

# SUPERINTENDENT TURNOVER AT THE SANTA CLARA COUNTY OFFICE OF EDUCATION

## TIME TO ELECT THE SUPERINTENDENT



Civil Grand Jury of Santa Clara County

*June 19, 2018*

## GLOSSARY AND ABBREVIATIONS

<b>BOE</b>	Santa Clara County Board of Education, the governing board of the Santa Clara County Office of Education
<b>Cal.Ed.Code</b>	California Education Code
<b>LCAP</b>	Local Control Accountability Plan
<b>LCFF</b>	Local Control Funding Formula
<b>SCCOE</b>	Santa Clara County Office of Education
<b>Superintendent</b>	Santa Clara County Superintendent of Schools, superintendent with management responsibility of the Santa Clara County Office of Education

## SUMMARY

A school district best serves its students and parents when its trustees and superintendent are aligned under a shared vision, with each understanding and respecting the well-defined authority and jurisdiction of the other. Over the past 11 years, five Santa Clara County (County) Superintendents of Schools (Superintendent) have overseen the Santa Clara County Office of Education (SCCOE).

This unusually high turnover rate suggests Santa Clara County Board of Education (BOE) trustees have not been sufficiently aligned with the superintendents they have appointed, prompting the Grand Jury to investigate the structure of the BOE and its relationship with the Superintendent, SCCOE and County Board of Supervisors (BOS).

This high turnover rate suggests BOE trustees have disagreed with the decisions of the superintendents they have appointed, such as approval of charter schools. This is due in large part to jurisdictional conflict between the previous Superintendents and the BOE, and the challenges faced by the Superintendents to manage the individual, and often conflicting, interests of the trustees.

The superintendents of schools in each California County exercise certain authority and responsibility independent of the BOE. Some of the superintendents' responsibilities are overseen by the BOE. The Santa Clara County BOE is a seven-member board, elected by geographic district. The BOE appoints the Superintendent. Santa Clara County is one of five of 58 counties in California where the superintendent of schools is appointed rather than elected.

The Grand Jury found that an inherent tension exists between appointed superintendents and the appointing BOE. The Santa Clara County BOE has often exceeded its authority by entering into the day-to-day management of the SCCOE. The challenge of the Superintendent, who has independent constitutional and statutory authority, is appealing - BOE trustees who, as a Board, has the authority to terminate the "at will" Superintendent.

Turnover of the Superintendent and the resulting changes in senior staff has lowered the quality of oversight of local school districts. High turnover has also negatively affected the SCCOE-provided services, as reported by the local school districts.

There also are costs associated with each new appointed Superintendent. This includes housing allowances to attract candidates from outside the county, contract buyouts,

recruitment expenditures and increased salaries. The Grand Jury estimates the cost to taxpayers in excess of \$1 million<sup>1</sup> for the five superintendents over the past 11 years.

Based on the history recounted above, the Grand Jury recommends that the Santa Clara County Board of Supervisors adopt a written provision of law to designate the Superintendent as an elective County office, and also adopt a written provision of law designating the manner of selecting the BOE.

## BACKGROUND

The SCCOE provides services and oversight to the County's 31 local school districts. Each California county has an office of education with authority and responsibility defined in the California Education Code (Cal.Ed.Code). The SCCOE is administered by a Superintendent who is appointed by an elected seven-member Board of Education.

The SCCOE provides services to local school districts that can be accomplished more efficiently and economically at the county level. This includes instruction in juvenile detention centers, special and vocational education, and programs for youths at risk of failure. The SCCOE also provides or helps formulate new curricula, implement staff development and training programs, and provide business services such as IT and payroll.

The BOE is responsible for setting organizational policy, reviewing and approving the SCCOE budget, and acting on applications for charter schools. The BOE also is the appellate body for district level charter schools, student expulsions and inter-district transfers. The BOE acts as the oversight authority for many services provided by the SCCOE. The key additional authority possessed by the BOE in Santa Clara County is the appointment of the Superintendent.

The Superintendent is responsible for fiscal oversight of each school district in the County, including examining and approving school district budgets and expenditures. The Superintendent is also responsible for reviewing each school district's Local Control Accountability Plan (LCAP)<sup>2</sup> which is a key component of the Local Control Funding Formula (LCFF). This is in addition to preparing an LCAP for the schools and programs implemented by the SCCOE. The LCFF and LCAP are key components of California Gov. Jerry Brown's education reform program initiated in 2013. The Superintendent is responsible for hiring

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<sup>1</sup> See Appendix 4

<sup>2</sup> The LCAP is a three-year plan that describes the goals, actions, services, and expenditures to support local priorities seeking to achieve positive student outcomes.

all SCCOE employees. The Superintendent's responsibilities described in this paragraph are independent of the BOE.

The Superintendent is independent of the BOE for some responsibilities but reports to the BOE for other responsibilities such as the operation of schools in the juvenile detention system in Santa Clara County.

## METHODOLOGY

The Grand Jury reviewed portions of the California Education Code, the websites of the BOE and SCCOE, the California Department of Education, and California professional organizations representing county offices of education, school districts and superintendents. The Grand Jury attended several recent BOE meetings. The Grand Jury interviewed over 40 individuals including past Superintendents; current and past BOE trustees; numerous superintendents from the County's 31 public school districts, representing 80% of the student population; county superintendents from three neighboring counties; and leaders of statewide professional organizations in public education. Finally, the Grand Jury researched the costs of recruiting and compensating elected and appointed county superintendents.

## DISCUSSION

### **Role of Board of Education**

The BOE is the governing body for the SCCOE. The BOE exists and derives its authority from the Constitution of the State of California, various statutes, including the Cal.Ed. Code., and rules and regulations promulgated by the State Board of Education.

The BOE<sup>3</sup> provides leadership and receives citizen input for schools, programs, and services operated by the SCCOE, including those services provided to school districts and the community. The BOE also provides leadership in educational issues on behalf of the SCCOE, and advocates on behalf of students and public education at the local, state and federal levels.

The BOE states that its role is to ensure that the SCCOE is responsive to the values, beliefs and priorities of the community and should work in partnership with the Superintendent to implement the vision, goals and policies of the SCCOE.

According to the BOE, its primary duties are:

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<sup>3</sup> Santa Clara County Office of Education website,  
<https://www.boarddocs.com/ca/sccoe/Board.nsf/Public#tab-policies>

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1. Appoint the Superintendent
2. Approve the annual budget and review interim reports of the Superintendent.
3. Approve the compensation of the Superintendent.
4. Adopt rules and regulations governing the administration of the office of the Superintendent.
5. Adopt, evaluate, and update policies consistent with the laws of California and the County Board's vision and goals.
6. Conduct appeal hearings for student expulsions.
7. Conduct inter-district attendance appeals.
8. Conduct hearings and appeals for petitions to establish charter schools.
9. Provide management and oversight for any charter school whose petition is approved by the BOE.
10. Provide for the administration and operation of juvenile court schools.
11. Approve the curriculum and maintain accountability for student learning in schools and programs operated by the SCCOE
12. Contract with and employ any persons for the furnishing to the BOE of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters.
13. Fill by appointment any vacancy that occurs during the elected term of a member of the BOE.

The BOE does not have authority to manage employees of the SCCOE.<sup>4</sup>

### **Role of Superintendent**

The powers, duties and responsibilities of the Superintendent are detailed in California statutes, the Superintendent's contract, and BOE policies and procedures. The primary duties of the Superintendent are:

1. Assume the administration and leadership responsibilities for the SCCOE.
2. Manage, supervise, and administer all SCCOE programs, schools, and operations in accordance with the law and BOE policies.
3. Implement all BOE policies and decisions.
4. Guide the BOE in complying with the various requirements of State laws, BOE policies and other pertinent regulations.

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<sup>4</sup> Opinions of the Attorney General, 85 Ops. Cal. Atty. Gen. 77 (2002); 72 Ops. Cal. Atty. Gen. 25, (1989)

5. Have general supervision of all personnel as provided in law, and develop and execute consistent, fair and fiscally sound personnel procedures and practices, including an evaluation program for all SCCOE employees.
6. Oversee all financial operations of the SCCOE.
7. Keep the BOE and the public informed as to the status of educational programs under his/her jurisdiction.
8. Serve as professional advisor to the BOE regarding educational, financial, legal, legislative and other matters within the BOE's subject matter jurisdiction.
9. Take an active leadership role in the development and improvement of department and programs operated by the SCCOE.
10. Articulate educational issues and values before the community and other governmental agencies.
11. Be accessible to community members and work with them to further SCCOE goals and build a strong, positive community attitude toward SCCOE programs and schools.

### **Role of Santa Clara County**

#### *Selection of Board of Education*

The California Constitution, Article IX, Section 7 gives the power to prescribe the "... appointment or election of... a board of education in each county ..." to the Legislature. Section 3.3. provides that: "it shall be competent to provide in any charter framed for a county under any provision of this Constitution, or by the amendment of any such charter, for the election of the members of the county board of education of such county and for their qualifications and terms of office." And Cal.Ed.Code Section 1000 states "... the manner of selection of the county board of education shall be prescribed in the county charter, or by the county board of supervisors ... ." (See Appendix 1)

Santa Clara is a charter county. In 1990, Section 503 of the County Charter stated:

The members of the County Board of Education are elected for the terms and in the manner provided by general law. The County Superintendent of Schools is appointed by the County Board of Education for a term not to exceed four years. The County Board of Education may suspend or remove the County Superintendent of Schools as provided by contract between the county board of education and the county superintendent.

In 1998, voters deleted Section 503 from the Charter. This action was recommended by a County Charter Review Commission on the grounds that the Board of Supervisors no longer exercised jurisdiction over the BOE or the Superintendent. There is no evidence that the

voters intended to change the manner of selecting the BOE rather it appears that this result was inadvertent. The Grand Jury has been unable to discover any resolution or ordinance adopted by the Board of Supervisors, at that time or subsequent to the deletion of Section 503, that sets forth the manner of selecting the BOE, as an alternative to a charter provision permitted by Cal.Ed.Code Section 1000.

The voters of Santa Clara County have no legal provision, clearly transparent to the citizens, describing the manner of selection of the BOE. The decision as to the manner of selecting the members of the BOE resides with either the County voters, by means of a charter amendment, or the Board of Supervisors by Resolution/Ordinance. The deletion of Section 503 means there is no current provision specifying the manner of selecting the BOE. The Grand Jury believes the Board should address this deficiency.

### *Selection of County Superintendent of Schools*

California Constitution, Article IX, Section 3, states that “A Superintendent of Schools for each county may be elected by the qualified electors thereof at each gubernatorial election or may be appointed by the county board of education, and the manner of the selection shall be determined by a majority vote of the electors of the county voting on the question ... .” (See Appendix 2)

Prior to 1990 the County charter provided for an appointed superintendent. As referenced above, Section 503 of the Charter that specified a BOE appointed Superintendent was deleted from the Charter by the voters without any apparent intent to change the manner of selecting the Superintendent.

In contrast, Sacramento County is another charter county where BOE trustees appoint the superintendent. This process is in Sacramento County Charter, Section 27-A.<sup>5</sup> Los Angeles County enumerates in its charter the appointive county officers, including the BOE members and the Superintendent of Schools. See Los Angeles County Charter, Section 14.<sup>6</sup>

Thus, in Santa Clara County there is no legal provision, clearly transparent to the citizens, directing that the Superintendent be appointed by the BOE. The Grand Jury believes that the Board should provide a written provision of law to decide whether the process of selecting their Superintendent should be by BOE appointment or elected at large for a term of years.

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<sup>5</sup> County of Santa Clara website, <http://www.bos.saccounty.net/CountyCharter/Pages/default.aspx>

<sup>6</sup> County of Los Angeles website, <http://www.lacounty.gov/government/public-information-records>

### Previous SCCOE Superintendents

The Grand Jury learned personnel decisions, clearly under the purview of the Superintendent, led to second-guessing and criticism by the BOE. One former Superintendent was directed to create a more efficient and leaner SCCOE, but developed a conflict with the BOE when the approach was considered too aloof and brusque.

Previous Superintendents experienced frustration with the BOE interfering in the day-to-day operations of the SCCOE. This interference diverted their attention from their first priority as chief administrator. As one former Superintendent stated to the San Jose Mercury News in 2017, “When the board appoints the Superintendent, it makes the job difficult, because he or she can’t exercise full authority of the office.”<sup>7</sup>

The BOE has also failed to implement consistent hiring or performance appraisal processes. The Grand Jury’s examination of performance appraisals for past county superintendents showed inconsistencies in the timing of the reviews as well as the criteria measured in the reviews. In reviewing the backgrounds of BOE trustees, the Grand Jury found little evidence of prior experience in hiring and managing people.

### Jurisdictional Issues between the BOE and Superintendent

The SCCOE has an annual budget of \$300 million and a workforce of 1,700 full and part-time employees. The Superintendent has complete responsibility for the management of the SCCOE. The Grand Jury found that there is a misconception that the BOE has the authority to manage the SCCOE. In fact, the BOE has limited jurisdiction. This point is not uniformly shared by the entire BOE.

The Grand Jury found that the BOE and Superintendents often clashed over jurisdictional issues, creating a climate of conflict and mistrust that led to costly turnover in the Superintendent’s position. It is evident that a deteriorating relationship between the BOE and Superintendents led to the departure of all five of the most recent Superintendents.

The jurisdictional limitation of the BOE is clearly defined and supported by the attorney general’s opinion, described above. Yet, former Superintendents clearly expressed their frustration with the BOE’s involvement in day-to-day decisions, often questioning the Superintendent’s decisions, leading to strained relationships.

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<sup>7</sup> Sharon Noguchi, “Santa Clara County’s Top Educator’s Bittersweet Parting after Months of Rancor,” *San Jose Mercury News*, November 15, 2017.

### Input from Superintendents of Local School Districts

The Grand Jury found that some local school districts used many SCCOE services and some used virtually none. Large and more affluent school districts functioned independent of the SCCOE, where midsize and smaller districts relied on SCCOE services.

The Grand Jury learned the following regarding the relationship between local school districts about the SCCOE and County Superintendent:

- The constant County Superintendent turnover has damaged the reputation of that role and the position is no longer seen as relevant by local superintendents.
- The quality of SCCOE services is dependent on the staff providing those services.
- While some districts have an adequate working relationship with the SCCOE and staff, they all feel there is room for improvement.
- The SCCOE has unnecessary bureaucracy.
- The BOE is too focused on approving charter schools.
- These professionals had mixed opinions on whether an elected or appointed Superintendent of Schools is best, but they voiced stronger opinions on the matter than did the local school district superintendents.
- There is a high turnover of critical SCCOE staff.
- Most school districts used SCCOE support services for payroll, human resources, technology support, special education, math, professional development, and English as a Second Language programs. All districts used SCCOE for LCAP compliance.

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- The SCCOE and its services were not very useful to basic aid districts<sup>8</sup>
- SCCOE staff give inconsistent advice, requiring multiple revisions during preparation of the LCAP.
- Costs for SCCOE services were increased with little advance notice or input from school districts.
- SCCOE increased the cost of its services in order to pay for high salary increases for SCCOE employees.
- Special Education instruction and services offered by SCCOE are often more costly than private resources. For example, eight districts joined together to jointly provide special education services that they say has saved them money.

The Grand Jury found no consensus among local superintendents as to whether an appointed or elected County Superintendent would be in the schools' and students' best interest.

### **Perspectives from Outside the County**

The Grand Jury interviewed five educational professionals outside of the county, including an educational association and a non-profit group, on the issue of elected vs. appointed superintendents. Those in favor of an elected superintendent noted the following:

- Elected superintendents see their constituency as the students, while appointed superintendents are more focused on serving the board;
- Elected superintendents have a peer relationship with their boards and an elevated status among elected officials, thus improving their ability to be an advocate at the county or state level.

Those in favor of an appointed superintendent noted the following:

- The superintendent is more accountable to the elected board.

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<sup>8</sup> Basic aid districts, those that receive little state funding, because their revenue from local property taxes exceeds what they would receive under Local Control Funding Formula (LCFF) whereas the state provides the majority of K-12 funding. California's public schools receive funding from three sources: the state (57%), property taxes and other local sources (29%), and the federal government (14%). The proportion of funding from each source varies across school districts.

(<https://www.theatlantic.com/education/archive/2016/08/will-there-ever.../497069/>)

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- Elected superintendents might focus on election campaigns and short-term decision-making, which could limit their focus on students and long-term decision-making.

The relationship between the board and the superintendent is key to an effective county office of education. These officials told the Grand Jury that any Board of Education and superintendent must have a shared vision on how the county office should work and not reach beyond their statutory duties and responsibilities as specified in the Education Code. They said there has to be mutual respect and acceptance of each party's role, and confidence in one another.

It is a best practice to have an annual board retreat where relationship issues could be discussed, often with an outside facilitator.

Communication between the superintendent and the board is critical. Superintendents should favor over-informing the board rather than under-informing them. For example, while the superintendent has clear duties with respect to all personnel matters, the Board likes to be informed of certain actions.

Clarifying and reinforcing the separate responsibilities of the board and superintendent is important, especially for new Trustees. A best practice is to have the District's general counsel explain each party's independent authority, along with the risks and consequences of overstepping their authority.

Another best practice is to offer an orientation on the division of duties and responsibilities to BOE candidates, followed up with mentorship for new board members.

As was the case with local school district superintendents, the Grand Jury found no consensus among interviewees outside the county as to whether an appointed or elected County Superintendent would be in the schools and students best interest.

### **Elected vs. Appointed Superintendents**

In California, five counties including Santa Clara appoint their Superintendent of Schools while the other 53 elect them. There is a significant structural, organizational and reporting difference between appointed and elected Superintendents.

The appointed Superintendent is a direct employee of the county board of education. As such, the trustees have direct management responsibility for the superintendent and can

discipline or terminate his/her employment at their will. The appointed superintendent reports directly to the board and serves at discretion of the board. The Grand Jury found the average tenure of an appointed superintendent was less than that of an elected superintendent, based on a review of 10 California counties.

The average tenure of the four appointed Superintendents in Santa Clara County over the past 10 years was 2.5 years. The average tenure for the last two elected superintendents in the Counties of San Mateo, Alameda and Contra Costa is 8.5 years. The average tenure for an elected superintendent would be at least four years.<sup>9</sup>

An elected Superintendent is legally independent from the BOE. This is critically important in a situation where a board divides into factions. A superintendent elected to a four-year term has a greater opportunity to execute their mission. An elected superintendent also tends to have stronger ties to the community and to local and state political leaders. An elected superintendent carries a higher profile and can be an effective force in lobbying on behalf of the educational community.

### **Charter Schools**

The Grand Jury found a major source of conflict between the BOE and Superintendents, and among BOE trustees, has been the approval of charter schools<sup>10</sup> over the past decade.

The 34 charter schools approved by the BOE is the most of any urban California county board of education. This surpasses even Los Angeles County, which has five times as many students as Santa Clara County.<sup>11</sup> The 32% of the charter schools approved by the BOE no longer operating is the highest percentage of any urban county board of education and twice the average percentage of charter schools approved by local school districts.

The Grand Jury received multiple statements from interviewees that a few BOE trustees inappropriately sought to influence SCCOE staff when a charter application was being

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<sup>9</sup> Data based on the last two elected superintendents of these three counties and assuming that current elected superintendents will complete their terms.

<sup>10</sup> The California Department of Education Charter Schools Database shows there have been 86 charter schools approved in the County, and 67 are still operating. The other 19 charters have been closed, revoked or abandoned. Of the 86 charters, local school districts approved 52, and 44 of those are operating. The BOE approved 34 charter schools, with 23 still operating (see Appendix 3). The BOE approves countywide charter schools and also acts as the appellate body for charter schools denied by local school boards.

<sup>11</sup> See Appendix 3

reviewed. This influence also included pressure on Superintendents and staff to support charter schools.

The BOE, as well as a few individual trustees, used unorthodox practices in advocating for charter schools. The BOE directed the Superintendent to include recommendations for both approval and denial of charter schools petitions without a formal recommendation for one or the other. Customarily, the superintendent presents the pros and cons as well as one recommended course of action.

The Grand Jury believes one illustration of the conflict occurred in 2010 when the BOE, in one action, approved 20 individual charter schools operated by the same organization, with locations in several local school districts. The charter schools had not been evaluated at the local level as would be the case with a local school district charter application. Local school district superintendents still mistrust the BOE because of this action.

Another source of conflict occurred when two BOE trustees appeared before the State Board of Education to speak in favor of approving a charter school that the BOE had voted to deny.

The actions described in this section cause distrust and disunity among the BOE trustees, add political pressure to the Superintendent, and impede a shared vision of the role of charter schools in public education.

## CONCLUSIONS

The high turnover rate of Superintendents is an unenviable hallmark of the BOE. The Grand Jury found that stability at the top is crucial to helping the SCCOE accomplish its mission of supporting student education. Turnover erodes employee morale, impacts trust between local school districts and the SCCOE, and creates a negative public perception.

The Grand Jury discovered there is a lack of mutual respect for the scope of authority and jurisdiction between the BOE and Superintendent, leading to turnover.

The Grand Jury also discovered that the manner of selecting the Superintendent and members of the BOE was deleted from the County Charter in 1998 and that there is no current written provision of law authorizing appointment of the Superintendent by the BOE or the election of members of the BOE.

The Grand Jury concludes the most effective way to ensure the independent authority of the Superintendent is to make the office an elected position. Since the public school system

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belongs to the people, the public should maintain control of the schools via the exercise of the right to the ballot.

## FINDINGS AND RECOMMENDATIONS

### **Finding 1a**

There is an inherent jurisdictional conflict between an appointed superintendent and an elected Board of Education that fosters governance disunity.

### **Finding 1b**

The previous four appointed Superintendents were separated from employment by the BOE in large part due to conflicts over BOE and Superintendent responsibilities.

### **Finding 1c**

The BOE has employed five Superintendents in the last 11 years, a high turnover rate compared to counties with an elected Superintendent.

### **Finding 1d**

The high Superintendent turnover has wasted more than \$1 million of taxpayer money.

### **Finding 1e**

The short tenure of the Superintendent has contributed to general dissatisfaction with the quality of services provided by the County Office of Education.

### **Finding 1f**

Santa Clara County lacks any written provision of law designating the manner of selecting the County Superintendent of Schools, as addressed in California Constitution Article IX, Section 3.

### **Finding 1g**

Citizens are entitled to clarity as to the manner of selecting the County Superintendent of Schools through a written provision of law.

### **Recommendation 1a**

The County Superintendent of Schools should be an elected office.

**Recommendation 1b**

The Santa Clara County Board of Supervisors should designate in a written provision of law the manner of selecting the County Superintendent of Schools by Dec. 31, 2018, or if they elect to do so by Charter, by the 2020 primary election ballot.

**Finding 2**

Santa Clara County does not specify the manner of selecting the County Board of Education in its Charter or in any other manner as required by California Education Code, Section 1000.

**Recommendation 2**

The Santa Clara County Board of Supervisors should provide for the manner of selection of the County Board of Education by Dec. 31, 2018, or, if they elect to do so by Charter, by the 2020 primary election ballot.

## REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

Responding Agency	Finding	Recommendation
Santa Clara County Board of Education	1a, 1b, 1c, 1d, 1e, 2	1a, 1b, 2
Santa Clara County	1f, 1g, 2	1a, 1b, 2

From the following individuals:

Responding Individual	Finding	Recommendation
Santa Clara County Superintendent of Schools	1a, 1e	1a

## APPENDICES

### **Appendix 1: Constitutional and statutory provisions governing Boards of Education.**

County Boards of Education, as of 1976, are selected as per California Constitution, Article IX, Sections 3.3 and 7 and Cal.Ed.Code Section 1000:

California Constitution, Article IX, Section 3.3: Except as provided in Section 3.2 of this article, it shall be competent to provide in any charter framed for a county under any provision of this Constitution, or by the amendment of any such charter, for the election of the members of the county board of education of such county and for their qualifications and terms of office.

California Constitution Article IX, Section 7: The Legislature shall provide for the appointment or election of the State Board of Education and a board of education in each county or for the election of a joint county board of education for two or more counties.

Cal.Ed.Code Section 1000: Except in a city and county, there shall be a county board of education, which shall consist of five or seven members to be determined by the county committee on school district organization. Each member of the board shall be an elector of the trustee area which he represents and shall be elected by the electors of the trustee area. In chartered counties the manner of selection of the county board of education shall be prescribed in the county charter, or by the county board of supervisors. In a county unified school district or in a unified or elementary school district which includes all of the territory over which a county superintendent of schools has jurisdiction, the governing board of the district shall serve as the county board of education.

As of 1990, the BOE was an elected body per Cal.Ed.Code Section 1000 and County Charter Section 503.

### **Appendix 2: Constitutional and Santa Clara County Charter provisions governing County Superintendents of Schools.**

County Superintendents of Schools are selected as directed by the California Constitution. Prior to 1976, California Constitution, Article IX, Section 3 stated that the County Superintendent of Schools was elected. However, Article XI, Section 4, allowed county charters to provide for the selection of all other county officers.<sup>12</sup>

In 1976, Article IX, Section 3, was amended to state that the County Superintendent of Schools would be appointed by the BOE or elected by the qualified electors (voters) of the county.

California Constitution, Section 3:

A Superintendent of Schools for each county may be elected by the qualified electors thereof at each gubernatorial election or may be appointed by the county board of education, and the manner of the selection shall be determined by a majority vote of the electors of the county voting on the question; provided, that two or more counties may, by an election conducted pursuant to Section 3.2 of this article, unite for the purpose of electing or appointing one joint superintendent for the counties so uniting

Since 1967, Section 503 of the County Charter provided that the Superintendent was appointed by the BOE but for a term that had to coincide with the term of office of the Governor and that the Superintendent could be removed as provided by general law. The former provision was inconsistent with Education Code, Section 1000, and the latter inconsistent with practice and custom. In 1989, the BOE requested the Board of Supervisors to place an amendment to Section 503 before the voters<sup>13</sup>. That amendment was adopted in 1990. Thus, the BOE would appoint the Superintendent for a term not to exceed four years and the removal of the Superintendent was pursuant to the contract between the BOE and the Superintendent.

The Grand Jury has been unable to discover, subsequent to 1998, any decision by the voters of this county that specified the manner of choosing its Superintendent, as required by Article IX, Section 3. It also would appear that the act of repealing Charter Section 503 is not an implied decision “by majority vote of the electors of the county voting on the question” to select the Superintendent by BOE appointment.

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<sup>12</sup> See California Government Code, Section 24000.

<sup>13</sup> Santa Clara County Board of Education, Resolution # 720-3, Oct. 18, 1989.

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### Appendix 3: Charter School Data for Los Angeles and Santa Clara Counties<sup>14</sup>

County	Students <sup>15</sup>	Approved Charter Schools	Operating Charter Schools <sup>16</sup>	Closure Rate <sup>17</sup>
Los Angeles-Local/State Approved	1,511,354	508	367	28%
Los Angeles-BOE Approved		27	20	26%
Santa Clara-Local/State Approved	273,263	52	44	15%
Santa Clara-BOE Approved		34	23	32%

<sup>14</sup> All data from California Department of Education Charter School Database, as of April 15, 2018.

<sup>15</sup> Student population of 2016-17 school year.

<sup>16</sup> Includes active and pending charter schools.

<sup>17</sup> Includes charter schools designated as closed, revoked, and abandoned.

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### Appendix 4: Taxpayer Payment to Superintendents

Expenditure Item	2007	2012	2014	2017	Total
Executive Search Fees		\$42,950	\$28,000	\$3,675	\$74,625
Relocation		\$15,000	\$25,000	\$30,000	\$70,000
Home Loan		\$125,712	\$18,308		\$144,020
Home Sale Loss to County		\$222,000			\$222,000
Severance	\$485,000			\$159,894	\$644,894
<b>Superintendent Totals</b>	<b>\$485,000</b>	<b>\$405,662</b>	<b>\$71,308</b>	<b>\$193,569</b>	<b>\$1,155,539</b>

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This report was **ADOPTED** by the 2017-2018 Santa Clara County Civil Grand Jury on this  
13 day of June, 2018.



Peter L. Hertan  
Foreperson