

From: Scott Rafferty [mailto:rafferty@gmail.com]
Sent: Tuesday, July 17, 2018 3:37 PM
To: Mary Ann Mason <MaryAnn.Mason@cc.cccounty.us>; falleyne@cccoc.k12.ca.us
Subject: Re: CCBOE consideration of WCCUSD elections

Dear Ms. Mason -

I returned late last night from a two-week vacation. Although Dr. Alleyne advised me by letter of June 14 that the County Committee would await presentation of a petition, I did not receive the notice proposed in your March 29, 2018 email. While I wish to avoid any technical arguments about the notice requirements applicable to this matter, I would be grateful if the Committee designated me as the major spokesperson against the proposal, consistent with the procedures recommended in CDE School District Organization Handbook, K-2 (2016). As you know, I encouraged the Court to solicit the views of the County Committee, but the Court did not choose to do so. At this point, I believe that most of the matters identified in WCCUSD resolutions that the Committee has posted are sub judice and not appropriate for action by the Committee, even to the limited extent that the Education Code might otherwise provide jurisdiction over some of them.

The notice is not clear as to the extent to which the Committee has accepted WCCUSD claims about the scope of its jurisdiction to conduct a public hearing on a variety of issues.

1. Whether there should be a ballot question, and whether that should be called and ordered before there is a judicial resolution of the pending claims. WCCUSD counsel admits that a negative vote will be ineffective, so such a question would confuse and could divide voters along racial lines for no proper public purpose.
2. Whether the Committee has jurisdiction to endorse a map that has been submitted by the Board, or whether the Committee may direct WCCUSD to adopt a different map;
3. Whether the Committee should ratify a sequence recommended by the Board or whether the Committee should determine by lot which unrepresented areas will not be allowed to elect trustees until 2022, even though neither approach is consistent with Elections Code, Section 10010, with which WCCUSD purports to comply.
4. Whether the Committee can shorten the terms of trustees elected at-large this November, in order to provide for simultaneous implementation in all trustee areas in 2020. Plaintiffs requested this compromise in March 2018, and separate clients agreed to it with the Antioch City Council. It is our position that school districts require court approval to shorten terms, as in *Rey v Madera USD*, and we are prepared to include this in a negotiated stipulation for submission to superior court. Section 5017 is waivable, but SBE has never granted such a waiver and could not consider it until September. This stipulation would likely address all four issues as part of an integrated compromise.

I also note that the WCCUSD Board has chosen to present a package four issues that are not severable. The Committee should let the public know whether it intends to claim jurisdiction over proposals to change maps or to shorten trustee terms. If the Committee concludes that it lacks such powers, or does not intend to exercise them, it should notice a hearing limited to whether the question is appropriate for the November ballot. For the Committee to address issues selectively could also limit the prospects for compromise in court, which could also prolong and complicate the litigation. It may be best to continue the hearing, particularly given the likelihood that trustee elections are more than two years away. If ultimately necessary, the ballot question could occur by mail or in the June 2020 statewide election.

Scott Rafferty
1913 Whitecliff Ct
Walnut Creek CA 94596
mobile 202-380-5525