

STATUTORY FUNCTIONS OF COUNTY BOARDS OF EDUCATION & COUNTY SUPERINTENDENTS OF SCHOOLS

MARCH 1997

By Frank Fekete, Special Counsel to Kern County Superintendent of Schools

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June 7, 2006

Glen W. Thomas, Ed.D.
Executive Director
California County Superintendents Educational
Services Association (CCSESA)
1121 L Street, Suite 510
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Dear Glen,

Thank you for including the California County Boards of Education (CCBE) in the review of the document regarding the Statutory Functions of County Boards and County Superintendents. As President of CCBE, I have reviewed the text and am encouraged by the legal framework it provides as well as the opportunity for an understanding of our roles as county boards of education and county superintendents. This document offers us a framework of operation which will function as a valuable reference in the administration of our county schools. I am impressed with the thorough revisions and the clarity of the document.

This is an apt beginning to a process intended to provide language to the work we do as well as an opportunity for collaboration. It is my hope we will continue to share information which enhances our ability to work together constructively and effectively, in the interests of the children of California.

Sincerely,

Jennifer Kresge, President
California County Boards of Education

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The purpose of this writing is to describe the law setting forth the duties and responsibilities of the superintendent and board in the functional areas: (1) Budget and Fiscal Oversight of School Districts; (2) Personnel Matters; (3) Student Programs.

I. GOVERNANCE

The county superintendent and the county board of education have separate duties and responsibilities. This is true whether the superintendent is (as in most counties) separately elected or is (in a few counties) appointed by the board. The interaction between the board and the superintendent is entirely distinct from the relationship of a school district governing board and its employed superintendent. The county superintendent works directly with the school districts in the county to provide support and guidance for their operations. Policy determinations inherent in that relationship are made by the superintendent and the local school boards. The county board of education does not have a role in determining the policies of local school districts.

A wide variety of practices and policies have developed in the various counties to enable the county board and county superintendent to work cooperatively. In those counties where both are duly elected, each is directly accountable to the electorate. Open communication between superintendent and board and mutual sharing of information facilitate the accomplishment of their respective functions.

II. GENERAL DUTIES OF COUNTY BOARDS OF EDUCATION

County boards of education are required to “fix the salary of the county superintendent of schools” (Cal. Const. art. IX, § 3.1(b)). The Attorney General issued an opinion in 1978 stating that county boards of education may not decrease a county superintendent’s salary retroactively and thus deprive the superintendent of matured contractual rights for past services rendered (61 Ops. Cal. Atty. Gen. 384, August 24, 1978). However, the Attorney General issued another opinion in 1979 stating that county boards of education have authority to decrease the salary of a county superintendent of schools after the election for the term for which the superintendent was elected (62 Ops. Cal. Atty. Gen. 356, July 11, 1979).

The general duties of the county board of education are set forth in various sections of the Education Code.

Education Code § 1040 states that county boards of education *shall*:

- (a) Adopt rules and regulations not inconsistent with the laws of this state, for their own government.
- (b) Keep a record of their proceedings.
- (c) Approve the annual budget of the county superintendent of schools before its submission to the county board of supervisors.
- (d) Approve the annual county school service fund budget of the county superintendent of schools before its submission to the Superintendent of Public Instruction.

- (e) Review, as a scheduled agenda item at a regularly scheduled public meeting held pursuant to Article I (commencing with section 1000) of this chapter, the report of the annual audit provided for the county superintendent of schools under Education Code § 41020.

Education Code § 1042 *permits* county boards of education to:

- (a) Adopt rules and regulations governing the administration of the office of the county superintendent of schools.
- (b) Review the county superintendent of schools annual itemized estimate of anticipated revenue and expenditures before it is filed with the county auditor, and make any 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.
- (c) Acquire, lease, lease-purchase, hold and convey real property for the purpose of housing the office and the services of the county superintendent of schools. This power, however, only vests in those county boards of education that have been granted fiscal independence by the county board of supervisors.
- (d) Contract with and employ any persons to provide the board with special services and advice in financial, economic, accounting, engineering, legal, or administrative services.

A county board of education may not appoint outside counsel in addition to in-house counsel to provide unrestricted, independent advice to the board. (86 Ops. Cal. Atty. Gen. 57, April 25, 2003.) However, a county board of education may contract with outside counsel to provide advice to the board when the following circumstances exist:

- (1) In-house counsel has a conflict of interest;
 - (2) In-house counsel has failed to render timely advice in a particular matter;
 - (3) The services being sought are in addition to those usually, ordinarily, and regularly obtained from in-house counsel; and
 - (4) The county board of education desires a second legal opinion from that provided by in-house counsel in a particular matter.
- (e) Fill by appointment a vacancy that occurs during the term of an elected county superintendent of schools.

Other, more specific statutory duties and powers of county boards of education will be addressed in connection with specific functions.

III. PUPIL SERVICES

A. Expulsion Appeals

Pupils who are expelled by a local school district governing board may appeal the expulsion to the county board of education (Education Code § 48919). The county board is required to hold a

hearing whenever the appeal is filed in accordance with the law. County boards have a limited scope of review of these decisions as set forth in Education Code § 48922.

1. Whether the school district board acted without jurisdiction, i.e., time period violations, expulsion not based upon acts specified in the law as forming the basis for expulsion, or expulsion not based on acts related to school activity.
2. Whether the school district board conducted a fair hearing.
3. Whether there was a prejudicial abuse of discretion by the school district governing board, i.e., procedural requirements not met, the decision to expel is not supported by the findings, or the findings are not supported by the evidence.
4. Whether relevant evidence was improperly excluded by the school district board or new evidence that could have reasonably been discovered exists. In either of these instances, the county board may remand the case to the local board for reconsideration or to hold a hearing de novo itself.

Upon the filing of an appeal, the county board of education must conduct a hearing within 20 school days and render a decision within three school days of the hearing (Education Code § 48919). This hearing must be conducted in closed session unless the student requests in writing that the hearing be conducted in a public meeting (Education Code § 48920). Depending on the decision rendered, the county board is required to either remand the matter to the district governing board for reconsideration or adoption of required findings, grant a hearing de novo, or enter an order affirming or reversing the decision of the governing board. (Education Code § 48923).

B. Interdistrict Pupil Transfer Appeals

Current law provides several means to authorize interdistrict attendance of a student who resides in one school district but wishes to attend public school in another district.

1. Interdistrict Attendance Agreements (Education Code §§ 46600, et seq.)

The first, which has been in existence since the mid-1980's related to agreement between two or more school districts for the interdistrict attendance of pupils who are residents of the respective districts; this program is described in Education Code § 46600, et seq. If there is no interdistrict attendance agreement between two districts, a parent may request that one be entered into.

If either of the school districts fails to approve a transfer or fails, upon request, to enter into an agreement within 30 calendar days, the parent may appeal the failure to the county board of education. The county board has the responsibility within prescribed timelines and subject to certain procedures to determine whether the pupil should be permitted to attend and the applicable period of time.

2. District of Choice Program (Education Code §§ 48300, et seq.)¹

¹ Added by Assembly Bill 97 (Chapter 21, Statutes of 2004).

The second program, known as the “District of Choice” program, provides that a school district may, by resolution, elect to accept up to a specified number of students from other districts (Education Code § 48301(a)). The district must select students through a “random, unbiased process” that does not account for academic or athletic performance. However, siblings of students already enrolled in the district are entitled to priority. Students accepted for transfer under the “District of Choice” program are deemed to have fulfilled the residency requirements for school attendance in a district. Thus, no interdistrict agreement is required for the transfer. However, **there is no statutory right to appeal** a denial of a transfer request under the “District of Choice” program. As a result, the county board of education does not have an appellate role; this program, which was enacted in 2004, “sunssets” on July 1, 2007.

3. Allen Bill Transfer Program (Education Code § 48204(b))

The third program which authorizes students to attend school in a district other than their “home” district is found in Section 48204 of the Education Code. In this program, known as “Allen Bill Transfers,” a student is authorized to attend school in a district where the student’s parent(s) works, rather than where the student and parent(s) reside. The district where the parent is employed must agree to this alternative and either district of residence or parental employment may prohibit the transfer if it would negatively affect a desegregation plan. Similar to the “District of Choice” program described above, **there is no statutory right to appeal** a denial of a transfer request under the “Allen Bill Transfer” program. As a result, the county board of education does not have an appellate role. This program is scheduled to “sunset” on July 1, 2007.

IV. GENERAL DUTIES OF COUNTY SUPERINTENDENTS OF SCHOOLS

Education Code § 1240² describes the general statutory duties of the county superintendent. This section was significantly amended by the legislation enacted to implement the settlement of the *Williams, et al v. State of California, et al.* lawsuit. Section 1240 states that county superintendents shall:

- (a) Superintend the schools of his or her county.
- (b) Maintain responsibility for the fiscal oversight of each school district in his or her county.
- (c) (1) Visit and examine each school in his or her county at reasonable intervals to observe its operation and to learn of its problems.

(2) If funds are appropriated to do so, annually present a report to the governing board of each school district, county board of education, and county board of supervisors of his or her county describing the state of the schools that are ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index (API) including his or her observations while visiting the schools.
 - The county superintendent of Alpine, Amador, Del Norte, Mariposa, Plumas, Sierra, and San Francisco must contract with another county office of education or an independent

² As amended by AB 139 (Chapter 620, Statutes of 2001), SB 550 (Chapter 900, Statutes of 2004), SB 1108 (Chapter 22, Statutes of 2005), AB 831 (Chapter 118, Statutes of 2005), and SB 512 (Chapter 677, Statutes of 2005).

auditor to conduct the required visits and make all reports required in connection with the visits to deciles 1 to 3 schools.

- Visit schools ranked in deciles 1 to 3, inclusive, on the 2003 base API at least annually and the visits must:
 - Minimize disruption to the operation of the school.
 - Be performed by individuals who meet fingerprinting requirements.
 - Consist of not less than 25% unannounced in each county to observe the condition of school repair and maintenance and the sufficiency of instructional materials.
 - The priority objective of these visits is to determine:
 - The sufficiency of textbooks;
 - The condition of facilities that pose an emergency or urgent threat to the health or safety of pupils or staff; and
 - The accuracy of data reported on the school accountability report card with respect to availability of textbooks and instructional materials and the safety, cleanliness, and adequacy of school facilities, including good repair.
 - In determining whether to make a single visit or multiple visits to a decile 1 to 3 school, county superintendents must consider factors such as cost-effectiveness, disruption to the school site, deadlines, and availability of qualified reviewers.
- (d) Distribute all laws, reports, circulars, instructions, and blanks that he or she may receive for the use of the school officers.
- (e) Annually present a report to the governing board of the school district and the Superintendent of Public Instruction regarding the fiscal solvency of any school district with a disapproved budget, qualified interim certification, or a negative interim certification, or that is determined at any time to be in a position of fiscal uncertainty.
- (f) Keep in his or her office the reports of the Superintendent of Public Instruction.
- (g) Keep a record of his or her official acts, and of all the proceedings of the county board of education.
- (h) Enforce the course of study.
- (i) Enforce the use of state textbooks and instructional materials and of high school textbooks and instructional materials regularly adopted by the proper authority in accordance with Section 51050.
- (1) Specifically review schools ranked in deciles 1 to 3, inclusive, on the 2003 base API that are not currently under review by a state or federal intervention program at least annually by the fourth week of the school year.
- A county superintendent in a county with 200 or more schools ranked in deciles 1 to 3, inclusive, on the 2003 base API, may use a combination of visits and written surveys of teachers to determine sufficiency of textbooks and instructional materials. If written

surveys of teachers are used, visit the schools surveyed within the same school year to verify the accuracy of the information reported on the surveys.

- (2) If a county superintendent determines that a school does not have sufficient textbooks or instructional materials:
 - Prepare a report that specifically identifies and documents areas or instances of noncompliance;
 - Within five business days of the review, provide a copy of the report to the school district and forward the report to the Superintendent of Public Instruction;
 - Provide the school district with an opportunity to remedy the deficiency.
 - Ensure remediation of the deficiency no later than the second month of the school term.
 - If the deficiency is not remedied, request the department, with approval by the State Board of Education, to purchase the textbooks or instructional materials necessary to comply with the sufficiency requirement.
- (j) Preserve carefully all reports of school officers and teachers.
- (k) 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.
- (l) 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 financial and budgetary status of the county office of education for the period ending October 31.
 - (2) The second report shall cover the period ending January 31.
 - (3) Both reports shall be reviewed by the county board of education and approved by the county superintendent of schools no later than 45 days after the close of the period being reported.
 - (4) As part of each report, certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for two subsequent fiscal years.
 - (5) Send copies of each positive, qualified, or negative certification and the report containing such certification to the Superintendent of Public Instruction at the time submitted to the county board of education.
 - (6) Send copies of each qualified or negative certification and the report containing such certification to the Controller at the time submitted to the county board of education.

- (7) Base reports and certifications on standards and criteria for fiscal stability adopted by the State Board of Education and use format and forms prescribed by the Superintendent of Public Instruction.
- (8) Make reports and supporting data available to any interested party upon request.
- (m) When so requested, act as agent for the purchase of supplies for the city and high school districts of his or her county.
- (n) Report to the Commission on Teacher Credentialing the identity of any certificated person who knowingly and willingly reports false fiscal expenditure data relative to the conduct of any educational program if based on information that gives the county superintendent reasonable cause to believe such false information has been reported.

A. Miscellaneous Reporting Duties

The county superintendent is required to:

1. Make reports, when directed by the Superintendent of Public Instruction, showing matters relating to the public schools in his or her county (Education Code § 1243);
2. Annually submit to the Superintendent of Public Instruction a complete report of the attendance credited to the public schools of the county for the school year ending June 30 (Education Code § 1244);
3. Submit additional reports as may from time to time be required by the Superintendent of Public Instruction (Education Code § 1245).

Other, more specific statutory and legal duties and powers of the county superintendent will be discussed in connection with specific functions.

V. THE COUNTY OFFICE OF EDUCATION BUDGET PROCESS AND FISCAL RESPONSIBILITIES

A. Fiscally Independent vs. Non-Fiscally Independent Counties

County education agencies are of two types: Those which are fiscally independent of the county board of supervisors pursuant to Education Code § 1080, and those which are not.

At one time, there was a department or office of education within the government of each county. Education Code § 1080 empowers the county board of supervisors to transfer various functions to the county board of education. These functions are:

1. Approval of the superintendent's estimate of anticipated revenue and expenditures;
2. Allowance of various expenses of the superintendent's office, and;
3. Performance of other educational and recreational duties otherwise required to be performed by the board of supervisors.

Even when these functions are transferred, the expenses for them remain part of the county's general fund budget unless the county board agrees to include them in a "single fund budget." When there is such a single fund budget, the county of office of education is said to be "fiscally independent." Today, the great majority of county offices are fiscally independent.

1. In those counties which are not fiscally independent, there are basically two funds from which expenses of the country board and superintendent are paid:
 - a. The general fund budget of county government which is approved by the board of supervisors (Education Code, § 1510).
 - b. The county school service fund (Education Code, § 1500).
2. In the overwhelming number of counties where fiscal independence has been agreed to, the funds are consolidated into a single county school service fund budget which is forwarded only to the State Superintendent of Public Instruction. The process for adoption is set forth in Education Code § 1620 et seq.
3. Process for Budget Adoption in Fiscally Independent Counties:
 - a. County superintendent of schools submits proposed budget to the county board of education in the form prescribed by the Superintendent of Public Instruction (Education Code §§ 1621, 14050).
 - b. On or before July 1 of each year, the board holds a public hearing on the proposed budget. The hearing must be held prior to adoption by the board and no sooner than three days after the proposed budget is made available for public inspection (Education Code, § 1620).
 - c. On or before July 1, the county board is directed to adopt and approve an annual budget and file the budget with the Superintendent of Public Instruction (Education Code, §§ 1040, 1622(a)). If the county board neglects or refuses to make a county office of education budget, 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).
 - d. On or before September 8, the county board is required to revise the budget to reflect changes made necessary by revised projections of income and expenditures and to file that budget with the Superintendent of Public Instruction, the county board of supervisors, and the county auditor. The same notice provisions applicable to the July 1 adoption apply and the Superintendent of Public Instruction must approve the revisions (Education Code § 1622(c), (d)). As an alternative to this procedure, the county board of education may substitute the procedure found in Education Code § 1622 (e) (1), (2), and (3).
4. Process in Counties That Are Not Fiscally Independent:
 - a. The county superintendent submits a proposed annual budget for approval to the county board of education. The county board must approve the proposed budget prior to submission to the county board of supervisors (Education Code, § 1040, (c)). There is no date specified, but it is generally understood that this adoption will occur on or before July

1. No specific notice requirements are in statute for this adoption, but all the Brown Act notice of meeting requirements would apply to the action of the county board.

- b. The process for adoption and approval of the county school service fund budget is identical to the process for adoption and approving the single fund budget in counties that are fiscally independent (Education Code, § 1040(d)). There are currently only three (3) counties in this category: Alpine, San Benito, and San Bernardino.

B. Other Budget Functions of the County Board of Education

The county board is permitted, but not required, to review the county superintendent of school's annual itemized estimate of anticipated revenue and expenditures before it is filed with the county auditor and make any revisions, reductions, or additions it deems advisable and proper (Education Code, §1042 (b)). This itemized estimate is a separate document from the budget.

The county board is required to review two interim financial reports submitted by the superintendent: one for the period ending October 31, and the other for the period ending January 31. Both reports must be reviewed by the board and approved by the county superintendent within 45 days of the close of the reporting period (Education Code § 1240 (1)).

The county board is required to review the report of the annual audit (Education Code § 1040 (e)).

C. Approval of Budget by Superintendent of Public Instruction. Further Review of Disapproved Budget

As noted above, the consolidated budget for fiscally independent counties and the county school service fund budget in non-fiscally independent counties must be submitted to the Superintendent of Public Instruction for examination and determination of compliance by July 1 (Education Code § 1622). The Superintendent of Public Instruction must either approve or disapprove the budget by August 15. If the budget is disapproved, it is returned to the county office of education with recommended revisions and reasons.

On or before September 8, the county board is required to respond to the Superintendent of Public Instruction recommendations. This is done at the same time that revisions are made to the budget to reflect changes in projected income and expenditures that have occurred since July 1. All revisions are then forwarded to the Superintendent of Public Instruction. If the superintendent again refuses to approve the budget; he or she calls for the formation of a budget review committee pursuant to Education Code § 1623. During the subsequent review process, the county office continues to operate on the prior year's budget (Education Code, § 1626).

D. Budget Administration

Once the budget prepared by the county superintendent is adopted by the board, it is submitted by the superintendent to the Superintendent of Public Instruction for approval. Thereafter, administration of the budget is the responsibility of the county superintendent.

No funds may be expended in excess of the total expenditures approved by the Superintendent of Public Instruction without his or her approval (Education Code § 1604). In many counties, major changes in expenditures, such as for budget augmentation, major shifts in spending priorities, and

new programs, are first presented to the county board by the superintendent. The superintendent, however, can spend within major budget categories without further approval. The necessary transfers among budget categories (e.g. object codes) may be made by the superintendent to meet necessary expenses. Budget funds cannot, however, be transferred from the unappropriated fund balance without approval of the county board. In addition, a budget revision by the county superintendent in excess of \$25,000 or a consultant contract for \$25,000 or more is required to be incorporated in the next interim financial report or other board report when the report is submitted to the county board of education for discussion and approval at a regularly scheduled public meeting (Education Code §§ 1280, 1281).³

As noted above, the county superintendent submits to the board for review two interim reports - period ending October 31 and period ending January 31. At the time of these interim reports, the board and public are informed of routine budget transfers and approval is sought from the board for budget revisions (e.g. adjustments to revenue and to total appropriation level).

E. Property Acquisition and Disposal

Subject to the myriad of laws setting forth proper procedures, county boards of education have the power to lease, lease-purchase, hold, and convey real property for the purpose of housing the offices and services of the county superintendent of schools (Education Code § 1042(c)). This power only applies, however, in those counties that have achieved fiscal independence from the county board of supervisors or have secured the right by agreement with the county board of supervisors. The power to acquire property includes the power to do so by eminent domain (Education Code, § 1047).

Authority for purchases and contracts for personal property resides with the county superintendent.

One of the discretionary powers of the county board is to acquire (including lease) and hold or convey real property to house the offices and services of the county superintendent provided that the board of supervisors has transferred the power to allow the expenses of that housing. Education Code § 1605 provides that title to all property purchased by the county superintendent from the county school service fund is in the office of the county superintendent. The general practice is for real property to be held in the name of the county superintendent and county board, and personal property (including equipment) to be held in the name of the superintendent. County boards, by a two-thirds vote, may render city and county ordinances inapplicable to certain school sites. (See Government Code § 53094)

Education Code section 1279⁴ provides a number of requirements for a county superintendent to dispose of personal property. To dispose of any item of personal property worth over \$25,000, the county superintendent must:

1. Obtain an independent valuation of the property;
2. Advertise the property for sale in a newspaper of general circulation within the district, or in any newspaper of general circulation that is regularly circulated in the district.

³ Added by AB 857 (Chapter 838, Statutes of 1999).

⁴ Added by AB 857 (Chapter 838, Statutes of 1999).

3. Bring the matter to the attention of the county board of education for discussion at a regularly scheduled public meeting; and
4. Obtain the approval of the county board of education.

To dispose of any item of personal property worth less than \$25,000, the county superintendent must certify the value of the property in a quarterly report that is submitted to the county board of education for review.

VI. FISCAL ACCOUNTABILITY AND OVERSIGHT OF SCHOOL DISTRICTS

A. All School Districts

County superintendents are required to review and approve school district budgets and ongoing expenditure patterns before they are sent to the California Department of Education (Education Code § 42127⁵). Specifically, county superintendents are required to:

1. Examine the adopted budgets of the districts within his or her jurisdiction to determine whether it complies with the standards and criteria adopted by the State Board of Education and identify any technical corrections that are necessary to bring the budget into compliance with such standards and criteria (Education Code § 42127(c)(1));
2. Determine whether the adopted budget will allow the district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments (Education Code § 42127(c)(2));
3. Review and consider studies, reports, evaluations, or audits of the school district that contains evidence of fiscal distress under the state standards and criteria and were commissioned by the district, the county superintendent, the Superintendent of Public Instruction, or state control agencies (Education Code § 42127(c)(2));
4. Consider findings by an external reviewer that more than three of the 15 most common Fiscal Crisis and Management Assistance Team (FCMAT) predictors of a school district needing intervention are present (Education Code § 42127(c)(2));
5. If these findings are made, investigate the financial condition of the school district and determine if the district may be unable to meet its financial obligations for the current or two subsequent fiscal years, or should receive a qualified or negative certification (Education Code § 42127.6(a)(1));
6. Either conditionally approve or disapprove a budget that does not provide adequate assurance that the district will meet its current and future obligations, and resolve any problems identified in the referenced studies, reports, evaluations, or audits (Education Code § 42127(c)(2));
7. On or before August 15, approve, conditionally approve, or disapprove the adopted budget for each school district (Education Code § 42127(d));

⁵ Amended by AB 2756 (Chapter 52, Statutes of 2004).

8. On or before August 15, transmit to the governing board of the school district, in writing, recommendations regarding revision of the budget and the reasons for those recommendations including amounts of budget adjustments needed before the budget could be approved (Education Code § 42127(d));
 - a. Note: The county superintendent *may* assign a fiscal adviser to assist a school district to develop a budget in compliance with the recommended revisions (Education Code § 42127(d));
9. By September 15, develop a budget for any district that does not submit one to the county superintendent as required by August 15 and transmit that budget to the district governing board (Education Code § 42127(d));
10. By September 22, provide a list to the Superintendent of Public Instruction identifying all school districts for which a budget may be tentatively disapproved (Education Code § 42127(f)).
11. Review and comment on any proposed collective bargaining agreement of a qualified or negative certified district to determine if the agreement would endanger the fiscal well-being of the district and notify the district, the county board of education, the district superintendent and governing board, each parent and teacher organization of the district within 10 days (Government Code §§ 3540.2(a), (c));
12. Issue a qualified or negative certification for the district on the next interim report if the district does not adopt all of the revisions needed to meet the costs of a collective bargaining agreement (Cal. Govt. Code § 3547.5(c));
13. Report to the Superintendent of Public Instruction on the financial condition of any school district that is certified as qualified or negative including his or her proposed remedial actions and take **all actions necessary (but at least one of the following actions)** to ensure that the district meets its financial obligations:
 - a. Assign a fiscal expert, paid for by the county superintendent, to advise the district on its financial problems;
 - b. Conduct a study of the financial and budgetary conditions of the district including a review of internal controls;
 - c. Direct the school district to submit a financial projection of all fund and cash balances of the district as of June 30 of the current year and subsequent fiscal years as he or she requires;
 - d. Require the district to encumber all contracts and other obligations, to prepare appropriate cash flow analyses and monthly or quarterly budget revisions, and to appropriately record all receivable and payables.
 - e. Direct the district to submit a proposal for addressing the fiscal conditions that resulted in the determination that the district may not be able to meet its financial obligations;
 - f. Withhold compensation from members of the governing board and the district superintendent for failure to provide requested financial information;

g. Assign the Fiscal Crisis and Management Assistance Team (FCMAT) to review issues related to employment of teachers and provide the district with recommendations.

i. (Education Code § 42127.6(a)(1))

14. Reimburse the Superintendent of Public Instruction for all costs if the SPI assumes the fiscal oversight responsibility of the county superintendent of schools based on a finding that the actions of the county superintendent are not effective in resolving the financial problems of a school district (Education Code § 42127.6(k));

In addition, at any time during the fiscal year, county superintendents may audit, in a timely manner, the expenditures and internal controls of school districts he or she determines to be fiscally accountable (Education Code § 1241.5(a)⁶). Furthermore, at any time during the fiscal year, county superintendents may review or audit the expenditures and internal controls of school districts in his or her county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination (*Id.* at 1241(b)). County superintendents are required to focus such reviews or audits on the alleged fraud, misappropriation of funds, or other illegal fiscal practices and to conduct such reviews or audits in a timely and efficient manner. If the county superintendent determines that there is evidence that fraud or misappropriation has occurred, he or she is required to notify the governing board of school district, the State Controller, and Superintendent of Public Instruction, and the local district attorney (Education Code § 42638).

B. Emergency Loan Districts

County superintendents are also required to provide specific fiscal oversight for districts that receive emergency state loans. The appointment of a State Administrator to an emergency loan district does not remove any statutory rights, duties, or obligations from the county superintendent (Education Code § 41327.2(a)⁷). County superintendents are required submit reports to the Superintendent of Public Instruction, appropriate fiscal and policy committees of the legislature, the Director of Finance, and the Secretary for Education after reviewing the district's budget and interim reports that:

1. Document the fiscal and administrative status of an emergency loan district, particularly in regard to the implementation of the fiscal and management recovery plans.
2. Determine whether the revenue streams to the district appear to be consistent with its expenditure plan, according to the most recent data available at the time of the report.

(Education Code § 41327.2(b))

Such reports are required until six (6) months after all rights, duties, and powers are returned to the school district.

Furthermore, Education Code section 41326(k)⁸ requires the Superintendent of Public Instruction to review the fiscal oversight of any emergency loan district by the county superintendent with

⁶ Amended by Assembly Bill 139 (Chapter 620, Statutes of 2001).

⁷ Added by Assembly Bill 2756 (Chapter 52, Statutes of 2004).

⁸ Added by Assembly Bill 2756 (Chapter 52, Statutes of 2004).

jurisdiction over that district and report his or her findings to the Legislature and the Department of Finance within three months. If the SPI determines that the county superintendent failed to carry out his or her responsibilities for fiscal oversight, the SPI may exercise the oversight authority of the county superintendent for the emergency loan district. Also, if the SPI finds that the county superintendent failed to take into account indicators of fiscal distress, the SPI shall further investigate whether the county superintendent failed to take those indicator into account in other districts with negative or qualified certifications and provide an additional report to the appropriate policy and fiscal committees of the Legislature and the Department of Finance on the fiscal oversight practice of the county superintendent.

VII. THE PERSONNEL FUNCTION

One of the areas that most sharply differentiates the role of county boards of education from school boards in K-12 districts and community colleges is the personnel function, such as identifying needs for personnel, hiring, disciplining, terminating, and engaging in negotiations. The superintendent is the employer charged with the responsibilities of managing personnel (*See*, 72 Ops.Cal.Atty.Gen. 25, March 9, 1989). This includes determining the need for, and creating new positions.

As in K-12 districts, employees of the county superintendent who staff the county office of education are of two types - certificated and classified. Certificated employees are those that are required by state law to have a certificate (credential) issued by the state in order to perform their functions, and classified employees are all the rest. Employees of the county schools are covered by the same collective bargaining laws which cover employees of K-12 districts; however, the superintendent, not the board, is the employer who negotiates with the unions.

The Attorney General issued an opinion in 2002 stating that a county board of education may not meet in closed session under either the “personnel exception” or the “labor negotiations exception” of the Brown Act to consider the appointment, employment, salaries, fringe benefits, evaluation of performance, discipline, or dismissal of certificated or classified employees of the county superintendent of schools since county school employees are employed by the county superintendent and not by the county board of education (85 Ops. Cal. Atty. Gen. 77, April 19, 2002). While opinions of the Attorney General are not controlling statements of law, they are generally given “great weight” by courts in determining the meaning of statutes. *See, e.g., Freedom Newspapers, Inc. v. Orange County Employees Retirement System*, 6 Cal.4th 821, 829 (1993).

A. Certificated Staff Hiring

Numerous statutory references confirm that it is the superintendent and not the board that is the employer of certificated staff. Education Code §§ 1293 and 1294 grant to the superintendent the right to employ certificated employees. The right to employ such persons in categorical programs is found in Education Code § 1294.5.

In a number of program areas, the superintendent, with the approval of the county board, is authorized to provide various services to local school district (For example, Education Code §§ 1703, 1730, 1740, 1750). Once the board grants general approval for those program areas, the superintendent retains sole authority to hire staff within budgetary constraints.

B. Classified Staff Hiring

Education Code § 1311 specifies that classified employees that are employed by the county superintendent of schools are to be employed in accordance with specified code sections applicable to K-12 and community college classified employees. Education Code § 1311 specifies the superintendent as the employer. The state attorney general has published an opinion that this activity vests the responsibility for hiring (and other personnel matters) in the hands of the superintendent and not the county board (72 Ops.Cal. Atty. Gen. 25, March 9, 1989).

C. Certificated and Classified Employee Salary Setting

Subject to the obligation to bargain with exclusive representatives of certain categories of employees, the county superintendent has the authority to set salaries and benefits of all categories of employees. However, the county superintendent may not increase the salary or bonus of any employee of the county office of education by \$10,000 or more unless the matter is brought to the attention of the county board of education for its discussion at a regularly scheduled meeting (Education Code § 1302(a)⁹). In addition, the county superintendent may not increase the retirement benefits of any employee of the county office of education unless the matter is brought to the attention of the county board of education for its discussion at a regularly scheduled meeting *and* the county board approves the increase (Education Code § 13029(b)¹⁰). The salary of the superintendent, however, is set by the county board (Cal. Const. art. IX, § 3.1 (b)).

D. Issuance of Temporary Certificates

If certificated persons meet certain conditions, as specified in Education Code § 44332, the county board of education may issue temporary certificates authorizing payment of salary to teachers or children center personnel whose credentials or permits are being processed. The board is also responsible for revoking the certificates upon notification that the certificate holder does not meet the requirements for the credential.

E. Discipline, Dismissal, Layoffs, Evaluations, and Leave

Certificated discipline, dismissal, layoffs, evaluations, and most leaves are within the purview of the county superintendent of schools, again subject to any bargaining obligation that may exist. One exception is sabbatical leaves for certificated employees which are required to be submitted to the board for approval (Education Code, § 1294).

Classified discipline and dismissal are also within the power of the county superintendent subject to the rules and procedures promulgated by a personnel commission (if there is one within the office), the collective bargaining agreement, and state law. The county superintendent is in charge of evaluation and layoffs subject to any collective bargaining agreement.

Education Code § 1295 grants to the county superintendent of schools the power to grant leaves to classified employees “with the approval of the county board of education.” However, leave for employee are a mandatory subject of collective bargaining, which is the responsibility of the superintendent as employer. On this subject, one commentator has opined as follows:

⁹ Added by AB 857 (Chapter 838, Statutes of 1999).

¹⁰ Added by AB 857 (Chapter 838, Statutes of 1999).

“The problem posed by county board authority in regard to leaves is that the superintendent alone is empowered to negotiate leave provisions in collective bargaining. I conclude that the only way to harmonize the board’s power with bargained leave policies is to permit the board to grant or deny those leave requests which are left to the employer’s discretion under the contract. Thus, if the superintendent is empowered, but not required to grant a leave, the board may give or withhold approval of a leave the superintendent has decided to grant. The board may not grant a leave which the superintendent has decided to deny.” (Memorandum from Frank J. Fekete, Attorney at Law, to Sonoma County Superintendent of Schools, October 30, 1987 - quoted by permission.)

As mentioned above, boards do have the authority to contract with or employ persons to provide special services to the board, such as legal, financial, engineering, administrative, and economic. In that case, the board has the authority to set their salaries.

F. Credential Monitoring

County superintendents are required to monitor and review school district certificated employee assignment practices as follows:

1. On an annual basis, schools and school districts that are likely to have problems with teacher misassignments and teacher vacancies based on past experience or other available information; and
2. On an annual basis, schools ranked in deciles 1 to 3, inclusive, on the 2003 base Academic Performance Index if those schools are not currently under review through a state or federal intervention program. [Note: If a school has no teacher misassignments or teacher vacancies for two consecutive years, the next review of that school may be completed on a four-year cycle, unless the school is likely to have problems with teacher misassignments and teacher vacancies based on past experience or other available information]; and
3. All other schools on a four-year cycle.

(Education Code § 44258.9(b)¹¹)

In addition, county superintendents are required to investigate school and district efforts to ensure that any credentialed teacher serving in an assignment requiring a certificate or specific training completes the necessary requirements for these certificates or completes the required training. Furthermore, county superintendents are required to submit an annual report to the Commission on Teacher Credentialing summarizing the results of all assignment monitoring and review (*Id.* at § 44258.9(c)).

In the event of a misassignment, county superintendents are required to notify, through the district superintendent, any certificated school administrator responsible for assigning a certificated person to a position for which he or she has no legal authorization of the misassignment and advise him or her to correct the assignment within 30 days (*Id.* at § 44258.9(e)). If the misassignment is not corrected within 30 days, county superintendents are required to notify the Commission on Teacher Credentialing unless the administrator describes in writing to the county superintendent the extraordinary circumstances which make this correction impossible.

¹¹ Amended by Assembly Bill 3001 (Chapter 902, Statutes of 2004).

County superintendents are also required to notify district superintendents which have 5% or more of all certificated teachers in secondary schools misassigned and advise him or her to correct the misassignments within 120 days. If the misassignments are not corrected within 120 days, county superintendents are required to notify the Commission on Teacher Credentialing unless the district superintendent describes in writing to the county superintendent the extraordinary circumstances which make this correction impossible.

At the direction of the Commission on Teacher Credentialing, county boards of education are authorized to conduct hearings, report findings, summarize the evidence, and recommend to the state the revocation or suspension of a credential (Education Code § 44422). However, county boards of education do not have authority to revoke licenses to teach in that county of school teachers, administrators, and other certificated employees employed by the school districts of the county or by the county superintendent of schools (67 Ops. Cal. Atty. Gen. 218, May 30, 1984).

G. Collective Bargaining

Both the Attorney General (as discussed above) and the state Public Employment Relations Board (Alameda County Board of Education, PERB order No. 323, June 30, 1983) have determined that the county superintendent is the sole employer. The conclusion to be drawn from this is that the county superintendent of schools is the sole employer for collective bargaining purposes. Agreements between the superintendent and employee unions are binding contracts and any action that interferes with their performance may constitute an unfair labor practice.

H. Other Personnel Functions

The county superintendent is required to appoint a teacher and open and keep a school if there is sufficient money in a school district's funds to maintain a free school for 175 days of actual teaching if the trustees of the district neglect or refuse to employ a teacher (Education Code § 1256).

VIII. COUNTY PROGRAMS

The following sections briefly describe the programs run by county offices, and the respective roles of the board and superintendent.

A. Regional Occupational Centers and Programs (ROC/Ps)

ROC/Ps are established to provide vocational education opportunities to students. The county superintendent, with the consent of the State Board of Education, has discretionary authority to establish and maintain an ROC/P for vocational education (Education Code § 52301). (ROC/Ps may also be established by school districts under a joint powers agreement, in which case the county superintendent is not involved.) When an ROC/P is established by the county superintendent, the county board is the governing board (Education Code § 52310.5). As such, the board shall review the program every two years for compliance with statutory requirements (Education Code § 52302.3).

The duties of the county superintendent include:

1. Providing necessary transportation for ROC/P students (Education Code § 52311);

2. Acquiring a site and buildings for the ROC/P (Education Code § 52312);
3. Accepting and expending public and private grants for vocational education (Education Code § 52313);
4. Determining the admission of pupils into ROC/P (Educational Code § 52314);
5. Meeting various reporting requirements (Education Code §§ 52324.6, 52321 (a));
6. All the duties of the employer of the employees who provide services to the ROC/P.

In general terms, the county superintendent operates and administers the ROC/P, and the county board acts as the governing board.

B. County School Service Fund Programs and Services

Pursuant to Education Code § 1700 et. seq., the county superintendent is authorized, with approval of the county board, to provide coordination of the educational programs among school districts, and to provide professional and financial assistance to school districts. Once established, the county superintendent is empowered to employ various staff to provide for coordination of services. The types of programs and services that are specified are:

1. Preparation of courses of student and development of curriculum and instructional materials for K-12 schools (Education Code § 1720);
2. Supervision of instruction (Education Code § 1730), supervision of attendance (Educational Code § 1740.), supervision of health (Education Code § 1750), and counseling and guidance services (Educational Code § 1760);
3. Establishment and maintenance of a county school library service (Education Code § 1770), youth conservation and training program (Education Code § 1780), Technical, Agricultural, and Natural Resource School (Education Code § 179.), audio and visual services facilities (Educational Code § 1830), classes or schools for prisoners in the county jail (Education Code § 1900), and emergency schools (Education Code § 1920).

It seems clear that the county superintendent has the authority to determine the necessity of providing such services and programs, and to design a program that will meet the needs of the school districts and their students.

C. County Community Schools

County community schools generally serve those students who have been removed from school districts, whether by expulsion or referral. The county board has the discretionary authority to establish these community schools (Education Code § 1980). Once established, the county superintendent administers the schools, and the county board adopts the curriculum (Education Code §§ 1982, 1983, 1984).

D. Community Day Schools

Community day schools are operated by school districts and county offices of education. Community day schools serve expelled students, students referred by a School Attendance Review Board or probation department, and other high risk youth. Education Code section 48667¹² provides that for purposes of community day schools, county offices of education are deemed to be a school district. Thus, the county board of education has discretionary authority to establish these community day schools (Education Code § 48660).

E. Special Education

The county superintendent may operate special education classes under the SELPA Local Plan and participate in the IEP process in order to develop programs suited to individual needs. Curriculum decisions and proficiency standards are the responsibility of local school districts (Education Code § 56000 et seq.).

F. Juvenile Court Schools

Education Code § 48645.2 states that the “county board shall provide for the administration and operation of juvenile court schools” either “by the county superintendent” or “by contract with the respective governing boards of the school districts in which the juvenile court school is located.” Court schools are to be conducted in a manner prescribed by the county board of education to best accomplish the statutory purpose. The board adopts the curriculum and evaluates the educational program (Education Code § 48645.3).

G. Local Child Care and Development Planning Councils

County superintendents of schools, in conjunction with the county board of supervisors, are required to establish local child care and development planning councils that provide a forum for the identification of local priorities for child care and the development of policies to meet the needs identified within those priorities (Education Code § 8499.3).

IX. CHARTER SCHOOLS

A. Establishment of Charter Schools

A county board of education may establish a charter school if:

1. The pupils to be served are pupils who would normally be provided direct education and related services by the county office of education (Education Code § 47605.5)¹³;
2. The petition has been previously denied by a local school district governing board within the county (Education Code § 47605(j)); or
3. The charter provides county-wide services that cannot be provided by a district-approved charter school (Education Code § 47605.6)¹⁴.

¹² Added by Assembly Bill 1845 (Chapter 847, Statutes of 1998).

¹³ Added by AB 544 (Chapter 34, Statutes of 1998).

¹⁴ Added by AB 1994 (Chapter 1058, Statutes of 2002).

In any case, if the county board approves the charter, it is the authorizing entity. As such, it retains the power to revoke or renew the charter, has supervisory and oversight responsibilities over the charter school, and is responsible for ensuring that all special education and related services to eligible students are provided pursuant to each student's individualized education program (Education Code § 47605.6, 47607, 47646).

A charter school petition that has been denied by the governing board of a school district must be received by the county board of education not later than 180 calendar days after the denial. Reviews by a county board of education must be completed within 60 days of receipt, but an extension of up to 30 days is possible if both parties are willing. Any petition received more than 180 calendar days after denial by a district will not be acted upon by the county board of education (5 CCR § 11967). If, upon receipt of the petition, the Board fails to act within 120 days, the petitioner(s) may seek judicial review of the district board's denial (Education Code § 47605(j)(4)).

B. Oversight of Charter Schools

County superintendents have authority to monitor and investigate the operations of any charter school located within his or her county based upon written complaints by parents or other information that justifies the investigation (Education Code § 47604.4¹⁵). In addition, beginning January 1, 2006, county superintendents have authority to review or audit the expenditures and internal controls of any charter school in his or her county, in a timely manner, if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination (Education Code § 1241.5(c)¹⁶). The county superintendent must report the findings and recommendations to the governing board of the charter school and provide a copy of the information to the chartering-agency within 45 days.

Education Code section 47604.3 provides county offices of education with general authority to request information from a charter school. Therefore, a county office may request credential information from charter schools under their general authority. However, Education Code section 47605(l) specifically provides for the monitoring of credentials by the authorizing entity. The sections of law that generally provide the county office of education with a role in credential monitoring for districts do not apply to charter schools. Thus, a county office would only have credentialing monitoring responsibility under Education Code section 47605(l) if it were the charter authorizing entity.

Also, Education Code section 47652 provides county offices of education in which a charter-granting agency is located approval authority over the estimated average daily attendance of new charter schools in order for such charter schools to receive advanced apportionment.

X. SCHOOL DISTRICT REORGANIZATION

There is in each county, except a county that is also a city (i.e., San Francisco), a county committee on school district organization (Education Code § 4000). The county committee is the local initiator, coordinator, analyst, facilitator and arbitrator for the reorganization of school districts. It formulates plans, responds to petitions, conducts public hearings, develops and releases information, and analyzes proposals throughout the approval process of reorganization. For petitions for

¹⁵ Added by AB 1994 (Chapter 1058, Statutes of 2002).

¹⁶ Added by SB 430 (Chapter 357, Statutes of 2005).

transfers of territory, where state approval is not required, the county committee gives final approval or disapproval (Education Code §§ 35709, 35710), subject only to appeal to the State Board of Education (Education Code §§ 35710.5, 35711). The county committee also establishes or rearranges governing board trustee areas as required (Education Code § 1000).

In many counties, the county board of education serves as the county committee on school district organization by order of the State Board of Education (Education Code § 4021).

County superintendents have authority to provide assistance in connection with school district reorganizations through the services of the county committee on school district organization. For example, county superintendents may employ personnel to (1) conduct research in connection with the activities of the county committee, and (2) develop systems, procedures, and methods for applying such research findings to improve the effectiveness of those activities (Education Code § 1943). County superintendents also have authority to:

1. Provide information, coordination, and guidance to potential petitions for reorganization and to other parties about the petition process;
2. Provide procedural advice and counseling;
3. Provide information and assistance for community meetings, information and briefing sessions;
4. Provide for coordination of media and community relations;
5. Assist with processing and evaluation of multiple petitions to reorganize one or more school districts by ensuring compliance with all requirements and timelines and applying evaluation criteria;
6. Assist newly organized school districts to ensure smooth transitions with minimum disruption to students and staff and to provide advisory and consulting expertise in various areas.

(Education Code § 35700.1)

In addition, county superintendents are required inquire and ascertain whether the boundaries of the school districts and community college districts in his or her county are definitely and plainly described in the records of the county board of supervisors, and to keep a full and correct transcript of the boundaries in his or her office (Education Code § 2600).

XI. THE PERMISSIVE EDUCATION CODE

Education Code § 35160 provides “school districts” with permissive authority to:

“initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.”

Education Code § 35160.2 states that “for the purposes of § 35160, “school district shall include county superintendents of schools and county boards of education.” The Legislature received authority to grant permissive authority to school districts from a Constitutional amendment that specified only “school districts.” Some have questioned whether the Constitutional language

permitted the Legislature to extend the authority to either the county superintendents or county boards of education. To date, no one has challenged this grant of authority and educational agencies have proceeded on the basis that the extension is authorized.

XII. OTHER SERVICES PROVIDED BY COUNTY OFFICES OF EDUCATION

The following represents a sample of some of the other services authorized by law to be provided by county offices of education:

A. Professional Development

County superintendents are authorized to conduct teacher institutes for the professional development of teachers employed by school districts within the county, and to select the speakers and materials to be presented at such institutes (Education Code § 1278, 79 Ops. Cal. Atty. Gen. 109, June 20, 1996). Accordingly, county superintendent may select the speakers and materials to be presented at such teacher institutes conducted for the County offices of education are authorized to offer new teacher induction programs through the Beginning Teacher Support and Assessment (BTSA) program (Education Code §§ 44259(c), 44279.2(c)). County superintendents may establish administrator training and evaluation programs to provide school administrators support and development activities designed to improve clinical supervision skills (Education Code § 44682).

B. Business Services

County superintendents are authorized to provide fiscal, budgetary, and data-processing services through contractual agreements with school districts that have been determined to be fiscally accountable under Education Code Section 42650 (Education Code § 42650). Also, county superintendents may, with the approval of the State Superintendent of Public Instruction, the county board of education, and the county auditor, process payroll for designated school districts within the county (Education Code § 42646).

C. Child Development Programs and Centers

County superintendents may, with approval of the county board of education and the Superintendent of Public Instruction, establish and maintain child development centers and programs (Education Code § 8321).

D. Technology Leadership

County offices of education are authorized to serve as lead agencies to administer the services within each region to provide a range of technology services including staff development and technical assistance to all school districts and county offices of education with each region (Education Code § 51871). County offices of education also play an integral role in coordinating the K-12 High Speed Network which provides high-speed, high-bandwidth Internet access to all county offices of education, school districts, and schools in the state.

E. Regional System of District and School Support

County offices of education provide assistance to identified Program Improvement school districts and schools by reviewing and analyzing all facets of a school's operation, including the design and operation of the instructional program and making recommendations for improving student performance and school operations (Education Code § 52059).

F. Participation in Federal Programs

County superintendents are authorized to: (1) perform acts necessary to receive the benefits and spend funds provided by an act of Congress, and (2) cooperate with, or enter into agreements with, the federal government or any agency thereof, the State Board of Education, school districts, and private or public nonprofit organizations in order to receive the benefits and spend funds provided by the act of Congress (Education Code § 12400).

G. Scholarship Programs

County boards of education are authorized to grant scholarships and monetary awards to county students when it is acting as the governing board of a school district (85 Ops. Cal. Atty. Gen. 167, August 28, 2002).

H. Outdoor Science Education Programs

County superintendents of schools may, with approval of the county board of education, enter into agreements with school district governing boards or private schools to provide outdoor science and conservation education programs to students (Education Code §§ 8764-8765).

I. Services to Migrant Children

The Superintendent of Public Instruction is authorized to contract with county superintendents of schools (or local educational agencies) to provide services to migrant children residing in specified geographical regions (Education Code § 54444).

J. Medi-Cal Administrative Activities (MAA) Program

The Medi-Cal Administrative Activities (MAA) Program, authorized under Welfare and Institution Code Section 14132.47, provides a way for school districts to obtain federal reimbursement for the cost of certain administrative activities necessary for the proper and efficient administration of the Medi-Cal program. Local Educational Consortia (LECs) are defined in law as a local agency that is one of the service regions of the California County Superintendent Educational Services Association (Welf. and Inst. Code § 14132.47(q)(1)). County offices of education serve as lead agencies for the LECs by contracting with the Department of Health Services to operate the program, and providing services for school districts within their respective LEC.

Appendix A

CHRONOLOGY OF THE OFFICES OF THE COUNTY SUPERINTENDENT OF SCHOOLS AND COUNTY BOARDS OF EDUCATION IN CALIFORNIA

- 1849 Position of county superintendent of schools first established in Article IX of California Constitution as ex officio duty of the county assessor.
- 1852 Office of county superintendent of schools recreated (Common School Act).
- 1856 The office of county superintendent of schools is made elective as a position of county government.
- 1860 Legislature creates county boards of examination (headed by county superintendents).
- 1872 The Legislature authorizes, but repeals in 1874, that a person eligible for city or county superintendent must be a professional teacher and holder of a teacher's certificate. It was not until 1947 that professional requirements were required for county superintendents.
- 1879 New California Constitution established position of county superintendent of schools as elected constitutional office.
- 1881 Legislature created county boards of education (county superintendent and four educators appointed by the county board of supervisors).
- 1915 Responsibility for child welfare and attendance supervision.
- 1917 Responsibility for health and physical education.
- 1933 School finance law establishes three funds to support duties.
- 1939 Legislature authorizes by law the following:
1. The county board of supervisors is permitted to contract with the county superintendent of schools in order to provide health supervision of elementary school buildings and pupils enrolled in any elementary school within the county, carried out by health officers or other employees of the county health department.
 2. County superintendents are given discretion to provide for the education of physically handicapped minors who would otherwise be denied proper educational services.
 3. County superintendents are permitted, with the approval of the county boards of education, to provide for the preparation and coordination of courses of study, and for conducting and coordinating research and guidance activities for elementary and high schools under their jurisdiction.
- 1940 Additional powers granted by statute, including mandates to serve small school districts.

- 1946 Constitutional amendment authorized legislature to prescribe qualifications and fix salaries of county superintendents.
- 1947 County school service fund is created, increasing powers and duties of county superintendent.
- 1955 The Legislature enacts a law establishing elected county boards of education, consisting of five or seven members to be elected at large, and at least one member residing in each of the designated trustee areas determined by the county committee on school district reorganization.
- 1976 Constitutional amendment authorized county voters in non-chartered to choose between an elected or appointed county superintendent¹⁷, and authorizes the county board of education to fix the salary of the county superintendent.
- 1991 Assembly Bill 1200 (Chapter 1213, Statutes of 1991), which took effect on January 1, 1992, redefined and expanded county superintendents' fiscal oversight of school districts responsibilities.
- 2004 Assembly Bill 2756 (Chapter 52, Statutes of 2004), which took effect on June 21, 2004, made significant changes to the school district financial accountability statutes.
- 2004 *Eliezer Williams, et al., v. State of California, et al.* ("Williams") settled resulting in legislative enactments which required county superintendents to conduct annual visits of underperforming schools to review sufficiency of instructional materials, adequacy of school facilities, and verify information on the school accountability report card. County superintendents also required to submit annual reports of such visits to district governing boards, county boards of education, and county boards of supervisors.

¹⁷ In 1976-1977, elections were conducted in all general law counties to determine the method of selecting the county superintendent. In all cases, the county superintendent was to be elected.