointed superintendents know their role – which is to make the board happy by making sure that things run smoothly and efficiently.</li> </ul>
<b>Public Visibility</b>	<ul style="list-style-type: none"> <li>• Visibility is already too low. Elected superintendent is the only public official that can be seen as representing education throughout a county.</li> <li>• Superintendents – as a visible representative of education – can sit beside both Democratic and Republican candidates for other offices as a spokesman for education generally. They don't have to take sides – just be there. Being elected makes them both visible and more creditable.</li> <li>• Current [elected] system is a good check and balance. It not only gives elected superintendent more visibility, it also ensures more accountability.</li> </ul>	<ul style="list-style-type: none"> <li>• This is an office that shouldn't have a lot of public visibility. Appointed superintendents are there to administer policies made by boards; elected board members should take the lead in explaining education to the public.</li> <li>• In our county, the superintendent served for years and was well known by both the community and district people. In many senses, he spoke for the entire community – across all the districts. The public, and people from the press, listened to him.</li> </ul>

<b>Organizing Principle</b>	<b>Arguments for:</b>		
	<b>Elected Superintendent</b>	<b>Appointed Superintendent</b>	
<b>Administrative Safeguards</b>	<ul style="list-style-type: none"> <li>• The ultimate check is the electoral process. Without it you risk an imperial bureaucracy, or worse.</li> <li>• Elected superintendents, because they need to get elected by a cross-section of voters, are a lot less likely to be dominated by local business groups or teachers associations.</li> <li>• Less likely to overstep boundaries. Visibility of elected office translates into greater attention to detail – better administration.</li> </ul>	<ul style="list-style-type: none"> <li>• Cronyism is a real problem with elected superintendents – the board has no real say in who is appointed and what their qualifications are.</li> <li>• An appointed administrator makes it less likely that a board will overturn expulsion or inter-district transfers appeals and thereby undermine local boards and administrators.</li> <li>• Professionalism and qualifications of appointed administrator is best safeguard – in contrast to catch-as-catch-can qualifications of elected officials.</li> </ul>	
<b>Fiscal Responsibility</b>	<ul style="list-style-type: none"> <li>• It's a lot more likely that an elected superintendent will see problems in the districts. Board members sometimes push for a sort of "wink-and-a-nod" for their districts – Elected superintendents are more independent.</li> <li>• Appointed superintendents tend to be part of an 'old boy' network that likes to hide financial problems. Elected superintendents, turning over every few years, can start over – sort this out.</li> <li>• Less likelihood of corruption with elected superintendent.</li> </ul>	<ul style="list-style-type: none"> <li>• Appointed superintendents are more likely to appoint professional staff. Their jobs and reputations rest on keeping the books straight – both in the county office and out in the districts.</li> <li>• Elected superintendents tend to hire their own people, who often just aren't as professionally competent. There aren't the same kind of checks on qualifications or background.</li> <li>• Many fewer cases of financial irregularities with appointed superintendent.</li> </ul>	

<b>Organizing Principle</b>	<b>Arguments for:</b>	
	<b>Elected Superintendent</b>	<b>Appointed Superintendent</b>
<b>Leadership</b>	<ul style="list-style-type: none"> <li>• Being elected makes hard decisions possible, and somewhat easier. If you're appointed, you have to keep looking over their shoulder at the board... it makes leadership very difficult.</li> <li>• An elected superintendent, because they represent the public, can serve a convening function – bringing together competing groups and districts – that an appointed superintendent cannot.</li> <li>• Districts don't need it often, but when necessary an elected superintendent takes action much faster – especially on fiscal or personnel issues.</li> <li>• Local districts provide leadership on a lot of issues in any county – an elected superintendent is in a better position to listen and follow-through.</li> <li>• Ability to be change agent lies almost always with an elected official. If you're appointed, you spend most of your time trying to resolve conflicts between board members, and precious little on making what needs to happen, happen.</li> </ul>	<ul style="list-style-type: none"> <li>• Appointed candidates are more likely to the take advantage of the perspectives of the board</li> <li>• Being appointed provides a certain level of “political cover” ... the board takes most of the heat on controversial actions.</li> <li>• Appointed superintendents have more time to take on the mantle of leadership, since they don't have to constantly scout for votes or keep an eye on the election calendar.</li> <li>• If a superintendent has a good relationship with their board, then the person who's appointed can move faster to help solve problems. They don't have to weigh the political consequences as much.</li> <li>• As long as they keep their boards happy, the appointed superintendent is more likely to be able to bring folks together to solve problems.</li> <li>• Because a board can hire the exact person it needs to address local problems, there is more likelihood of a better “fit” which will result in stronger leadership in addressing local issues.</li> </ul>

<b>Organizing Principle</b>	<b>Arguments for:</b>	
	<b>Elected Superintendent</b>	<b>Appointed Superintendent</b>
<b>Quality of Superintendent</b>	<ul style="list-style-type: none"> <li>• Elected officials are likely to come from the culture of the county, while someone who is appointed may come from anywhere. Those folks sometimes spend most of their tenure figuring out the community.</li> <li>• Quality of leadership is “policed” by local superintendents. They help recruit candidates for the county spot.</li> <li>• Lots of people interview well, but turn out to be disasters. The election process it exposes candidates to a lot more situations, and gives a better view of some ones abilities – especially communicating to the public.</li> <li>• At least one of the five appointed counties has a real ‘dingbat’ as superintendent, and another just forced theirs to resign. Not good odds.</li> </ul>	<ul style="list-style-type: none"> <li>• Would get high quality people who don’t have inclination to run for office, who don’t want to be political.</li> <li>• Great administrators are often times people who would never run for office.</li> <li>• Appointing a superintendent makes sense – matching skills with need. Elections are always a ‘pig-in-a-polck.’</li> <li>• There are a lot of qualified people out there – instate, outside, everywhere. Makes sense to choose the best candidate from the widest field of possibilities.</li> <li>• As the county gets more complex, we are going to need a person with experience that can only be found in bigger cities – probably outside California. These type people won’t come here and run.</li> </ul>
<b>Administrative Concerns</b>	<ul style="list-style-type: none"> <li>• Better to because there is one boss – as compared to local districts where staff is trying to serve both the board and superintendent.</li> <li>• I’m struck by how much more quickly an elected superintendent can move to solve a crisis than one who is appointed.</li> </ul>	<ul style="list-style-type: none"> <li>• Key is stability and continuity. Elected administrators come and go, and there’s always a wrench that gets thrown into the works when someone new comes into run things.</li> <li>• Things run smoother administratively when politics isn’t involved – staff can concentrate on doing a good job.</li> </ul>

<b>Organizing Principle</b>	<b>Arguments for:</b>	
	<b>Elected Superintendent</b>	<b>Appointed Superintendent</b>
<b>Program Innovation</b>	<ul style="list-style-type: none"> <li>• Having an appointed executive limits the ability to undertake bold action. Administrators are rarely bold because they lose their jobs; elected officials can be.</li> <li>• At best, this county board has a district perspective and not a countywide focus. They have never been able to see the big picture, but must see things in terms of bigger districts such as Santa Rosa and Petaluma.</li> <li>• Appointed superintendents are almost never required to have the “big vision thing.” – just because they don’t have to put themselves back in front of the voter.</li> <li>• Appointed superintendents – who often come from within – may be either more inclined to continue running things as they have always been done or less able to motivate other staff to consider new approaches.</li> </ul>	<ul style="list-style-type: none"> <li>• Freedom from politics lets an administrator concentrate on what should be his or her job – administration. Once things are fixed in that department, they are more likely to have a chance to take risks and try new things.</li> <li>• Being appointed makes it easier to look around and see what needs to be done, and how it can be done better.</li> <li>• People coming from outside – hired because of their qualifications – have a lot of experience that could be helpful here in designing new programs and approaches. Sometimes they will have more experience in knowing what works and what doesn’t – simply because they’ve seen it somewhere else.</li> <li>• Elected officials are free to ride their own hobbyhorses and not spend time developing anything that’s new and innovative. Appointed administrators can’t do that.</li> </ul>

## **Section IV: Observable Differences in Counties With an Appointed and an Elected Superintendent of Schools**

It is difficult, given the relatively small scope of this study, to provide unambiguous evidence of tangible differences in operation between county offices of education that have an elected versus an appointed superintendent. Experienced observers offered the descriptions, opinions, and impressions regarding those differences that were discussed in Section III. Few commentators were neutral, and most proceeded from a vantage point suggested by their institutional affiliation.

Upon examination several differences do emerge between county offices that have elected and those that have appointed superintendents. In general, these may be divided into two categories: those that relate to (1) differences in the “mix” of discretionary programs implemented by county office, and (2) the frequency with which various types of issues are brought to the county board as action, as opposed to information, items. Discussion of these differences follows.

It should be added that, for purposes of comparison, two additional areas were examined: fiscal administration and – as a sort of case study – a county’s response to the recent Williams case settlement. In neither case did significant differences emerge. Regarding possible differences in fiscal administration or local district oversight, discussions with county and district financial staffs, including associate superintendents, business officers, chief financial officers, and others, determined no apparent differences. Across all counties and districts surveyed, the response to AB 2756 is a general tightening of fiscal review and oversight. The method by which a superintendent is selected does not appear to affect these responsibilities or appear to impact the way in which they are discharged.

Likewise, implementation of the Williams decision, as mandated under SB505 and other legislation, appears to be relatively uniform, although less well developed in terms of procedure or practice. Requirements developed as part of the Williams case and follow-up legislation will take their full effect in 2005-6 and 2006-7, and accordingly cannot be adequately assessed during this early stage of implementation.

It may be that observable differences between county offices with an elected or an appointed superintendent will emerge from the increased regulatory role of the county office discussed earlier. These may become more profound, as county offices continue to supplant – or at least supplement – the State Department of Education in many crucial areas of monitoring and oversight – especially in areas of fiscal management, performance accountability, and program adequacy. At this point in the process, however, tangible differences are not apparent in how these changes are being addressed by county offices with appointed or with elected superintendents.

**Selecting Comparison Counties: A Lack of True Comparability**

A major problem in comparing county offices having an elected superintendent with those have a superintendent who is appointed is a lack of clear criteria for choosing comparative counties. Sonoma – as a mid-sized, Class III county<sup>58</sup> – is comparable *in ADA* to counties such Santa Barbara or San Joaquin. Sonoma is *not directly comparable* to any of the counties that appoint rather than elect their superintendent. Excepting San Francisco, counties that appoint their superintendent are significantly larger than Sonoma. For purposes here, among appointing counties, Los Angeles and San Francisco are not discussed, as they are so different from Sonoma either in terms of size (LA) and governance structure (SF is a city-county).

**Table IV.1  
Comparison of Sonoma With Counties Appointing Superintendent**

Superintendent Se- lection Method		Students Served In All Schools In County	Percent of Cali- fornia ADA
Appointed	Los Angeles	1,642,644	27.7%
	San Diego	457,520	7.7%
	Sacramento	224,344	3.8%
	Santa Clara	241,393	4.1%
	San Francisco	55,238	.9%
Elected	Sonoma	68,942	1.2%

Counties of similar size – again for example, San Joaquin, Santa Barbara, and San Mateo – differ sharply in terms of urban density, population characteristics, and/or regional culture. On the basis of size, urban density, and population, Ventura and Monterey Counties are probably the Class III counties that share the most common characteristics, and even these differ significantly. Ventura, for example, has roughly twice the number of students enrolled in Sonoma County’s schools.

In terms of student and community characteristics, Sonoma County is roughly comparable to neighboring Napa, Marin and Mendocino counties. These counties are significantly smaller than Sonoma.

The five counties used in the comparisons that follow – Marin, Napa, Mendocino, Ventura and Monterey – are thus provide a somewhat inexact “fit” with Sonoma. They are a great deal more like Sonoma County than most. As noted, virtually no counties really approximate the size, structure and characteristics of the five that have

<sup>58</sup> For purposes of reporting, funding application and program eligibility, the State Department of Education divides counties into eight classifications based on ADA. These range from Class I (Los Angeles County) to Class VIII (Alpine and Sierra Counties) Discussion of county classification based upon California County Superintendents Educational Services Association (CCSESA) Classification of Counties 2005.

appointed superintendents. The findings that emerge in the following sections, therefore, should be approached with these differences and limitations in mind.

**Table IV.2**  
**Neighboring or Similar Comparison Counties**

All Superintendents in these Counties are Elected	Students Served In All Schools In County	Percent of California ADA
Criteria for selection:		
Neighboring county	Marin Napa Mendocino	27,446 18,653 13,674
Somewhat similar population characteristics	Ventura Monterey	137,653 68,986
		0.5% 0.3% 0.2% 2.3% 1.2%

**Differences in Discretionary Program Mix**

In assessing possible differences between county offices with elected versus appointed superintendents, one area of comparison is the number and type of discretionary programs that have been chosen for implementation. At best this is a difficult comparison. For historical reasons of eligibility, widely differing student and community characteristics, and extensive disparities in size and governance structures, all comparisons between counties must be considered more suggestive than definitive.

For the most part, educational programs provided by county offices under California’s Educational Code fall into two broad categories; those that are functionally required and others that are more completely discretionary. Examples in the former category would be county implementation of court schools, SELPAs, or Regional Occupational Programs.<sup>59</sup> In the more completely discretionary category are supplemental activities such as establishing a county Community Day School or applying for a Foster Youth Services grant.

Many factors – most notably specific educational need, county demographics, historical revenue limits, and the service mix provided by local school districts – are involved in a county office’s choice of whether to seek discretionary funding and authority, and which program(s) to choose. Across all programs, whether or not discretionary, Sonoma County’s office of education operates at least 11 instructional and support programs<sup>60</sup>

<sup>59</sup> While most counties have implemented these programs, a few small counties such as Alpine, Mono, or Tuolumne rely upon other arrangements – such as consortiums – to provide mandated and/or required services.

<sup>60</sup> Kern County Superintendent of Schools, “Schools and Programs Operated by the County Offices of Education,” *Instructional Program Survey*, 2004. See also <http://www.static.kern.org/gems/ccsesaAt-Work/InstructionalProgramsSurv.pdf>

With these caveats in mind, a comparison of the discretionary programs implemented by counties that appoint and those that elect their superintendent shows some interesting differences and similarities. Discretionary programs discussed include the following, and are described briefly below: Community Day Schools, Opportunity Schools, Cal-Safe, Migrant Education, and Foster Youth Services.

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### ***Community Day Schools***

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Community day schools may be operated by either school districts or county offices of education. Community day schools serve mandatorily and other expelled students, students referred by a School Attendance Review Board, and other high-risk youths.

As mandated by *Education Code* Section 48663(a), CDS programs have a 360-minute minimum instructional day, emphasize a low student-teacher ratio conducting classroom based academic programs and focus on the development of pro-social skills and student self-esteem and resiliency. Learning support services to be provided include school counselors and psychologists, academic and vocational counselors, and pupil discipline personnel. Program costs are supported by supplemental apportionment of \$3,607.00 per unit of a.d.a. for a county operated program. *Education Code Section 48667(b)* sets county limits on total supplemental funding levels.

A total of 20 Community Day schools in California are operated by County Offices of Education.<sup>61</sup>

Sonoma County does not operate a Community Day School program.

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### ***Opportunity Schools***

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Opportunity Schools provide an alternative learning environment for students in grades seven through nine who experience difficulties in school; attend school irregularly; are habitually truant, insubordinate, or disorderly. Opportunity programs often incur costs for specialized instruction and counseling services that exceed the reimbursement provided in the regular apportionment to the district.

*Education Code* Section 48644(a) and the annual Budget Act provide a supplemental amount that is based on the additional enrollment in these programs and classes above the 1982-1983 enrollment levels. The reimbursement limit for 2003-04 was \$518 per a.d.a.

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<sup>61</sup> Most Community Day Schools (CDS) are operated by districts. Seven CDS programs are operated by districts within Sonoma County.

In 2004-05 California County Offices of Education operated fifteen Opportunity Schools. Sonoma County does not operate an Opportunity School program.

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### ***Cal-Safe Program***

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California School Age Families Education (Cal-SAFE) is a comprehensive, integrated, community-linked, school-based program for expectant and parenting students and their children. Recipient funding is divided into two general categories, student support and childcare and development services. 2003-04 student support services funding was approximately \$2,427 per average daily attendance; Child Care and Development Services employed a standard reimbursement rate adjusted for age of child and length of day.

Sonoma County is one of the twenty County Offices operating a Cal-Safe Program.

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### ***Migrant Education Services***

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The Migrant Education Program (MEP) is a federally funded program, reauthorized under the No Child Left Behind Act (NCLB), and is designed to support high quality and comprehensive educational programs for migrant children to reduce educational disruption and other problems resulting from repeated moves.

Migrant education supports two kinds of programs designed to strengthen the school, community, and family experiences of children and their families. In addition to a statewide component, approximately one-third (18) of county offices operate a local Migrant Education Program. Sonoma County does not currently operate a Migrant Education Program.

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### ***Foster Youth Services***

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The Foster Youth Services programs provide funding for county offices of education and selected school districts to increase interagency support for foster youth. Foster Youth Services (FYS) programs provide educational and support services to foster youths, ages four to twenty-one, living in licensed children's institutions (LCIs) or group homes. Participating county offices have the ability and authority to ensure that health and school records are obtained to establish appropriate placements and coordinate instruction, counseling, tutoring, mentoring, vocational training, emancipation services, training for independent living, and other related services.

Currently 50 county offices of education receive FYS countywide program grant funds. Sonoma County does not participate in this program.

**Summary of Across Counties**

When compared to counties that appoint their superintendent, Sonoma Office of Education has implemented fewer discretionary programs than two, but more than the third. San Diego County, for example, has implemented all five of the programs considered, while Santa Clara has implemented four. Sacramento County, on the other hand, has chosen not to implement any of these discretionary programs and either relies upon local districts or provides services through other means.

**Table IV.3  
Discretionary Program Implementation in Counties\*  
That Appoint and Elect the County Superintendent**

	Community Day Schools	Opportunity Schools	Cal-Safe Program	Migrant Education Services	Foster Youth Services
<b>Sacramento</b>					
<b>San Diego</b>	Yes	Yes	Yes	Yes	Yes
<b>Santa Clara</b>	Yes	Yes	Yes	Yes	
<b>Sonoma</b>			Yes		
<b>Marin</b>					
<b>Mendocino</b>			Yes	Yes	Yes
<b>Napa</b>	Yes				Yes
<b>Ventura</b>			Yes		Yes
<b>Monterey</b>	Yes			Yes	

\* See discussion of selection criteria for comparison counties

Comparing Sonoma to either neighboring counties or to other Class III counties likewise yields a mixed picture. Of the programs described above, Sonoma County has implemented only one: the Cal-Safe program. By way of contrast, Marin County has not implemented any. On the other hand, Monterey and Napa have implemented two, while Mendocino and Ventura each have three. All counties that elect their superintendent have implemented fewer programs than either San Diego or Santa Clara – two of the three appointing counties considered.

Viewed in aggregate, therefore, a conclusion emerges that counties that appoint their superintendent appear to be statistically more likely to implement discretionary programs. Taken together, the three counties

**Table IV.4  
Discretionary Program  
Implementation – A Summary**

Superintendent Selection Method	Percent of Discretionary Programs Implemented
Appointed	60%
Elected	33%

with appointed superintendents have implemented a total of 60 percent of discretionary programs studied. In contrast, the six comparison counties, including Sonoma, have implemented only one-third (33%) of these programs.<sup>62</sup>

As noted at the outset in this section, many considerations impact a county office’s decision to seek discretionary funding and implement resultant programs. While the method used to select a county superintendent appears to be at least a minor factor, there does not appear to be an unequivocal relationship. The impact of other considerations, such as demonstrated community need, demographics, history, and the relationship with local districts, are also extremely important.

**Differences In Agenda Form and Content**

Another major difference that emerges from the comparison is the frequency with which various types of issues are brought to the county board as action, as opposed to information, items. The pattern that emerges from this comparison shows that counties with appointed superintendents are more than twice as likely to bring fiscal issues as action items to the board. Superintendents in these counties also appear less likely to bring personnel issues and policy discussions – such as responses to the Williams settlement – as items for formal board approval.

**Table IV.5  
Percent of Agenda Topics Classified As “Action” Items**

<b>Superintendent Selection Method</b>	<b>Fiscal Issues</b>	<b>Grant Applications</b>	<b>Williams Settlement</b>	<b>Personnel Issues</b>
Appointed	79%	74%	17%	19%
Elected	36%	60%	30%	32%

Local practices differ wildly across the comparison counties in terms of how an agenda, and the items on it, are presented. Comparisons therefore require considerable explanation and discussion of context. For purposes of the study, formal agendas for 145 meetings across the eight study counties were analyzed,<sup>63</sup> largely in terms of whether items were brought to the board as “action” or “information” items. In cases

<sup>62</sup> It should be noted that the inclusion of Los Angeles and San Francisco in these figures does not greatly affect the overall outcome. Taken together, the five counties with appointed superintendents implement 56 percent of the discretionary programs studied. This number contrasts with the 60 percent reported by the three counties excluding LA and San Francisco.

<sup>63</sup> In general the analysis focused upon regular and special meeting agendas from 2004. A sampling of 2005 agendas was also included, largely to examine possible consideration of Williams settlement issues. Access to all county agendas and board minutes, excepting San Diego, was via Internet. San Diego includes only the most recent board agendas and minutes on its website, and provided paper copies of all requested materials.

where classification was unclear from the agenda,<sup>64</sup> minutes were reviewed to establish whether such items were brought for a vote or information.

As suggested, boards vary extensively in terms of how an issue is presented. For example, presenting an information item dealing with personnel may be placed on a board's agenda as part of a consent calendar, as the superintendent's report, as a general information report, or as an open session information item. Likewise, depending upon the superintendent and county, non-action fiscal issues may appear in any or all of these places on an agenda.

What is called an "action item" also varies greatly between counties. Superintendents in some counties appear to routinely ask board members to approve reports on personnel or fiscal items. In other counties, these same types of reports are simply presented to the board as information.

### ***Fiscal Issues***

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At a minimum, county boards of education are required to take formal action at least twice yearly on fiscal matters. By July 1<sup>st</sup> boards are required to approve the annual budget of the county office of education, and to file that budget with the Superintendent of Public Instruction.<sup>65</sup> In addition, on or before September 8<sup>th</sup> boards are required to submit to the Superintendent of Public Instruction budget changes made necessary by revised projections of income in approving the annual budget of the county office of education.

In addition, boards are required to establish the salary of the superintendent and to formally vote to assure that the county budget does not exceed the limitation imposed by the Gann Amendment. These actions provide a sort of "minimum floor" for board involvement in fiscal issues. Most superintendents – regardless of their method of selection – bring more than this bare minimum of issues to the board for approval.

Approval has a variety of connotations and varies greatly from county to county. For example, in addition to responsibilities defined in statute some boards were asked to vote to approve investment reports, ratify expense claims by the Superintendent, accept audit reports, to authorize of signature contracts, or to receive reports on employee benefits. In others these matters were handled as information items, as part of a superintendent's report, or simply did not appear separately on a formal agenda. Often agenda items where approval was asked included the phrase "we recommend acceptance of this report," making clear the advisory nature of the action, but asking none-the-less for formal board approval.

One further factor complicated this analysis. Some superintendents appear to separate

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<sup>64</sup> A common practice in several counties is to include a category labeled "action/information" on the board's agenda. In some cases these included the notation that a "vote" or "decision" was required; in others they did not. Most, but not all counties, make board minutes available on the Internet.

<sup>65</sup> (*Education Code* § 1040, 1622,(a).)

fiscal issues into many agenda items, each of which is put to a vote of the board. This practice tends to inflate the count of fiscal agenda items for these counties. Other county superintendents, either elected or appointed, tend to bring matters before the board as omnibus reports or action items. In addition to whatever value the practice of splitting an issue into many components may have as a clarifying device, it probably also functions to allow greater specificity of information and a heightened sense of control among board members.

However presented, county offices with an appointed superintendent are more than twice as likely as others to have fiscal matters be presented to the board as “action items.” In all, 79 percent of fiscal agenda items presented by appointed superintendents took an agenda form where board approval was requested. Elected superintendents presented only 36 percent of items in this format. Whether, as one superintendent commented, this is “real decision-making” or merely the “structuring of acceptance of reports into an advisory form,” boards from counties with appointed superintendents appear significantly more likely to be asked to take action on fiscal considerations and issues.

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### ***Grant Applications***

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Boards in some counties are routinely asked to formally approve funding or grant applications to other governmental agencies or to private sources. In other counties, application for these funds is handled as an information item.

Funding, grant and program applications provide an important view of overall county office activity and direction. While many such applications, such as Title I carry over requests of annual Consolidated Applications to the State Department of Education, are routine, others are not. For example, a request for approval to seek Perkins Grant funding or to apply for a competitive grant program, may provide a measure of a county office’s program priorities and level of efforts to maintain or expand services. As noted earlier, county offices with appointed superintendents are more likely to have implemented discretionary educational service programs such as migrant-education; family youth service grants, or community day schools. These, and similar programs, all require county offices to submit applications for funding.

Appointed superintendents appear more likely than elected to seek formal board approval prior to submission of grant applications. While differences are not as significant as in the handling of fiscal items discussed above, appointed superintendents submitted grant requests for board approval almost three-quarters (74%) of the time. Among elected superintendents, 60 percent of grant requests and applications were submitted as an action item for board approval.

## *Williams Case Settlement Policy*

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Boards generally were less involved in formal approval of William's case related policy, than in holding hearings, study groups, and public information sessions. The legislation resulting from that case is of relatively recent origin, and during the 2004-05-study period, boards appeared highly interested in understanding their increased oversight and regulatory responsibilities.

Under terms of the legislation, county offices were required to establish and use a uniform complaint process (UCP) to help identify and resolve any deficiencies related to instructional materials, teacher vacancy or missassignment, and to alert the district to emergency or urgent facilities conditions that pose a threat to the health and safety of the pupils or staff.<sup>66</sup> Issues that may involve filing such a complaint through a county office focus primarily upon various state and federal programs that use categorical funds such as Adult Education, Career Technical Education, Child Development, Consolidated Categorical Programs, Indian Education, Migrant Education, Nutrition Education, and Special Education, many of which are operated by county offices.

County Boards were required to vote on acceptance of their version of mandated Williams Uniform Complaint Procedures. In addition, some boards were also asked to approve reports regarding Williams Case implications, vote to hold hearings about local needs, or to assess local impacts. In other counties these topics were handled as information items, part of a superintendent's report, or on the consent calendar.

In a reversal of patterns relating to fiscal and grant approval matters, elected superintendents were more likely than their appointed counterparts to bring Williams policy issues to the board for approval. In counties with an elected superintendent, approximately one-third (30%) of Williams Case related items were brought to the board for formal approval. In counties with an appointed superintendent, only 17 percent of Williams Case related matters became "action items." As one superintendent suggested, "if you're elected, you're more likely to see an issue like this in political terms – appointed superintendents will focus much more upon the administrative implications."

While not a decisive explanation, the comment is at least suggestive. If, as discussed earlier, the broader implication of the Williams Case is to expand one aspect of the regulatory powers and activities of the county office and superintendent, seeking board approval of such policies might provide important "political cover" when the inevitable conflicts emerge between county offices and local school districts.

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<sup>66</sup> California Code of Regulations, Title 5, sections 4600-4671

**Personnel Issues**

As noted earlier, county boards have little power in terms of hiring of staff, setting salaries of either certificated or classified employees, or evaluating, disciplining, laying off, and dismissing employees. Beyond setting the salary of

the superintendent, boards have two basic personnel functions: (1) the issuance of temporary certificates allowing employment of personnel whose credentials or permits are being processed, and (2) the approval of sabbatical leaves for certificated county office employees. Boards are severely limited in terms of other personnel functions, and are prohibited from meeting in closed session to discuss either appointment or performance evaluation of certificate or classified employees, or to consider the salaries and compensation paid in the form of fringe benefits.

Despite these limits, boards consider a number of personnel items, mostly as routine approvals of reports from superintendents regarding the award of temporary teacher certificates, letting of personal services contracts, employee attitude or characteristics studies, county evaluation and supervision policies, and policies on teacher evaluation.

Other items are brought as “action items,” including acceptance of reports on collective bargaining, ratification of superintendents’ decisions to serve certificated employees with notices of possible termination or reduction, or approval of the various position classification statements and salary structures. Many of these latter items are described as “being submitted for governing board and superintendent approval.” Public hearings on collective bargaining agreements are typically not included in the action item category, but on occasion these are described in board agendas as matters requiring “public disclosure and approval” by the board.

As noted earlier, the definition of what constitutes a board “action item” – especially in the personnel area – differs starkly between counties. Some elected superintendents appear to bring all personnel issues before the board, and have them “approve” decisions made by the superintendent; others bring virtually nothing before their boards that is not specifically mandated by statute. Number of items brought forth for approval could be seen as measure of the nature of the relationship between the superintendent and their board, yet it does not seem to be the case. Both counties at the extreme ends of this continuum were marked by “cordial” and “constructive” relationships between their elected superintendent and board. Others, more alike in these matters, showed greater difficulties in board-superintendent relationship.

<b>Superintendent Selection Method</b>	<b>All Personnel Items</b>	<b>Collective Bargaining</b>
Appointed	19%	30%
Elected	32%	22%

Despite these limitations, this analysis suggests that elected superintendents are more likely to bring personnel issues to the board, at least as information items. Overall, elected superintendents brought almost one-third (32 percent) of general personnel items to the board for approval. Appointed superintendents brought less than one-fifth (19 percent) forward for similar action.

If only matters relating to collective bargaining are examined, the pattern reverses itself. In counties where the superintendent is appointed, roughly 30 percent of collective bargaining reports or materials are brought to the board as “action items.” This compares with 22 percent in counties with an elected superintendent. .

## Section V: Recruitment of Superintendents

A principal argument advanced by those in favor of changing the method of selecting California's county superintendents points to recruitment. In this view, a method of selection that relies upon self-recruited candidates and the electoral process is unlikely to consistently produce an optimal fit between county needs, board goals and superintendent characteristics and qualifications. Opponents of change point to relatively high turnover rates for appointed superintendents, expense of recruitment, and an increasingly critical shortage of qualified candidates.

This section examines these countervailing views and perceptions. While many of these perspectives vary, the underlying premise common to all is that – as Stufflebeam and others suggest “the modern school superintendency has become one of the most complex and challenging leadership roles in American society.”<sup>67</sup> As such, these positions have become among the most difficult for which to recruit and hold qualified candidates.

### Availability of Qualified Candidates

Almost universally, researchers and practitioners have commented upon both the rapid decrease in qualified candidates and the corresponding difficulties in recruitment. As Jay Mathews, writing in a 2002 edition of *School Administrator* observed, “school boards, faced with a vacancy, announce that they are launching a national search. They tell parents, business leaders and the local newspaper that they expect to receive applications from many strong candidates. But the reality today is often much less encouraging.”<sup>68</sup>

William Attea, managing partner of Hazard, Young, Attea & Associates of Glenview, Ill., one of the nation's largest superintendent recruitment firms said in 2003 that “We jokingly used to tell boards that it's dwindled from a pool to a puddle, and now we say we're looking under the rocks for moisture.”<sup>69</sup>

Harry Weinberg, who served as the appointed superintendent for San Diego County and is now a principal in the California search firm Leadership Associates, says that in districts of fewer than 5,000 students, his firm can usually expect about 30 applicants, with many coming from the ranks of assistant superintendents and principals. In districts of more than 15,000, where school boards often require previous experience in the top position, it may find only 15 to 20 solid candidates.<sup>70</sup> An associate of Weinberg's, also a former superintendent at several large California districts, puts the number even lower. “We're lucky to get four or five candidates that are really quali-

<sup>67</sup> Stufflebeam, D. L., *Evaluation Of Superintendent Performance: Toward A General Model*. Kalamazoo, MI: Center for Research in Educational Accountability and Teacher Evaluation. April 1994

<sup>68</sup> Jay Mathews, Succession, “Insiders Vs. Outsiders,” *School Administrator*, May 2002

<sup>69</sup> Paul Riede, “The Hard Business of Searching,” *School Administrator*, June 2003

<sup>70</sup> Riede, Op.Cit.

fied. For a county position, that number would be lower still.” And, in fact, last year Leadership Associates was able to present the Sacramento County Board with only “a very few” final candidates.

While California has a set of special problems – including high real estate prices and intense competition from LEA’s – the lack of qualified candidates for employment as a superintendent clearly has nationwide scope. Since 2000, foundations and professional associations have been unanimous in their conclusion that “as the complexity of the [superintendent] job has increased, so has fear of a dwindling pool of qualified leaders.<sup>71</sup> While “increasingly districts have sought principals and superintendents from outside their ... region to meet their administrative needs” the fact is that few qualified candidates exist elsewhere. There is, as one observer noted, a failure of the marketplace to produce sufficient qualified candidates – within the terminology, a lack of “market coordination.”<sup>72</sup>

In a 2000 study by the American Association of Schools Administrators, for example, Bruce Cooper and colleagues found that almost 90 percent of the roughly 900 superintendents they surveyed reported “the applicant shortage represents a crisis in the superintendency.”<sup>73</sup> Other agencies, such as the Washington based, non-partisan, Institute for Educational Leadership, sees severe shortages of qualified candidates for superintendencies and the likely prospect of growing shortages in the years ahead.<sup>74</sup>

Factors that have contributed to this problem include an aging candidate pool; the increasing “undo-able” nature of the job; and a general decline in the quality of university programs intended to prepare potential superintendents.

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### ***An Aging Pool of Candidates***

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Were counties such as Sonoma to hire instead of elect superintendents, the most likely source would be districts elsewhere within the state. However selected, qualifications for county superintendent are set in statute, and for a Class III county include possession of a valid, California Administrative Credential.<sup>75</sup> According to several recruiters, this limits the pool of potential candidates “considerably.”

Even more critical is the “stagnant” number of California superintendents with sufficient experience to adequately perform the duties associated with the superin-

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<sup>71</sup> Lashway, Larry “The Superintendent in an Age of Accountability,” ERIC Clearinghouse on Educational Management, 2002. (ED468515).

<sup>72</sup> Robert P. Strauss, *The Preparation and Selection of Public School Administrators in Pennsylvania*, Paper presented at the 28th Annual Conference American Educational Finance Association Meeting, March 2003

<sup>73</sup> Cooper, Bruce; Lance Fusarelli; and Vincent Carella, “Career Crisis in the Superintendency?” Arlington, Virginia: American Association of School Administrators, 2000. (ED 443 167).

<sup>74</sup> Institute for Educational Leadership, *Leadership for Student Learning Restructuring School District Leadership School Leadership for the 21st Century Initiative*, Washington D.C., February 2001

<sup>75</sup> *Education Code* § Section 1206. Section 1208 further notes, “For purposes of this section, the possession of a valid elementary administrative credential and a valid secondary administrative credential are equivalent to the possession of a valid general administrative credential.”

tendency. Despite the growth in administrative preparation programs discussed below, the number of younger superintendents – in California and elsewhere – “has diminished sharply” over the past few years.

National data from a 2000 American Association of School Administrators study indicates that more than 80 percent of superintendents with experience in districts serving 25,000 pupils or more are 50 years or older. This figure is up from 57 percent in 1992. Superintendents in districts serving between three and 25,000 students were slightly younger; only 70 percent were 50 years or older.

**Table V.1**  
**American Association of School Administrators**  
**2000 Study of the American Superintendency**  
**Ages of Superintendents 1992 and 2000 Comparisons**<sup>76</sup>

Age	Group A 25,000 or More Pupils		Group B 3000-24,999 Pupils		Group C 300-2999 Pupils		Group D Fewer Than 300 Pupils	
	1992	2000	1992	2000	1992	2000	1992	2000
<b>Under 40</b>	2	0	3	1	8	3	17	6
<b>40-44</b>	11	4	15	5	22	7	25	11
<b>45-49</b>	29	16	29	24	28	26	18	30
<b>50-54</b>	27	31	27	41	22	38	22	25
<b>55-59</b>	19	34	19	21	16	19	14	19
<b>60+</b>	<u>11</u>	<u>16</u>	<u>7</u>	<u>8</u>	<u>5</u>	<u>7</u>	<u>5</u>	<u>9</u>
	<b>99*</b>	<b>101*</b>	<b>100</b>	<b>100</b>	<b>101*</b>	<b>100</b>	<b>101*</b>	<b>100</b>

\*Rounding error in original table

The problem is compounded by the fact the turnover rate of district administrators was much higher than that of teachers.<sup>77</sup> The Institute of Educational Leadership, for example, has portrayed the urban superintendency as a merry-go-round with an average tenure of less than three years.<sup>78</sup>

In addition, at least 39 percent of superintendents responding to the AASA survey indicated they intended to retire within the next five years and an additional 58 percent plan to retire within the next ten years.<sup>79</sup> Those analyzing the AASA concluded

<sup>76</sup> Bruce Cooper, Lance Fusarelli and Vincent Carella, *Career Crisis in the Superintendency? The Results of a National Survey*, Scarecrow Education, 2000.

<sup>77</sup> Robert P. Strauss, *The Preparation and Selection of Public School Administrators in Pennsylvania*, Paper presented at the 28th Annual Conference American Educational Finance Association Meeting, March 2003

<sup>78</sup> Task Force on School District Leadership. *Restructuring School District Leadership*. Washington, D.C.: Institute for Educational Leadership, 2001.(ED 458 684).

<sup>79</sup> Douglas Sullivan, *School Superintendent Evaluation*, Unpublished PhD dissertation, Montana State University, April 2005

that during the coming decade, an estimated half of the nation's superintendents would need to be replaced.<sup>80</sup>

Other studies indicate that the national turnover rate for superintendents in 2001 school year was about 14 percent. These data indicate that almost 2,100 of the nearly 14,000 superintendents were new to their districts in 2001, and that during the next five years over 10,000 superintendents will retire or move to other districts.<sup>81</sup>

### ***Preparation of Superintendents***

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Contributing to difficulties in recruitment is a “developing national crisis” stemming from a lack of adequate programs to prepare superintendents. There is little empirical doubt regarding the strong linkage between superintendent leadership and educational quality,<sup>82</sup> but districts are – in the words of the Wallace Foundation “finding it increasingly difficult to hire and retain qualified superintendents and principals capable of lifting the academic performance of all children.”<sup>83</sup> In the view of most, not only are there fewer potential superintendents, but also the quality of many has declined sharply.

For example, in 2001 the Educational Commission of the States reported that approximately 90 percent of American Association of School Administrators (AASA) executive directors and 84 percent of National School Board Association (NSBA) directors believe the quality of superintendent applicants is decreasing. Approximately one-third of each group responding to the study indicated that programs preparing superintendents either “need improvement” or “need a great deal of improvement.” Less than 25 percent of the respondents rated such preparation programs as “good.”<sup>84</sup>

This is not a new problem. In the view of most observers, however, it has become sharply more acute during the past two-decades, and profoundly threatens the quality of education. A recent (April 2005) article in *Education Week* is worth quoting at length. The article's author notes that:

...in the landmark 1987 report "Leaders for America's Schools," the National Commission on Excellence in Educational Administration — a blue-ribbon panel composed of elected officials, state school officers, and academics, made headlines with a scathing indictment of the university-based programs that prepare the vast majority of the country's quarter-million principals, superintendents, and other school administrators. Everywhere they looked,

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<sup>80</sup>Cooper, Op.Cit.

<sup>81</sup> Thomas E. Glass, “State Education Leaders View the Superintendent Applicant Crisis”, Report of the Education Commission of the State, September 2001.

<sup>82</sup> For a recent example, see Susan Sullivan and Vivian Shulman, “Managing change: The superintendent as line director of instruction” *International Journal of Leadership in Education*, Volume 8, Number 2 / April-June 2005.

<sup>83</sup> Wallace Foundation, New York, Leadership for Educational Achievement in Districts (LEAD)

<sup>84</sup> Thomas, Op.Cit.

commission members found evidence that this once-proud discipline had fallen into disrepair. Hundreds of universities were teaching substandard courses to virtually anybody willing to pay tuition. Things were so bad, argued the commission, that out of 500 or so graduate programs across the country, roughly 300 should be shut down altogether, as they lacked even the capacity to improve.

Nearly two decades later, where do we stand? Instead of 500 leadership programs, we now have more than 600. Substandard courses continue to flourish, mediocre faculties abound, standards remain negligible, and many education schools are willing to accept anybody with a valid credit card.

The only real difference between then and now is that the critics have become a lot less patient.<sup>85</sup>

The problems cited are legion. James Guthrie, a co-founder of the joint Berkeley-Stanford center Policy Analysis California Education (PACE), wrote recently that “in former times big-league education leaders tended to be graduates of institutions like Harvard, Yale, Duke or the University of Chicago. This is no longer true. Today’s conventionally prepared superintendent is more likely to have come from East Appalachia State, San Francisco State or literally hundreds of other public institutions that began as normal schools and politically bootstrapped themselves to graduate degree status.”<sup>86</sup>

Many of these sub-par training programs have virtually no entrance requirements, save an applicant’s ability to pay tuition. A “vast majority” – including many housed at prestigious research universities –

...lack meaningful admissions standards. Indeed, they have the lowest admissions standards of any graduate programs in education and, thus, one of the highest acceptance rates in all of academe. Applicants for teaching degrees -- hardly the most competitive application pool in higher education -- handily outscore them on all three sections of the Graduate Record Examination. On the verbal portion of the exam, administrative candidates score 46 points below the national average, and on the quantitative section, they lag behind by 81 points.<sup>87</sup>

Perhaps most shocking, in 2004-05, Thomas Levine – former President of Columbia’s Teacher’s College – and his associates scoured the country looking for rigorous, high-quality graduate programs in school leadership. As their report concludes, they

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<sup>85</sup> Sanders, Ted, *Education Week*, 02774232, 4/6/2005, Vol. 24, Issue 30

<sup>86</sup> Guthrie, J. W., Sanders, T, “Who will lead the public schools?,” *The New York Times*, January 7, 2001, Section 4A, Page 46.

<sup>87</sup> Michelle D. Young and George J. Petersen, “Enabling Substantive Reform in the Preparation of School Leaders,” *Education Leadership Review*, Sam Houston Press 2002, Vol. 3, No. 1.

were unable to locate even a single exemplar within the US, and had to travel to England to find a program worth emulating.<sup>88</sup>

The current trend — exemplified by the 2003 manifesto "Better Leaders for America's Schools," published jointly by the Broad and Thomas B. Fordham Foundations — is to give up on education school programs entirely and hire “outsiders” — such as former governors or military leaders — for the job of superintendent. This is an option *not* open for counties such as Sonoma, given the requirement in statute that county superintendents possess a valid California Administrative Credential.

### ***Problems With Job Definition and Development***

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Beyond problems in preparation, the job of superintendent is seen as “distinctly less attractive” than it did in earlier decades. Partially, in the view of many, this is because the roles and responsibilities of superintendents are increasingly seen as “blurred or unclear, resulting in confusion between governance and management.”<sup>89</sup> Partly it is true because salaries and benefits generally have not kept pace with the growth in responsibility and workload.

Both nationally and statewide, recruiters have noted, “the much-publicized pressures of the job—from dysfunctional school boards to impossible budget crunches to a myriad of new government mandates—have scared off many potential candidates. Add to that the fact that in many cases, superintendents earn only slightly more than their deputies. “A lot of central-office people are making darn near what the superintendent is making... Why get out in front of the parade?”<sup>90</sup>

Over the past 20 years, teacher salaries generally rose faster than inflation, and the range of lowest to highest teacher compensation was maintained. On the other hand, administrative salaries — especially those of superintendents — over the same period showed decreased premiums compared to teaching. While premiums for administration declined, the likely range of responsibility increased over the period.<sup>91</sup>

And while true at a district level, the potential impact of confusion and low incentives are even greater for an appointed county superintendent, who “has the same statutory powers and responsibilities as a superintendent who is elected in an adjacent county.”

Superintendents at all levels of education discover, in the words of Paul Hill, visiting fellow at the Hoover Institution and a member of the Koret Task Force on K–12 Education, that:

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<sup>88</sup> Arthur E. Levine *Educating School Leaders* Columbia University Teachers College, 2005.

<sup>89</sup> Institute for Educational Leadership, *Leadership for Student Learning Restructuring School District Leadership School Leadership for the 21st Century Initiative*, Washington D.C., February 2001

<sup>90</sup> Paul Riede, Op.Cit

<sup>91</sup> Strauss, Op.Cit. The metric for showing increased responsibility is unclear, but at a minimum the author notes that school employment has generally increased significantly, but the number of administrators has remained almost constant.

bureaucracies do not work for them. Their nominal subordinates have firm political and economic bases—control of categorical funds, alliances with elected officials, support in local community or ethnic organizations, close ties with the teachers' union, etc. The business of such bureaucracies is not to promote school quality, but to isolate problems and diffuse responsibility.<sup>92</sup>

While in analysis of some, the elected superintendent – being an elected political leader – has a potential for greater independence, all superintendents are required to face the essential “political nature” of the job. “For many – in the words of one California educational headhunter – the situation is “just too much...qualified people would rather just keep their head down and do their job somewhere away from the top.”

The issue of the degree of political connection between the community and county schools is hardly new, and generates strong partisans on all sides of the question. Balancing the school-community relationship is difficult, especially in arenas where accountability and change are important. Most commentators suggest “the link between the school and the public needs to be strong in order to ensure that the common good aims of public schooling remain a vital part of the public school agenda.”<sup>93</sup> What is at variance is the normative view of how much “politics” – and by extension the public – should be involved in school management and reform.

More than one school of writers examining educational reform have concluded that “too much involvement of community – and the community’s varying political interests - in school decision making can make the business of school [change and reform] difficult to manage.”<sup>94</sup> On the other hand, others have found that “too little relationship with community can lead to a lack of needed support and resources for school initiatives or to political turmoil and the ousting of school boards and superintendents over school issues in which community members feel they have little voice.”<sup>95</sup>

Still others have wondered “if the effort to de-politicize schools may gone too far, creating a situation in which there is a deep disconnect between school and community... America spent most of the century trying to take politics out of education. That was a mistake”<sup>96</sup> This latter group suggest that strong political connections are re-

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<sup>92</sup> Paul Hill, *School Boards Focus on School Performance*, Progressive Policy, Institute 21st Century Schools Project January 2003

<sup>93</sup> Tyack, D. *Seeking Common Ground: Public Schools in a Diverse Society*. Cambridge, Harvard University Press. 2003.

<sup>94</sup> Hess, F. *Spinning Wheels: The Politics of Urban School Reform*. Brookings Institution Press, 1999.

<sup>95</sup> Lutz, F. W., & Merz, C. *The Politics of School/Community Relations*. Teachers College Press, New York: Sage Publications 1992.

<sup>96</sup> Stone, C.N.; Henig, J. R.; Jones, B.D; Pierannunzi, C. *Building Civic Capacity: The Politics of Reforming Urban Schools*, Kansas: The University Press of Kansas, 2001.

quired to “preserve the democratic nature of public school governance, in part to protect against sudden political upheavals that derail school leaders and their policies.”<sup>97</sup>

### Recruiting Superintendents in California

In the face of statutory requirements, a shrinking pool of potentially qualified applicants, and a growing unwillingness of candidates to be recruited into the top administrative posts, the task of recruiting has become progressively more difficult. In California, it has also fallen to an ever-smaller number of experienced firms, who command an increasing price tag for their services.

Finding an experienced firm is often difficult. A 1994 survey by *The School Administrator* magazine compiled a directory of 23 consulting firms that at that time were contracting with boards of education to fill leadership vacancies. In June 2003, the same magazine identified 29 private firms in the business of conducting superintendent searches on a regional or nationwide basis. The apparent growth is hardly real – given that within the past two years, 233 search firms or organizations have advertised for candidates through AASA’s electronic Job Bulletin.”<sup>98</sup>

As Paul Riede, the author of the study suggests, while a few firms have been around for two decades or more, most “come and go with regularity.”

One major executive search firm, Heidrick and Struggles, was doing just a handful of superintendent searches a decade ago. It now reports it is averaging about 50 a year, more than any other firm. Another large firm featured in the 1994 directory, Korn/Ferry International, has gone the other way, scaling back its work on superintendent searches to a mere trickle.<sup>99</sup>

In California, the California School Boards Association (CSBA) serves as the largest single recruiter of superintendents. To date, however, CSBA has not provided search assistance for a county superintendent.

Most recently, Leadership Associates, one of seven private firms now providing superintendent search services, handled the recruitment of David Gordon as superintendent of Sacramento County. As mentioned, Leadership Associates includes Harry Weinberg formerly the appointed superintendent for San Diego County. Other firms include RBL Enterprises, headed by former Associate State Superintendent Ruth Love, and Wilson Riles and Associates, headed by Phillip Riles – son of the former State Superintendent.<sup>100</sup> Other California firms include the Cosca Group and R.J. Gatti, both headed by former California superintendents. Korn / Ferry International –

<sup>97</sup> Lutz, F. W., & Merz, C. *The Politics of School/Community Relations*. Teachers College Press, New York: Sage Publications 1992.

<sup>98</sup> Paul Riede, “Power Brokers Revisited.” *School Administrator*, June 2005.

<sup>99</sup> Ibid.

<sup>100</sup> As of September 2005 Wilson Riles and Associates does not appear to be in operation. Phones have been disconnected, and there is no referral listing.

which appears to be exiting the superintendent search business – and Hazard, Young, Attea out of Chicago are the two major national-level firms.

Average costs for professional assistance in selection of a superintendent vary by size and location of the district. While most of the firms contacted had not conducted a search for a county superintendent of education, several were interested.

Most suggested that the nature of the position and statutory restrictions on the field of qualified candidates would make such a search “challenging” and push the cost to the higher end, or above, the ranges shown above.

Despite the relatively clarity of these figures, longer term costs for selecting an appointed superintendent are difficult to assess. While partially due to the uncertainty in obtaining services to recruit a county – as opposed to a local district – superintendent, realistic cost estimates also founder in uncertainties related to likely length of tenure and the cost of “buying out” salary and benefits for a superintendent who didn’t continue to meet board approval. Although technically not a cost of recruitment, these type expenses – which in large districts in recent years have been considerable – must be included when considering possible changes in selection method, especially since under the current arrangement the County Office does not pay for the costs associated with a superintendent’s election. (See following section)

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**Table V.2**  
**California Superintendent Recruitment Firms**

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<b>Organization</b>	<b>Estimated</b>
CSBA	\$ 5,500 - negotiable
Leadership Associates	\$ 20,000 - \$ 30,000
RBL Enterprises	\$ 30,000 - \$ 50,000
Korn / Ferry International	\$ 75,000 (average)
Wilson Riles & Associates	\$ 12,000 - \$ 25,000
Hazard, Young, Attea	Unknown
Cosca Group	\$ 25,000
RJ Gatti	\$18,000 - \$30,000

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## Section VI: Political Considerations and Electoral Feasibility

As noted at the outset, California voters have historically been willing to accept a lack of administrative clarity in exchange for a greater public say in choosing public officials. This is true at both the state and local levels and shows little evidence of changing.

### State Level Constitutional Parallels

At the state level, the question of whether the Superintendent of Public Instruction should be an elected or appointed office first surfaced in 1849 with the framing of California's Constitution. While delegates opted initially to make the position elected, the issue was raised again in the constitutional convention of 1878-79. Despite efforts by some to make the position appointive, there was a general reaffirmation of the view that the Superintendent of Public Education should be an elected office with administrative responsibilities.<sup>101</sup>

Of interest to us locally was the fact that the 1878-79 convention changed the composition of the State Board of Education, reducing the influence of the County Superintendent of Schools in Sonoma County. Prior to the convention, the State Board consisted of the Superintendent of Public Instruction, the Governor, two "professional teachers," and county superintendents of the six most influential counties – a group that included Sonoma County.<sup>102</sup> The Convention, partially in an effort to resolve potential administrative conflicts, reduced the size and influence of the State Board. It now included only the Governor, Superintendent and principal of the State's Normal School.<sup>103</sup>

Concern continued, however, regarding a need to balance the administrative and electoral roles of the Superintendent of Public Instruction and the State Board. For example, a 1912 controversy between the Board and Superintendent over authority to select textbooks resulted in passage<sup>104</sup> of a Constitutional Amendment that, among other things, "redesigned" the selection process for Board members by structuring a seven-member board appointed by the Governor.<sup>105</sup> Despite this, the precise division of responsibility between Board and Superintendent remained unclear: a "vexing

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<sup>101</sup> Klotz, Page 7.

<sup>102</sup> Debates and Proceedings of the Constitutional Convention of the State of California, Sacramento 1880 and Edwin F. Klotz, Analysis of the Relationship of the State Board of Education and Superintendent of Public Instruction, November 1967 – Also cited in Murray.J. Haberman, *A Double-Headed System: A History of K-12 Governance and Options for Restructuring*, California State Library, July 1999

<sup>103</sup> Normal Schools were state supported teacher preparation colleges -- the predecessors of the State University system. As new Normal Schools were created, new members were added to the State Board.

<sup>104</sup> The Amendment was passed by 67 percent of those voting in a special election – 343,443 "yes" votes to 171,486 "no" votes

<sup>105</sup> Haberman, Page 4

problem ” as characterized by then Superintendent Edward Hyatt in 1913 <sup>106</sup>

By 1921 the problem became more vexing still as the Legislature established what was to become the new State Department of Education. As World War I drew to a close, legislators had focused on the structure of educational governance within the state. In 1919 members had asked for an investigation of the “potential conflict between the Superintendent and the State Board,” especially regarding any conflicts in administrative responsibilities.

In 1920, under Chairmanship of Senator Herbert C. Jones, the select legislative committee issued the so-called “Jones Report.” This report saw potential administrative conflicts as “fraught with danger...[and] destined to cause trouble.”<sup>107</sup> Consistent with most of the report’s recommendations, the Legislature in 1921 created a new Department of Education. Efforts to resolve the issue that had sparked the controversy remained ineffective. In particular, the new legislation “perpetuated the conflicting features to which the [Jones] report had objected – namely the continuation of an elected Superintendent and an appointed State Board. Each entity maintained most of its previous responsibilities” In short, the legislature once again failed to adequately address the “double-headed” governance process.<sup>108</sup>

By 1923 the problem of “potential conflict” had moved to full-blown confrontation. A newly elected governor, F.W. Richardson, saw extravagance in educational spending as having “run riot” and educators as squandering “the peoples’ money with a lavish hand.”<sup>109</sup> His appointments to the State Board quickly became embroiled in conflict with “professional educators” and in particular the State Superintendent. As a result, a majority of the Board refused to confirm the Superintendent’s appointments of presidents of state teachers colleges, thereby triggering “several years of conflict” over authority and administrative power of both Board and Superintendent.<sup>110</sup>

### Electoral Attempts to Resolve Conflicts Between State Board and the Superintendent

Against this background of conflict that started with the California’s first Constitution, the state’s voters have been asked three times to resolve the matter through the Constitutional amendment. In 1928, 1955, and again in 1968 elections were held that asked the electorate to change the method of selecting the Superintendent of Public Instruction from an elective to an appointment process. All three measures failed re-

<sup>106</sup> California State Board of Education, *A Brief Review of the History of Constitutional and Statutory Provisions Regarding the State Board of Education and the Superintendent of Public Instruction*, Sacramento, March 1988, Page 19 – Also in Haberman, Page 14.

<sup>107</sup> California State Senate, *Report of the Special Committee on Education*, As authorized by Senate Concurrent Resolution 21, by the Forty-third Session of the Legislature of California, Sacramento, 1920 Page 17-20

<sup>108</sup> California State Department of Education, *A History of the California State Department of Education, 1900-1967*, Sacramento, 1968, Page 18 also Haberman, *Ibid*, Page 6.

<sup>109</sup> *Ibid*, Page 6

<sup>110</sup> *Ibid*, Page 7

soundingly.

The need for the 1928 election grew from reforms approved by the Legislature between 1921 and 1927; reforms growing out of the 1921 Jones report. Given Constitutional embedding of the means of selecting the State Superintendent, the legislature was able only to reorganize the State Department of Education and the State Board. Elimination of the elected Superintendent required voter approval of a Constitutional Amendment, a proposal that failed on a 44 percent “yes” vote. A vote of two-thirds was required.<sup>111</sup>

Legislative reforms during this period both clarified the structure and strengthened the role of the State Board and Department of Education.<sup>112</sup> In absence of Constitutional Amendment many of these changes simply extended or expanded previous administrative conflicts between the Board and the Superintendent.

In 1955 the call for elimination of the elected Superintendent of Public Instruction was again put to the voters. The proposed Constitutional Amendment, designated as Proposition #13, received an even lower approval rating than it had in 1928. Just over one-third (38 percent) of the state’s electors voted for passage.<sup>113</sup> Again, as in the 1923 conflict between the Board and Superintendent, the flash point that culminated in taking the issue to the voters involved the ten state teachers colleges.

The situation began with a 1954 request by the Superintendent to the Attorney General regarding the extent of the Superintendent’s authority to modify standards of college admission set by the State Board. In the resulting opinion, the Attorney General held that the Superintendent’s primary responsibility was to apply the Board’s rules.

By such delegation the director is vested with ministerial and administrative functions which are to be exercised in obedience to and in conformity with the definite rules, guidelines, and standards that are established by the Board.<sup>114</sup>

Haberman concludes that in spite of this opinion, “it remained unclear exactly what powers the two authorities had.”<sup>115</sup> The voters, by their overwhelming rejection of the Constitutional Amendment also failed to provide further clarity in the matter.

The 1968 attempt to abolish the Superintendent of Public Instruction as an elected

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<sup>111</sup> Results of the 1928 election were 551,858 “yes” votes to 714,411 “no” votes.

<sup>112</sup> Reforms included creation of a new ten member State Board of Education appointed by the Governor, but requiring approval by the Senate, granting the State Board power to establish, upon recommendation of the Superintendent, “such divisions in the State Department of Education appeared advisable for the efficient transaction of business.” It also required State Board appointment of the administrative heads of those divisions, upon nomination of the Superintendent, at salaries fixed by the State Board. Haberman, Page 7.

<sup>113</sup> Results of the 1955 election were 1,519,209 “yes” votes to 2,522,998 “no” votes.

<sup>114</sup> Opinion of the California State Attorney General, 215-216, 1954.

<sup>115</sup> Haberman, Page 9.

position also failed overwhelmingly, receiving 43 percent “yes” vote instead of the required 67 percent.<sup>116</sup> Like earlier efforts at change<sup>117</sup> this attempt grew out of high levels of political conflict between the Superintendent and the Board. Politically, the confrontational style of Superintendent Max Rafferty heightened the continuing underlying structural conflict. As early as 1963, a year into his first term, Rafferty challenged the Board by refusing to convey to the Legislature Board policy with which he disagreed. He also requested an opinion from the Attorney General regarding his powers. The three “hypothetical questions” posed by Rafferty are instructive for considerations at both the state and local levels.

1. May the Superintendent refuse to execute an order of the Board which is contrary to his beliefs?
2. What remedies does the Board have in the event the Superintendent fails or refuses to execute an order?
3. If the Board and the Superintendent issue contrary orders to an officer or employee of the Department, which is that officer or employee bound to follow?<sup>118</sup>

Arguing broadly, so as to avoid a Constitutional crisis over “hypothetical questions”, the Attorney General held that – at least in the abstract – personal belief or wishes were not sufficient grounds to refuse to execute an order, and that “in the absence of a Board rule or directive, the manner in which Board resolution [policy] is to be executed is an administrative matter properly left to the Superintendent...”<sup>119</sup> More globally, as the Attorney General concluded in his closing remarks in the so-called “Rafferty Opinion:”

This analysis of the respective powers and duties of the State Board of Education and the Superintendent of Public Instruction once again underscores the long-recognized problem in this area...the difficulty of requiring a policy-making board ... to have its policies carried out by and through an individual who is elected by the people.<sup>120</sup>

Thus again in 1968, despite a continuing and highly dramatic conflict and Rafferty’s growing unpopularity with Legislature, the Governor, the press, and the public, voters failed to act. Even when presented with the chance to remedy a structural form of government that frequently pitted a policy-making board against an elected superintendent, voters opted by large margins for continuing conflict and the status quo.

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<sup>116</sup> Results of the 1968 election were 2,606,748 “yes” votes to 3,462,301 “no” votes.

<sup>117</sup> For example, in the 1993 no fewer than three Constitutional Amendments were introduced in the Legislature. All three failed to make the ballot.

<sup>118</sup> California State Board of Education, *A Brief Review of the History of Constitutional and Statutory Provisions Regarding the State Board of Education and the Superintendent of Public Instruction*, Sacramento, 1988 Pages 22-23.

<sup>119</sup> California Attorney General Opinion 105, 1963, 114-115

<sup>120</sup> *Ibid.*

In the almost 40 years since the last of electoral attempts to change the Constitution, relations have waxed and waned between the Superintendent and State Board of Education.<sup>121</sup> What has remained constant has been the underlying conflict in structural authority and an apparent unwillingness of state legislative officials or interest groups to again put the issue before the voters in an attempt to resolve that conflict.

In informal, off-the record conversations, members of press covering state politics, former CEO's of the State Board of Education, two members of the State's Constitutional Revision Commission, former and current executive directors of a wide variety of state business groups, educational associations, as well as former California Secretaries of Education, a former State Superintendent, former State Board Members, legislative staff, and others were unanimous in their assessment regarding the low level of public interest in the problem, and the difficulty of resolving structural conflict through the electoral process. As more than one suggested, "in the absence of demonstrated malfeasance or proof that a change might save money, the public is simply not interested in the issue."

### Local Electoral Parallels

Little suggests that Sonoma County voter's interest is likely to be any greater than that of voters statewide. Under terms of a Constitutional Amendment (ACA 77 Greene) approved by voters in 1976, non-charter California counties such as Sonoma were given the option of determining the choice of County Superintendent of Public Instruction through either election or through appointment by the County Board of Education. In June 1978, Sonoma county voters opted for an elected superintendent by margin of 89 to 11 percent.<sup>122</sup>

These results were similar to the other 46 General Law (non-Charter) counties; all of which opted for a Superintendent who was elected, rather than appointed.<sup>123</sup>

Within California's Constitutional and statutory rules, changes to this selection mechanism would require approval by a simple majority of the county electorate. To date, and despite several attempts in counties other than Sonoma, efforts to have voters approve a change from an elected to appointed County Superintendent have been unsuccessful.

Whatever it's desirability from an administrative or programmatic rationale, several factors suggest that there is a limited likelihood that a campaign calling for a revision

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<sup>121</sup> State Constitutional Revision Commission, *Final Report and Recommendations*, Section III, 1996 [http://www.library.ca.gov/CCRC/reports/html/k-12\\_education](http://www.library.ca.gov/CCRC/reports/html/k-12_education)

<sup>122</sup> Results of the 1978 election in Sonoma were 9,466 "yes" votes to 73,070 "no" votes.

<sup>123</sup> As also discussed elsewhere, the exception to the pattern of electing a county superintendent in California is found only among the 11 Charter counties. In five of these counties – Sacramento, Los Angeles, San Diego, Santa Clara and San Francisco – the Superintendent is appointed.

of Sonoma County’s selection process would generate high levels of voter interest or participation. Among others these include:

- Lack of success with this issue in other California Counties
- Low interest and visibility of both County Office of Education and County Board of Education;
- Absence of defining issue or crisis;
- Irrelevance of issue for key interest groups such as the business, development or environmental communities, and likely resistance of local educational groups;
- Lack of an easily demonstrated administrative, economic or programmatic benefit; and
- High potential for personalization of conflict

### ***Lack of Campaign Success in Other California Counties***

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Attempts to change the system of selecting a county superintendent of education have not been successful anywhere in California. While some efforts were made in the 1980s and early 1990s, these showed little success and have not been repeated in other counties during the past decade. With the exception of an on-going study (Fall 2005) by the Alameda League of Women Voters, interest in the issue appears to have largely evaporated.

#### *Contra Costa County*

In 1978, the Contra Costa Board of Supervisors placed on the ballot a measure making the county’s superintendent of schools to an appointed position. Measure B would have required that the county board of education appoint, rather than elect, the superintendent. The measure failed by a 78 percent to 22 percent margin.

Despite that outcome, the 1982-83 Contra Costa Board of Grand Jury recommended that the county reconsider the issue, and that the superintendent be appointed.<sup>124</sup> At the request of the county administrator, County Counsel John Clausen was asked how to implement the recommendation. His opinion concluded “there is no statutory authority that permits placing the issue on the ballot a second time.”<sup>125</sup> In 1993 a new County Counsel, Victor Westman, again responded to a request regarding the ability of the county board of education to place the issue on the ballot. Westman’s response reiterated that of his predecessor ten years earlier:

No statutory authority permits placing the issue on the ballot a second time...  
In sum, as we concluded in Opinion 83-83, before a second election to change the superintendent position from elected to appointed can be called, the Legis-

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<sup>124</sup> Pamela Mirabella, *Proposal: Appointing Versus Electing County Superintendents*, Member Contra Costa Board of Education, January 27, 1994, Page 4

<sup>125</sup> Opinion of John Clausen, Contra Costa County Counsel, August 9, 1983. (Opinion 83-83)

lature must authorize the calling of such an election. There has been no change in the governing statutes since Opinion 83-83.<sup>126</sup>

Despite a recommendation of the Contra Costa county board of education that the Legislature place a measure on the November 1994 ballot to change “all 53 county superintendents positions from elected to appointed” positions, the Legislature failed to act. The position remains an elected one.

### *San Mateo County*

A charter county, San Mateo placed Measure A on the ballot in November 1989, a non-gubernatorial/non-presidential election. Despite support from individual members of the county board of education, the San Mateo County Community College Governing Board, League of Woman Voters, the city council of Daly City, and the former chair of the San Mateo County Council of Mayors, Measure A was resoundingly defeated.

Only 21 percent of registered voters voted during this election; 33.5 percent, or 21,007 of the voters, voted for appointing the superintendent and 66.5 percent, or 41,737 voted against.<sup>127</sup>

### *Orange County*

A general law county, Orange County attempted to change the superintendent selection process in November 1988. Voters defeated the measure by a vote of 27 percent “yes” to 73 percent “no.” The outcome closely paralleled the election returns in San Mateo County discussed above.<sup>128</sup>

Although significant differences in political culture make comparison of the Orange and San Mateo County votes problematic, one interesting point is that the timing of the referendum had little – if any – impact on the outcome. The election in November of 1988 was a national presidential election; an event typically marked by the highest levels of voter participation. To the extent that these counties are comparable, it would suggest that a high electoral turnout does not appear more likely to favor passage of such a referendum than levels where fewer voters participated.

### *Riverside County*

Riverside, also a general law county, placed its measure on the November 1985 ballot. Turnout was 18 percent, as is relatively typical in off year, municipal elections. Riverside County voters rejected the referendum on a 39.5 percent “yes” vote to a

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<sup>126</sup> Opinion of Vicotr Westman, Contra Costa County Counsel, August 1, 1993

<sup>127</sup> San Mateo County, *School Governing Board and Consolidated Elections*, November 7, 1989, Statement of Votes Cast. Taken from Mirabella, Op.Cit, Page 6.

<sup>128</sup> Orange County, *Certificate of Registrar of Voters to Result of the Canvass of the General Eleciton Returns*, November 22, 1988.

60.5 percent “no” vote; a result not functionally dissimilar to other counties considered previously.<sup>129</sup>

**Factors Affection Possible Sonoma Vote:**

Although the experience of other counties would not necessarily be repeated in Sonoma County, a number of factors suggest that recasting the County Superintendent as an appointed position is not an especially viable political issue. These include a lack of public interest and visibility for both the office in question and the possibility of change, an absence of a defining issue or crisis, the irrelevance of issue for key interest groups, and lack of an easily demonstrated benefit for making the suggested changes. While such factors do not prevent an issue being successfully taken before the voters, they suggests that mounting a successful initiative campaign would be a distinctly uphill battle.

***Low public interest and visibility***

Whether here or elsewhere, neither the county superintendent nor members of the county board of education are particularly visible to voters, either as individuals or in terms of their offices. In the last two elections, for example, County Superintendents received between 64 and 87 percent of the number of votes cast for other “top-of-the ticket” offices such as President or Governor. For the county board visibility is even less. As discussed below, only one-fifth of county board elections attract sufficient candidates to be competitive, and voting turnout for the office is extremely low.

**Table VI.1  
Vote for County Superintendent of Education and  
State Superintendent of Public Instruction 1990-2004**

	<b>1998</b>	<b>2002</b>
Total Ballots Cast	119,430	120,502
State Superintendent Of Education	101,230	95,622
County Superintendent	76,781	104,335
County Superintendent as a Percent of Votes Cast	64%	87%
State Superintendent as a Percent of Votes Cast	85%	79%

Viewing the vote for Sonoma County Superintendent as a percentage of registered voters between 1982 and 2004, for example, only about 37 percent of those registered

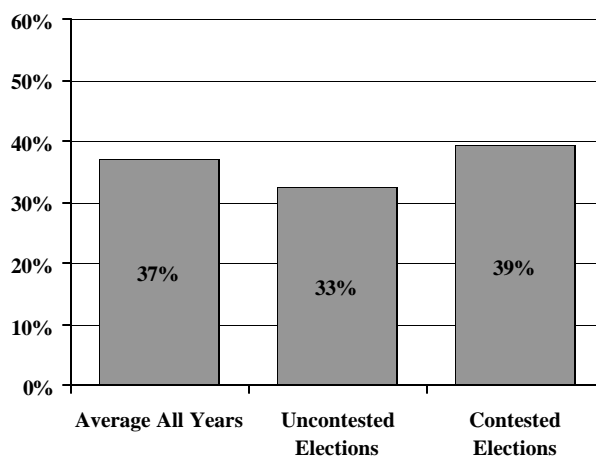
<sup>129</sup> Riverside County, *Consolidated Election*, November 5, 1985.

voted for the office; a figure that compares to 89 percent of registered Sonoma County voters who voted in the Bush-Kerry Presidential election in 2004.

As in most California counties, competition for an elected office increases voter interest and participation slightly. In the four of six Sonoma County races for superintendent of schools between 1982 and 2004 where there were two or more candidates, approximately 39 percent of registered voters cast a ballot for this office. In years where the office was non-competitive with only one candidate, only 33 percent of those registered cast ballots. It should be added that two contested races – those of 1982 and 2002 – were highest in terms percentage of the electorate voting. In both those elections approximately 45 percent of those registered voted for a candidate.<sup>130</sup>

A related but contrary comparison regarding public visibility also needs to be mentioned. While it can be argued that the vote for county superintendent is low as a percentage of registered voters, it is often higher than that of a similar state office of Superintendent of Public Instruction – a situation that tends to occur only when the local election is contested. The comparison being made is between percentage of voters participating in contests for *educational offices*, both state and local.

**Percentage Registered Voters Participating  
In Election of County Superintendent**



In the 2002 election, for example, candidates Wong and Knowles received 45 percent of registered voters, or a total of 87 percent of all votes cast.<sup>131</sup> Candidates for the office of State Superintendent of Public Instruction received significantly fewer votes in Sonoma County than did those running for county superintendent. In 2002 candidates for the State Superintendent of Public Instruction received votes from only 41 percent of registered voters or 79 percent of all votes cast.

Visibility and electoral competition for the office of county school board is even lower. There are seven seats on the county board, each with a four-year term. Between 1982 and 2004, and counting two special elections to fill un-expired terms,

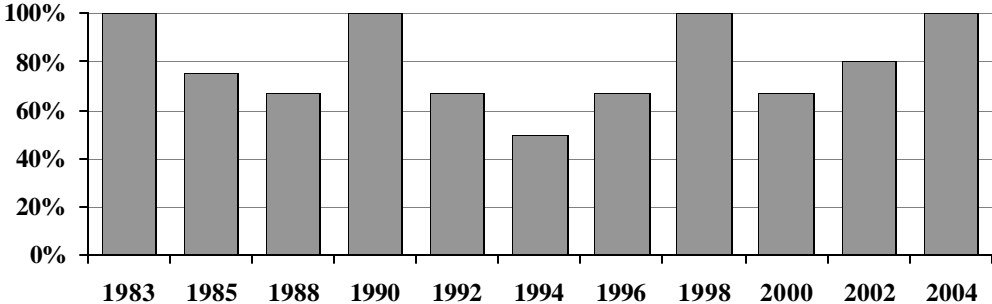
<sup>130</sup> In the 1982 election, three candidates – Dudley, Eagan, and McGrew – drew a total of 46 percent of the registered voters. In 2002, Wong and Knowles drew just over 45 percent.

<sup>131</sup> The difference between total votes for an office and total votes cast is typically referred to as “under vote.” For the 2002 election, the under vote for Sonoma County Superintendent of Schools was 13 percent.

these offices went before the voters a total of 40 times<sup>132</sup>. During that time only eight Board seats – or 20 percent – had contested elections. Within the past decade there have only been five contested elections, out of 22 possible trustee openings.

Viewed as an average this rate of participation for contested elections is reasonably high, but somewhat misleading. As a percent of registration, votes cast in these five elections equal 57 percent of registered voters; a percentage higher than those cast for either county or State Superintendent. It must be observed that three of the five elections were for one seat, in the First Trustee Area. Elections from that Area are characterized by being more frequently competitive and having a higher than normal participation rate. If this trustee area is removed from the calculation, the remaining districts holding elections saw a participation rate of 47 percent; almost identical with that of a contested race for county superintendent.

**Percent Uncontested  
Elections for County Board of Education**



Given the relative infrequency of competitive elections for these offices, one must add that the effective participation rate is significantly lower than the apparent rate. 2002 marked the most recent year where a competitive county school board trustee election was held in Sonoma County. Only 19,505 voters from Area One voted, out of a potential pool of 123,179 voters across all areas where board members had expiring terms. Given the lack of electoral competition, the effective participation rate was just under 16 percent of registered voters – among the lowest of any elected office on the ballot.

***Absence of defining issue or crisis***

The absence of innate public awareness or interest in the offices of county superintendent and county board of education translates into general inattention regarding

<sup>132</sup> In a normal election cycle, candidates from Districts 1, 6 and 7 are elected every four years – 2004, 2000, 1996 and so on. Those from Districts 2,3,4 and 5 are also elected every four years, but their schedule was 2002, 1998, 1994.

administrative or governance issues. As noted in earlier sections of this report, despite recent changes in function, the county office of education is primarily a service provider for local school districts. Providing technical support, in-service trainings, business services, assistance in improving school preparedness and crisis response, and a host of other services is critical to the functioning of the County's 40 school districts and 170 schools. Unless there are major issues of inappropriate personal behavior or program failure, however, the routine provision of these services is not especially newsworthy or controversial.

Even issues of school performance or accountability are typically – and most appropriately – addressed on a district-by-district basis. While the County Superintendent routinely reports performance for all Sonoma County schools on statewide testing or high-school proficiency exams, fewer than 1,100 of the approximately 73,000 students in Sonoma County attended schools operated by the County Office.<sup>133</sup> In the public's mind, therefore, there is typically little linkage between the Office of County Superintendent and school accountability.

As also noted earlier, two recent expansions in the statutory oversight responsibility of the county superintendent may to some limited degree change the level of the visibility. The first of these expansions came in the area of fiscal oversight and reporting. County superintendents have long been responsible for review and approval of district budgets. The Legislature significantly expanded these responsibilities in 2004, and now mandates a greatly increased role.<sup>134</sup> Oversight and fiscal assessment is now required on an on-going, rather than a once-a-year basis.

A second, and potentially larger, set of new oversight functions also came in 2004 from legislation resulting from settlement of the Williams case. The most sweeping change was SB550 (Vasconcellos)<sup>135</sup> that expanded the meaning of earlier requirements for county superintendents to “visit and examine” each school in their county at “reasonable intervals.” Among other changes, Superintendents are now required to annually present “a report to the governing board of each school district, the county board of education and to the board of supervisors in his/her county describing the “state of the schools” ranked in deciles 1-3 of the 2003 base Academic Performance Index (API).”<sup>136</sup>

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<sup>133</sup> Enrollment figures taken from 2003-04 CBEDS, California State Department of Education

<sup>134</sup> Assembly Bill 2756 (Chapter 52, Statutes of 2004) expanded and redefined County Superintendents' fiscal oversight responsibilities. Although school districts are responsible for their own financial records, County Superintendents must review and approve district budgets and ongoing expenditure patterns before they are sent to the California Department of Education.

<sup>135</sup> Senate Bill 550 (*Education Code Section 1240 2004*).

<sup>136</sup> The visits are to be used to 1) ensure that students have access to “sufficient” instructional materials, 2) assess compliance with facilities maintenance to determine the condition of a facility that “poses an emergency or urgent threat to the health or safety of pupils or staff” and 3) determine if the school has provided accurate data for the annual school accountability report card related to instructional materials and facilities maintenance.

At all levels of government, expanded oversight responsibilities have historically led to higher levels of disagreement or conflict between agencies, with a resulting increase in press scrutiny and public visibility. It remains uncertain, whether – in absence of high levels of conflict, malfeasance or scandal – a marginal increase in visibility of the office will offset the innate public disinterest discussed earlier.

### ***Irrelevance of issue for key interest groups***

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Representatives of local media, political consultants, district personnel, pollsters, business community, local government officials, and others are virtually unanimous regarding their perceptions of the Sonoma county electorate as being “indifferent” or “even resistant” to any possible campaigns to change the way the Superintendent is selected. In the absence of hard polling data it is difficult to attach specific numbers to these claims, but the near unanimity among the more than 40 “opinion leaders” approached suggests a high degree of difficulty in communicating the issue to the public, building public support for change, or motivating sufficient electoral participation to pass such a measure.

Based on this assessment, educational governance issues most salient to the Sonoma County press and business communities continue to focus upon questions involving the possible consolidation of some of the County’s 40 school districts. Often a contentious issue,<sup>137</sup> questions of which districts – if any – to consolidate generates widely divergent views among parents, business groups, teachers associations, and the press. Since consolidation must be approached on a district-by-district basis, however, it is not an issue that can be easily linked to proposals to change county-level governance.

District consolidation is also an issue that is already being addressed by the current county superintendent, and thus “already on the political radar within the county.” Responding at least in part to two calls by the Sonoma County Grand Jury, the Superintendent funded a consultant study – due in November 2005 – investigating the costs and possible benefits of combining 11 west county school districts. Local press reports suggest the level of controversy surrounding this issue has not abated. Five of the affected school boards backed the study, one opposed it, and five others sought a role for local trustees to “help establish or give input into its scope.”<sup>138</sup> As one long-time observer noted, as a educational governance issue “it is likely consolidation will occupy most of the political real estate for over the next couple years,” leaving “little interest or energy” for other proposals or changes.

A possible exception to observations regarding a “general disinterest” in changing the way in which the County Superintendent is selected is likely found within local teachers associations. Active in their support of the existing superintendent in his

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<sup>137</sup> See especially Gaye Lebaron “History Runs Against School District Consolidation”, *Press Democrat*, June 5, 2005, Page B1

<sup>138</sup> Robert Digitale, “Wong To Study Merging Districts” *Press Democrat*, May 4, 2005, Page B1

2002 election, individual members – and possibly the groups themselves – would be the most probable opponents to such an initiative. One source, familiar with both the issue and local political campaigns, predicted a “gully washer” of opposition should such a proposal be circulated or placed on the ballot.

Summarizing the issue from a campaign perspective, therefore, it appears likely that there would be little support from most of Sonoma County’s organized interest groups for qualifying or supporting proposals to change the status quo of the Superintendent as an elected office. At least some opposition would likely be forthcoming, both from groups that supported the existing superintendent and others that oppose increasing the number of appointed office holders at the expense of public electoral participation. On the latter point, groups as diverse as the League of Women Voters or the Howard Jarvis Taxpayers Association have historically opposed efforts to convert elected offices to appointed offices. In their view, a reduction direct popular influence through the electoral process is an unnecessary and undesirable expansion of administrative power.

It should be emphasized that neither these groups, nor the associations discussed earlier, have taken a position on a possible initiative. However, as several observers on both sides of the issue observed, in the eyes of the public “the cure for the evils of democracy is only rarely less democracy.” Or to paraphrase the independent comments of two prominent local campaign consultants – each from opposite sides of the political fence: “there is just no chance that the public will vote for something that it perceives as taking power away from itself.

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### ***Lack Of An Easily Demonstrated Benefit***

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An additional problem with changing the selection process for county superintendent is the lack of an easily demonstrated administrative, economic or programmatic benefit. Despite decisions such as Georgia’s 1998 Constitutional Amendment abolishing elected superintendents, there is little experience – and less research – regarding the consequences of changing the superintendency from an elected to an appointed position. Under California law, while passage of a local referendum might shift the “hiring” decision from voters to the county board, the superintendent’s formal powers and duties would remain identical.

In addition, beyond a minimum number of deputy positions appointed with the superintendent’s recommendation, California Statute structures the position of county superintendent so as to have little patronage to dispense to potential supporters. This is unlikely to change, since – again by Statute – most county boards are able to take only an advisory role in the selection of a superintendent’s immediate subordinates, and only a minimal role hiring elsewhere within the organization.

Increased administrative efficiency or responsiveness, both key potential benefits perceived by many of those advocating changing the method by which superintendents are selected, are difficult to measure – especially given both their “prospective na-

ture” and lack of empirical validation. Whatever the abstract desirability of “increased efficiency and effectiveness,” there is little hard evidence that these would necessarily result from such a change. In absence of these, and because of the low issue visibility discussed earlier, it is extremely unlikely that voters would see a great deal of benefit one-way or the other.

In fact, given an extremely high potential for a personalization of the issue, most local political analysts saw a referendum as likely to “degenerate into simple name-calling.” Whatever the intensions, members of the press, political consultants, representatives of good-government groups and others, were quick to worry that – in the words of one – “a needed dialogue might descend into allegations of being a ‘power grab,’ personal vendetta, or worse.”

### **Cost of Elections:**

A final issue of concern to the Board Policy Subcommittee was the possible fiscal impact of changing the method of selecting a County Superintendent. There are two components to this consideration, including (1) the current cost structure of electing the County Superintendent and Trustees of the County Board of Education, and (2) the likely cost of placing an initiative on some future ballot.

### ***Current Costs of Elections***

Sonoma County has historically not charged the Office of Education for election costs associated with the Office of Superintendent. In contrast with the costs associated with election of the Trustees of the County School Board that are billed to the Office of Education, costs for the Superintendent are absorbed by the county Elections Department.<sup>139</sup>

Current costs to the County for including this office on the ballot may be divided into three types. The first relates to the cost of “processing” the candidate(s) for the office, including staff time involved in providing information, processing nomination papers, and examining qualifications. The second type of expense involves a so-called cost of ballot “real estate” – the actual printing, mailing and other costs of the “space taken up” by the contest on the actual ballot card and on the sample ballot page. The final category of cost consists of a pro rata share of costs of the actual election itself.

Estimates of the first two categories of cost would vary depending upon whether a candidate was elected during a primary election, or if a general election run-off were required.

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<sup>139</sup> In the past, there have apparently been “discussions” regarding the possibility of charging the Office of Education for costs relating to the election of the County Superintendent. To date there are no plans to do so. See August 2, 2005 letter from Janice Atkinson, Assistant Registrar of Voters. Appendix XXX

In addition to these processing and printing charges Office of Education could be assessed election expenses as a pro rata share of costs such as polling places, precinct officers, office supplies, postage, computer time, labor, and so on. The Assistant Registrar of Voters characterized these potential costs as “significant”

**Table VI.2**  
**Estimated Costs – Election Processing and Ballot Preparation**

	<b>Candidate processing</b>	<b>Official Ballot Real Estate</b>	<b>Sample Ballot Real Estate</b>	<b>Total</b>
Primary Election	\$600	\$9,800	\$1,500	\$11,900
General Election	\$400	\$5,400	\$ 900	<u>\$ 6,700</u>
		<b>Total for Election Cycle</b>		<b>\$18,600</b>

Her estimates are based upon the Measure M, a countywide measure placed on the ballot by the Sonoma County Transportation Authority, on the November 2004 ballot. The Transportation Authority was charged \$167,000 in prorated charges. In her words:

Inasmuch as Measure M was a countywide measure appearing on a General Election ballot, and the County Superintendent of Schools contest is a countywide contest, it is reasonable to assume the prorated charges would be comparable for a General Election.<sup>140</sup>

As provided by the Office of the County Clerk, cost estimates are as follows.

Costs for the primary portion of the election are considerably higher: approximately \$245,000. The rationale for the higher primary election costs revolves about the tendency to place most countywide and district measures on general, as opposed to primary, election ballots. As there are relatively fewer districts to share pro-rated costs, the cost per election is likely to be higher.

Estimates of the cost of mounting a full cycle of primary and general elections for the Office of County Superintendent are shown in Table VI.3 (below).

In 2002, the current Superintendent was elected during the primary election and a general election run-off was not required. Total actual costs for that primary election approximated \$499,800, with the pro-rated share related to the County Superintendent position being estimated at \$254,800.

### ***Costs of Mounting a Ballot Initiative***

The actual costs of a ballot initiative to change the process of selecting the County Superintendent would likely be similar. Under current county policy, however, costs

<sup>140</sup> Janice Atkinson, Letter, August 2, 2005.

to the Office of Education would be significantly higher for a ballot initiative. As noted, the County does not assess the Office of Education costs related to electing a County Superintendent. Expenses related to a ballot measure, such as one necessary to change the provisions for selecting a County Superintendent, would be charged at

**Table VI.3**  
**Estimated Election Costs**  
**Sonoma County General and Primary Elections**

	<b>Registered Voters</b>	<b>Pro-Rated Costs</b>	<b>Official Ballot Real Estate</b>	<b>Sample Ballot Real Estate</b>	<b>Total</b>	<b>Cost Per Registered Voter</b>
Primary Election	231,000	\$245,000	\$9,800	\$1,500	\$256,300	\$1.11
General Election	248,000	\$167,000	\$5,400	\$900	<u>\$173,300</u>	<u>\$0.70</u>
<b>Total for Election Cycle</b>					<b>\$429,600</b>	<b>\$0.90</b>

the rates approximating those shown above: currently estimated at \$256,300 for primary ballot initiative, and \$173,300 for one placed on the general election ballot. Presumably, this would be a one-time charge billed to the Office of Education.

***Costs of Electing the Trustees of the County Board Of Education***

A final note on costs related to the election of Trustees of the County Board of Education needs be added for purposes of completeness. Since only five elections, of a possible 22, have been contested over the past decade, costs for election of County School Board members are relatively minimal. With only one competitive election in 2004, and new state restrictions that prohibit counties from billing the Board of Education for costs associated with absentee ballots if there were non-school-related issues on the ballot, the total election cost was \$33,071 or about 90 cents per registered voter.

**Table VI.4**  
**Cost for Trustee of County Board of Education Elections**

<b>Year</b>	<b>Area</b>	<b>Registered</b>	<b>Prorated</b>	<b>Total</b>	<b>Cost per registered voter</b>
2002	Trustee Area #1	36,614	\$32,901	* \$40,838	*\$1.12
2000	Trustee Area #1	35,147	\$24,543	\$29,613	\$0.84
1996	Trustee Area #1	36,031	\$16,408	\$19,542	\$0.54
1994	Trustee Area #2	35,790	\$16,963	\$22,406	\$0.62
	Trustee Area #3	36,248	\$17,180	\$22,945	\$0.63

\*Amount billed to the Office of Education was \$33,071 (.90 per registered voter) as a result of legislation prohibiting counties from billing school districts and the Board of Education for costs associated with absentee ballots if there were non-school-related issues on the ballot.

## Section VII: Concluding Remarks

It is necessary to repeat here what was said at the outset. When considering whether to convert the office of the county superintendent to an elected position, cogent arguments can be made on both sides of the issue. As noted, however, empirical evidence for both cases is limited and somewhat inconclusive.

While empirically based comparisons between California Counties with elected and appointed superintendents yield some differences, these appear relatively minor. Counties that appointed their superintendent appear, on average, to have implemented more discretionary educational programs – a difference that may largely result from the variations in size and characteristics of their student population. Board meeting agendas from appointing counties are more likely to contain “action” items relating to fiscal matters and – to a lesser degree – grant and program applications.

Elected superintendents, in contrast, were somewhat more likely to bring personnel matters to the board, at least as information items. To the extent that discussion of the implications of the Williams legal settlement, and resulting legislative change, serves as an indicator of how new and potentially important issues are brought to board attention, elected superintendents appear more likely to involve their boards in discussion, public hearings and study sessions on the topic.

These are hardly decisive differences, and provide little conclusive evidence that one system of superintendent selection or the other maintains greater public control of schools, is more responsive to citizens' needs, decreases high turnover, or serves as a safeguard against potential abuses of power.

Suggestions that a board's ability to select a qualified administrator based upon specific qualifications and county office needs are likewise tempered by considerations relating to a decline in the number and quality of the available candidate pool and the potential cost of superintendent recruitment. The cost of the election of a superintendent, while borne by Sonoma county, is not currently assessed to the county office, and can not logically offset the potential cost of a candidate search, especially in light of relatively advanced age of many potential candidates, and the relatively brief tenure of many superintendents in California and elsewhere.

More significant than these differences, however, is the on-going and impending change in the role and function of the county office. Due to changes in federal and state programs, legal holdings, and shifts in administrative procedure, county offices have been bequeathed rapidly growing responsibilities in the areas of fiscal oversight, accountability, and assessment of educational program adequacy. Whether or not they seek such changes, their responsibilities are becoming increasingly regulatory in nature.

In part because of these changes, and because of cut-backs in funding and staffing levels for the California State Department of Education, county offices also have been forced to assume both increased technical support and monitoring roles relative to local districts; roles that until recently were supposed to be provided by the state.

State-level efforts to replace county offices with regional agencies have largely been abandoned – at least for the foreseeable future. The Governor’s Performance Review Commission, the earlier Constitutional Revision Commission, and assorted legislative efforts have not yet managed to move their visions of restructuring and reform into the realm of political reality. Within the context of their existing structure, county offices are in practice becoming more regional. In many rural areas, and for select programs elsewhere, multi-county consortiums have become the norm. In the view of some, this sort of adaptation has served to further reduce the pressure for formal structural change. For the next half-decade at least, therefore, county offices with their expanding and changing responsibilities seem likely to remain immune from major structural change.

Thus the current situation is likely to prevail into at least the intermediate future. While the existing system of shared governance is at times cumbersome and frustrating to both board members and superintendents, in absence of legislative modification of either superintendent or board member roles it is unlikely to change greatly. Legislatures have repeatedly strengthened the relative power of the superintendent, usually at the expense of county boards. In several states this process has begun to culminate in making county boards appointed – typically by big city mayors, county supervisors, or governors. While most California reformers do not seem to currently envision such changes, in the view of some capitol insiders making boards appointed – as opposed to elected – is at least as likely as a possible expansion of county board member power.

A more likely source of change in the relative role of county boards, superintendents and offices is the Public Preschool Education Act, now being qualified for the ballot in 2006. Also known as the Rob Reiner Initiative, this legislation – headed for the June ballot – dramatically expands the role of the county offices and superintendents. Specifically, it requires counties to, assess, plan and implement pre-school programs. Included are a multiplicity of functions, including administrative responsibility for budgeting, development of preschool curriculum, program outreach, facilities inspection and expansion, childcare coordination, teacher recruitment and program assessment. Passage of this act, which appears likely in early polling, substantially accelerate those changes in county office functions described earlier, and will add important new programmatic and fiscal authority to the office of county superintendent.

## Appendix A: Regional Superintendent Selection Process – A State-by-State Comparison

State	Regional Superintendents
Alabama : K-12 Governance Structures	There are no regional superintendents.
Alaska : K-12 Governance Structures	There are 19 regional superintendents. Regional superintendents are appointed by regional school boards.
Arizona : K-12 Governance Structures	There are county superintendents (the number of county superintendents is unavailable). County superintendents are elected.
Arkansas : K-12 Governance Structures	There are 15 education service cooperative directors. Education service cooperative directors are appointed by education service cooperative boards.
California : K-12 Governance Structures	There are 58 county superintendents. 55 county superintendents are elected, and three county superintendents are appointed by county boards of education.
Colorado : K-12 Governance Structures	There are 22 boards of cooperative educational services directors. Boards of cooperative educational services directors are appointed by boards of cooperative educational services.
Connecticut : K-12 Governance Structures	There are 6 regional educational service center directors. Regional educational service center directors are appointed by regional educational service center boards.
Delaware : K-12 Governance Structures	There are 3 vocational school district superintendents. Vocational school district superintendents are appointed by vocational school district boards.
Florida : K-12 Governance Structures	There are no regional superintendents.
Georgia : K-12 Governance Structures	There are 16 regional education service agency directors. Regional education service agency directors are appointed by regional education service agency boards.
Hawaii : K-12 Governance Structures	There are no regional superintendents.
Idaho : K-12 Governance Structures	There are no regional superintendents.
Illinois : K-12 Governance Structures	There are 45 regional school superintendents, but there is not one for the Chicago public schools. Regional school superintendents are elected.

<b>State</b>	<b>Regional Superintendents</b>
Indiana : K-12 Governance Structures	There are 9 education service center directors. Education service center directors are appointed by education service center boards.
Iowa : K-12 Governance Structures	There are 15 area education agency chief administrators. Area education agency chief administrators are appointed by area education agency boards of directors.
Kansas : K-12 Governance Structures	There are no regional superintendents.
Kentucky : K-12 Governance Structures	There are no regional superintendents.
Louisiana : K-12 Governance Structures	There are no regional superintendents.
Maine : K-12 Governance Structures	There are no regional superintendents.
Maryland : K-12 Governance Structures	There are no regional superintendents.
Massachusetts : K-12 Governance Structures	There are 80 regional school superintendents. Regional school superintendents are appointed by regional school committees.
Michigan : K-12 Governance Structures	There are 57 intermediate superintendents. Intermediate superintendents are appointed by intermediate school boards.
Minnesota : K-12 Governance Structures	There are 9 regional cooperative service center directors and 3 intermediate superintendents. Regional cooperative service center directors are appointed by regional cooperative service center boards. Intermediate superintendents are appointed by intermediate school boards.
Mississippi : K-12 Governance Structures	There are no regional superintendents.
Missouri : K-12 Governance Structures	There are no regional superintendents.
Montana : K-12 Governance Structures	In those counties without a county manager form of government, there are county superintendents. There are 56 county superintendents. County superintendents are elected.
Nebraska : K-12 Governance Structures	There are 18 educational service unit directors. Educational service unit administrators are appointed by educational service unit boards.

<b>State</b>	<b>Regional Superintendents</b>
Nevada : K-12 Governance Structures	There are no regional superintendents.
New Hampshire : K-12 Governance Structures	There are 80 superintendents (45 of the 80 serve a single school district and 35 of the 80 serve multiple school districts). Superintendents serving a single school district are appointed by that school district's local school board. Superintendents serving multiple school districts are appointed by those districts' school administrative unit boards.
New Jersey : K-12 Governance Structures	There are county superintendents (the number of county superintendents is unavailable), 10 educational services commission directors and 1 educational improvement center director. County superintendents are appointed by the chief state school officer. Educational services commission directors are appointed by educational services commission boards.
New Mexico : K-12 Governance Structures	There are 10 regional education cooperative directors. Regional education cooperative directors are appointed by regional education cooperative boards.
New York : K-12 Governance Structures	There are 38 supervisory district superintendents. Supervisory district superintendents are appointed by boards of cooperative educational services.
North Carolina : K-12 Governance Structures	There are no regional superintendents.
North Dakota : K-12 Governance Structures	There are 25 county superintendents. County superintendents are appointed by boards of county commissioners.
Ohio : K-12 Governance Structures	There are 61 educational service center directors. Educational service center directors are appointed by educational service center boards.
Oklahoma : K-12 Governance Structures	There are no regional superintendents.
Oregon : K-12 Governance Structures	There are 20 education service district superintendents. Education service district superintendents are appointed by education service district boards.
Pennsylvania : K-12 Governance Structures	There are 29 intermediate executive directors. Intermediate executive directors are appointed by intermediate boards of directors.
Rhode Island : K-12 Governance Structures	There are 4 regional superintendents. Regional superintendents are appointed by regional school boards.

<b>State</b>	<b>Regional Superintendents</b>
South Carolina : K-12 Governance Structures	There are no regional superintendents.
South Dakota : K-12 Governance Structures	There are 18 regional directors. Regional directors are appointed by cooperative educational service unit/multidistrict boards.
Tennessee : K-12 Governance Structures	There are no regional superintendents.
Texas : K-12 Governance Structures	There are 20 regional education service center executive directors and 2 county superintendents. Regional education service center executive directors are appointed by regional education service center boards, subject to the approval of the chief state school officer. County superintendents are appointed by county school boards.
Utah : K-12 Governance Structures	There are no regional superintendents.
Vermont : K-12 Governance Structures	There are 64 supervisory union superintendents. Supervisory union superintendents are appointed by supervisory union boards.
Virginia : K-12 Governance Structures	There are no regional superintendents.
Washington : K-12 Governance Structures	There are 9 educational service district superintendents. Educational service district superintendents are appointed by educational service district boards.
West Virginia : K-12 Governance Structures	There are 8 regional educational service agency executive directors. Regional educational service agency executive directors are appointed by regional educational service agency boards.
Wisconsin : K-12 Governance Structures	There are 12 cooperative educational service agency administrators. Cooperative educational service agency administrators are appointed by cooperative educational service agency boards.
Wyoming : K-12 Governance Structures	There are 12 cooperative educational services executive directors. Cooperative educational services executive directors are appointed by boards of cooperative educational services.

## Appendix B: Recent Press Articles Relating to Project

### ***APPOINTING SCHOOLS CHIEF STUDIED***

Published on July 28, 2005

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**BYLINE: ROBERT DIGITALE**

The Sonoma County Board of Education is exploring whether to ask voters to stop electing the county superintendent of schools, leaving the board to fill the post.

Such a change would give the seven trustees more influence in their dealings with the superintendent, who as an elected official is able to operate with considerable independence from the board.

The board members also are elected officials, representing various parts of the county.

A consultant has begun a \$10,000 study of the merits and "political feasibility" of converting the superintendent's job into an appointed position.

Board President John Musilli said the board has a cooperative relationship with Carl Wong, the current superintendent.

Nonetheless, Musilli said, board members want to become more informed about the matter, including whether there would be "support or a lack of support" in the community for a switch to an appointed superintendent.

As county superintendent, Wong is responsible for ensuring the financial stability of the county's 40 school districts. The county Office of Education also educates students with disabilities and those expelled from regular schools and oversees a variety of support programs ranging from computer services to teacher training.

Wong, who was elected in 2002, acknowledged feeling "a little bit awkward" about the study but said he would wait until its completion before voicing an opinion.

He has, however, provided information to other school administrators that suggests it could be difficult for board members to get the power to appoint their own superintendent.

In a recent e-mail message, he noted that the county's voters had the issue put before them in 1978. Nearly nine in 10 voted to continue to elect the county superintendent.

In addition, he said, 53 of California's 58 counties have elected superintendents.

The study, to be completed this fall, is being undertaken by Sonoma State University professor Don Dixon.

Dixon, a political science professor, said part of his report will compare Sonoma with Sacramento and San Diego counties -- two counties that have appointed superintendents.

The study will likely examine how the different arrangements affect the work of the three school boards.

Dixon also is talking with educators and other community members to gauge public reaction to the possible change.

The authority of the county school board is more narrowly focused than that of trustees of a school district.

The county board lacks the power to fire or evaluate the county superintendent.

However, it does set Wong's salary, and in his first six months of office he questioned why the board was paying him less than one of his deputies.

The board members eventually gave Wong a raise, but noted that it was his predecessor who had set the other administrator's salary.

Musilli acknowledged that many of Wong's duties are spelled out in state law and he would retain them whether he is elected or appointed.

For example, Wong hires the staff and oversees most school support programs at the Office of Education.

State law also gives Wong specific powers, including oversight of the financial solvency of the county's 40 school districts.

Wong said the change would be a "significant departure" from the way most counties select their schools chief.

"Without a doubt that would be a significant movement toward a different relationship" with the Board of Education, he said.

***SCHOOL CHAOS: WHY NOT DUMP  
THE CURRENT SYSTEM AND CRE-  
ATE ONE THAT MAKES SENSE?***

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Published on July 31, 2005  
The Press Democrat  
PAGE: G2

Question: Who is responsible for public education in California? Is it the elected state superintendent of public instruction or the appointed state Board of Education? Is it the state Department of Education bureaucracy or the governor's education secretary? Is it the state Legislature that never shies from piling mandates on to local school boards? Or is it the elected county Board of Education? Or the elected county superintendent of schools? Or one of the elected school boards and appointed superintendents in your hometown? (Sonoma County has 40.)

So let us repeat the question: Who is responsible for public education in California?

Answer: Everyone and no one.

Last week the Sonoma County Board of Education agreed to spend \$10,000 on a consultant to investigate the wisdom of asking voters to make the county superintendent of schools an appointed rather than elected position.

Whether this is a good idea or a bad idea, it remains a stop-gap idea, a Band-Aid on a system which is archaic, inefficient, costly and unaccountable.

California schools are not going to improve until they can escape the burden of this hodge-podge of fractured jurisdictions. It's time for fundamental reforms that make clear who is responsible for public education.

## ***HISTORY RUNS AGAINST SCHOOL DISTRICT CONSOLIDATION***

June 5, 2005  
The Press Democrat

**GAYE LEBARON**  
PAGE: B1

The rural school board may be the last bastion of home rule. A trustees' election in a country school district is what the term "grass roots" is all about. Some would say it is democracy in its purest form.

It may not be the most economical way to educate children. It probably isn't the most efficient way, either. But, inevitably, any suggestion that would change the system becomes a rallying point for the constituents.

I mention this because our county school officials are talking about a possible reorganization (read "unification" or "consolidation") of small rural school districts.

It would be fair to say that history is not on their side.

IN RECENT NEWS, the Sonoma County Office of Education has announced that it will fund a study to determine the feasibility of a reorganization of 11 school districts in the west county. The 11 districts represent one quarter of the 41 districts in the county.

Sonoma County, which has long been among the leaders -- and sometimes THE leader -- in the number of districts, now ranks No. 5 among the state's 58 counties and has three times the state average.

All this had such a familiar ring that it sent me rummaging through my "papers," where I turned up a most interesting document.

It is a report, written in 1916, proposing a reorganization of the -- ready for this? -- 147 school districts in Sonoma County. There were 115 one-room, one-teacher schools, 16 with two teachers and just 12 with three teachers or more.

The 150-page report is complete with maps and charts and generic plans for schoolhouses and outdoor privies (including an innovative "dry" model that used dust instead of water). It pro-

posed reducing those 147 separate school systems -- the highest number of any county in the state -- to just 30 districts, all under the control of "a county unit of school administration" that would stop "the unwise multiplication of schools" and "afford the kind of education needed by the rural people."

It was a glorious plan, promising not only economy but amenities previously reserved for the "city slickers" in the richer Bay Area districts. A school in a new, consolidated district could expect to be rid of the "ancient, nauseating toilets" that were a cause for concern at many old schools. But, more exciting, perhaps, each school would have an assembly hall, a visiting doctor, free transportation "by wagon, automobile or rail," "a moving picture machine," and "a talking machine." (A talking machine was obviously an indication of progress. According to the report, "Healdsburg has a Victrola and sets of selected records so that even the smallest child becomes acquainted with the voices." And the new Olivet School, considered a model, had not only a Victrola but "an electric bell" as well.)

The consolidation would increase property values based on the premise that "a good school a short distance from a farm will make it more valuable than a poor school across the road."

Rural schools could continue to elect a board of trustees, according to the plan, but that body would be responsible only for care of the building and grounds and the hiring of a janitor. All educational and administrative decisions would be made by the county.

IT DIDN'T happen.

Even the lure of "a talking machine" couldn't convince the farmers -- and there were plenty of those (4,472 farms in the county that year, 73.8 percent of the land) to relinquish control of "their" schools.

Never mind that some of these one-room schools had only one window and others had to carry water from a spring a half-mile away. As near as I can tell, it never even came to a vote.

The "unwise multiplication" did stop. Some of the tiniest schools (Iowa, Hot Springs, Icaria, Double Pine, Llano, Merritt) closed for lack of pupils.

Five years later, the 147 districts had been reduced to 135. But in the next three years, by 1924, the total was back up to 140.

That year, Superintendent Louise Clarke tried again. She promised consolidation would save \$100,000 in county taxes.

As the eighth-richest county in the nation in agricultural production, she said, Sonoma County should not be 25 years behind the times in educational work."

The county's 97 one-teacher schools that year, she said, led the state and 50 percent of the rural children never go above the sixth grade."

She made a strong case. But it didn't work. And she was defeated in the next election.

There are stories here, between the lines of these bleak reports. The young teachers who married the older brothers of their pupils. The patient plow horse that carried the whole family to school and waited patiently beneath a tree to take them home. The "upper grade" boys who earned pocket money for the county fair by coming before dawn to light the wood stove.

The older girls who helped to teach the little ones. The precious books that were passed from family to family. The children who routinely came barefoot to school in late spring and early fall, saving their shoes for cold, wet winter days.

Family stories and handwritten memoirs are punctuated with these fond recollections. Does time make everything look rosy?

ONE MIGHT have expected the proliferation of the automobile and improved roads to speed the consolidation process, and it may have if it hadn't been for the Great Depression and the war that followed. As it happened, it was 30 years, the late 1940s, before serious unification movements began.

Still, Carl Wong is optimistic. As Sonoma County's elected superintendent of schools, he initiated the proposed study, and he knows what he's up against.

"I have every respect for the strong commitment to local autonomy," he said. "Any study would measure not just quantifiable aspects but be re-

sponsive to the deep-seated history of local control."

He knows there's a lot of emotion around this issue. "But we don't always have the luxury of doing nothing," he said. "That doesn't demonstrate leadership." Wong also demonstrates a sense of humor. Responding to the 1916 plan to limit the boards of trustees to janitor selection, he suggests that "by those standards, what I'm doing is quite tame and quite conservative."

What he's doing is funding a study to determine if the cost-to-benefit ratio is good enough to warrant an outright attempt at consolidation.

Enrollment is declining in several of the schools in question, with changes in demographics.

Wong called school officials together in March to suggest this study. Some disagreed -- vehemently. But enough have agreed, he said, to warrant the expense.

The number of districts has long been a concern -- even though that number has decreased by 100 over the past 60 years. The 2002 grand jury issued the most recent call for unification, asking school officials to "move beyond politics."

Wong knows that politics are part of the equation. He was superintendent of Petaluma schools before his election to the county office. The rural area around Petaluma, he said, is second only to the west county, with eight districts, including the Petaluma city schools.

Any suggestion of unification there, he remembers, "brought a reaction that was even more adverse."

Even before a consultant has been selected for the new study, the arguments have begun. The letters to the editor are being written. There's the close-to-home issue and the suspicion that bigger is not necessarily better. Proponents point to the costs of multiple administrations. Others worry that reorganization may not save money at all.

Wong's hope is that the study will generate a productive conversation about reorganization. Looking at the 1916 and 1924 numbers, he observed, with wry humor, that with just 41 districts now "at least, we're going in the right direction."