

**CALIFORNIA DEPARTMENT
OF EDUCATION**

TOM TORLAKSON
STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

1430 N STREET, SACRAMENTO, CA 95814-5901 • 916-319-0800 • WWW.CDE.CA.GOV

April 5, 2018

H. Francisco Leal
Leal & Trejo, Attorneys at Law
3767 Worsham Avenue
Long Beach, CA 90808

Re: Alum Rock Union Elementary School District's Appeal of the Santa Clara County Office of Education's Determination to Stay and Rescind All General Fund Expenditures by the District

Dear Mr. Leal:

This constitutes the California Department of Education's (CDE) response to your letter dated March 22, 2018, that was received by the CDE on March 26, 2018. In the letter, you purport on behalf of the Alum Rock Union Elementary School District (District) to challenge the Santa Clara County Office of Education's (County) March 16, 2018, decision pursuant to California *Education Code (EC)* sections 42127.6(c) and (e)(2) to invoke its authority to stay and rescind any action by the District that is determined to be inconsistent with the District's ability to meet its obligations in the current or subsequent fiscal year. For the reasons described below, the CDE does not have jurisdiction over this appeal.

First, the basis for your appeal is your assertion that the County failed to take steps required by *EC* Section 42127.6(a) before taking its March 16, 2018, action pursuant to *EC* Section 42127.6(c). However, following a FCMAT audit, the County sent the District a letter regarding qualified certification and assignment of a fiscal expert on January 16, 2018. Pursuant to *EC* sections 42131(a) and 42127.6(b), the District had 5 days within which to appeal the County's determinations, but the District did not do so. The County subsequently took action on March 16, 2018, under *EC* Section 42127.6(c), which the District now purports to appeal pursuant to *EC* Section 42127.6(d). Because the District's appeal pursuant to *EC* Section 42127.6(d) is premised on a challenge to the County's previous determinations under *EC* Section 42127.6(a), which the District did not appeal, the CDE does not have jurisdiction over the subject matter of the present appeal.

H. Francisco Leal, Attorney


April 5, 2018

Page 2

Second, in any event, a District appeal pursuant to *EC* Section 42127.6(d) of a County's determinations made pursuant to *EC* Section 42127.6(c) must be made by the District's governing board (Board). Here, your letter does not indicate that an appeal was authorized by the District's Board in compliance with the Brown Act. In fact, the CDE has received correspondence from a District Board member stating that the District's Board was not consulted on, and did not authorize, an appeal. Therefore, the appeal is not properly before the CDE.

For the reasons stated above, the appeal is denied.

Sincerely,



Caryn Moore, Director
School Fiscal Services Division

LG:jh

cc: Members of the Board, Alum Rock Union Elementary School District
Hilaria Bauer, Ed. D., Superintendent, Alum Rock Union Elementary School
District
Mary Ann Dewan, Ph.D., County Superintendent of Schools