

Subject: Process for Changing the Name of the District
To: Jason Yamashiro <jyamashiro@dixieschooldistrict

Good Afternoon Dr. Yamashiro:

In your previous emails to me you have requested my opinion regarding matters related to the process for changing the name of the Dixie District.

By memorandum dated September 18, 2018 the District received advice from Noel Shumway on this general matter. I have reviewed Mr. Shumway's memorandum and I concur in his analysis and conclusions.

In addition, I have previously advised the Marin County Superintendent of Schools with respect to this matter and I believe you have copies of Ms. Burke's February 7, 1997 Memorandum to Dr. Lohwasser and my September 8, 2015 email to Ms. Burke, both of which address the code specified process for changing the name of a school district.

Your specific questions and my responses follow:

1. What is the process for changing the name of a school within the district?

Response:

The Education Code does not address this issue. As a result the process for changing the name of a school is vested in the discretion of the governing board. That discretion must be exercised in public session pursuant to an action item on the posted agenda, all in compliance with the Brown Act.

2. If the governing board receives a petition pursuant to Education Code section 35001 is the board allowed to hold a hearing on the petition and proposed name but then decide on a different name?

Response:

No. The process set forth in Education Code section 35001 is mandatory.

3. Are there any options to the mandatory process described in Education Code section 35001?

Response:

Yes.

A. The governing board may request the State Board of Education (SBE) to grant a waiver of any or all of the provisions of Education Code section 35001. By way of example the governing board could request the SBE to waive the reference to "high school district" in section 35001(b), such that the governing board would have the ability to initiate the name change by its own action.

B. Prior to the receipt of a "name change" petition the governing board could consider whether a name change is appropriate. If the governing board decides to change the name it could then invite the petition required by section 35001, hold the public hearing and other processes required by section 35001, and then formally adopt the new name.

C. As noted in Mr. Shumway's memorandum the governing board also has the authority to call for an advisory election on this issue.

4. Is it permissible for one or more board members to advocate for a change in the name of the district before receiving the petition specified by Education Code section 35001, or any waiver thereof?

Response:

Yes. An action to change the name of a school district is a legislative decision and the First Amendment protects the right of any elected official to advocate for a point of view on legislative matters. This right is limited by the "time, place, and manner" limitations prescribed by the Brown Act, which does prohibit a majority or more of school board members from coordinating decision making outside the purview of a duly noticed and "agendized" board meeting.