

Resolution Establishing the County Superintendent
of Schools' 2022-2026 Salary

ORANGE COUNTY BOARD OF EDUCATION

MARCH 2, 2022

WHEREAS, California Constitution Article IX, §3.1 provides: "... (b) notwithstanding any provision of this Constitution to the contrary, the county board of education or joint board of education, as the case may be, shall fix the salary of the County Superintendent of Schools or the joint County Superintendent of Schools, respectively; and

WHEREAS, Education Code §1040 provides: County Boards of Education shall: (a) adopt rules and regulations not inconsistent with the laws of the state, for their own government; and

WHEREAS, Education Code §1042 provides: County Boards of Education may do the following: (a) adopt rules and regulations governing the administration of the office of the county superintendent of schools; and

WHEREAS, Education Code §1207 provides: The qualifications of the County Superintendent of Schools in each county shall be as set forth in Sections 1205 to 1212, inclusive, for that class into which the county falls. The class into which each county falls shall be determined on October 1st of each year based upon the average daily attendance in the public schools of such county for the preceding school year as reported to the State Department of Education. In no case will the salary of the county superintendent be lowered during his term of office. The salaries set forth in Section 1213.2 are payable to incumbent county superintendents of schools; provided, however, that the salary of an incumbent shall not be reduced during the term for which he was elected or appointed or for any consecutive new term to which he is elected or appointed; and

WHEREAS, Education Code §1209 provides: A county superintendent of schools shall not increase his or her salary, financial remuneration, benefits, or pension in any manner or for any reason without bringing the matter to the attention of the county board of education for its discussion at a regularly scheduled public meeting of the board and without the approval of the county board of education; and

WHEREAS, California Attorney General Opinion No. CV 77-180-August 24, 1978 (61 Ops. Cal. Atty. Gen. 384), concluded that a County Board of Education has the authority to decrease the County Superintendent's salary; and

WHEREAS, California Attorney General Opinion No. CV 79-507-July 11, 1979 (61 Ops. Cal. Atty. Gen. 356), concluded the County Board of Education has plenary power to increase or decrease the Superintendent's salary before the upcoming term before that term commences; and

WHEREAS, Education Code §1240 provides: the county superintendent of schools shall do all of the following: (a) Superintend the schools of the county; and

WHEREAS, on February 22, 1977, the Orange County Board of Supervisors (“Board of Supervisors”) passed a resolution stating in relevant part: NOW, THEREFORE, IT IS RESOLVED, that a transfer of certain educational duties and functions to the County Board of Education, pursuant to Education Code §671, and the establishment of a single fund budget for the support of the County Board of Education, the County Superintendent of Schools, and the County Committee on School District Organization, pursuant to chapter 2 of Division 15 of the Education Code (commencing with §20400), is approved in principle; and

WHEREAS, on June 7, 1977, the Board of Supervisors passed an implementing resolution stating in relevant part: WHEREAS, the County Superintendent of Schools and the County Board of Education have proposed all duties and functions of an educational nature performed by the Board of Supervisors be transferred to the County Board of Education; and

WHEREAS, Education Code §35160 provides: On or after January 1, 1976, the governing board of any school district may initiate and carry out any program, activity, or may otherwise act in a 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; and

WHEREAS, Education Code §35160.1 provides: (a) The Legislature finds and declares that school districts, county boards of education, and county superintendents of schools have diverse needs unique to their individual communities and programs. Moreover, in addressing their needs, common as well as unique, school districts, county boards of education, and county superintendents of schools should have the flexibility to create their own unique solutions; and (b) In enacting Section 35160, it is the intent of the Legislature to give school districts, county boards of education, and county superintendents of schools broad authority to carry on activities and programs, including the expenditure of funds for programs and activities which, in the determination of the governing board of the school district, the county board of education, or the county superintendent of schools are necessary or desirable in meeting their needs and are not inconsistent with the purposes for which the funds were appropriated. It is the intent of the Legislature that Section 35160 be liberally construed to effect this objective; and

WHEREAS, Education Code §35160.2 provides: For the purposes of Section 35160, “the school district” shall include county superintendents of schools and county boards of education; and

WHEREAS, Education Code §35161 provides: The governing board of any school district may execute any powers delegated by law to it or to the district of which it is the governing board, and shall discharge any duty imposed by law upon it or upon the district of which it is the governing board, and may delegate to an officer or employee of the district any of those powers or duties. The governing board, however, retains ultimate responsibility over the performance of those powers or duties so delegated; and

WHEREAS, the Orange County Board of Education (“County Board”) is informed and believes, based on data publicly available on the webpage of Betty T. Yee, California State Controller, “Government Compensation in California” (<https://publicpay.ca.gov/Reports/K-12/K-12Entity.aspx?entityid=6269&year=2020>)s that the Orange

County Superintendent of Schools (“County Superintendent”) in 2020 received a yearly base salary of \$364,895; and

WHEREAS, the County Board is informed and believes, based on data publicly available on the webpage of Betty T. Yee, California State Controller, “Government Compensation in California” (<https://publicpay.ca.gov/Reports/K-12/K-12Entity.aspx?entityid=6269&year=2020>)s that in 2020 the County Superintendent received benefits of \$85,559; and

WHEREAS, the County Board is informed and believes, based on data publicly available on the webpage of Betty T. Yee, California State Controller, “Government Compensation in California” (<https://publicpay.ca.gov/Reports/K-12/K-12Entity.aspx?entityid=6269&year=2020>)s that in 2020 the County Superintendent received yearly total compensation of \$450,454;

WHEREAS, the County Board is informed and believes that the County Superintendent has the highest total compensation of any county superintendent in the State of California; and

WHEREAS, the County Board is informed and believes that, effective December 6, 2021, the California Governor receives a base salary of \$218,556 per year; and

WHEREAS, the County Board is informed and believes that, effective December 6, 2021, the California Lieutenant Governor receives a base salary of \$163,841 per year; and

WHEREAS, the County Board is informed and believes that, effective December 6, 2021, the California Attorney General receives a base salary of \$189,841 per year; and

WHEREAS, the County Board is informed and believes that, effective December 6, 2021, the California Controller receives a base salary of \$174,843 per year; and

WHEREAS, the County Board is informed and believes that, effective December 6, 2021, the California Treasurer receives a base salary of \$174,843 per year; and

WHEREAS, the County Board is informed and believes that, effective December 6, 2021, the California Secretary of State receives a base salary of \$163,917 per year; and

WHEREAS, the County Board is informed and believes that, effective December 6, 2021, the California Superintendent of Public Instruction receives a base salary of \$189,841 per year; and

WHEREAS, the County Board is informed and believes that, effective December 6, 2021, the California Insurance Commissioner receives a base salary of \$174,843 per year; and

THEREFORE THE ORANGE COUNTY BOARD OF EDUCATION hereby resolves as follows:

1. Pursuant to its authority under California Constitution Article IX, §3.1(b), as well as the above referenced legal authority, the County Board shall fix the 2022-2026 County Superintendent’s yearly base salary at \$ _____, commensurate with the administrative duties

and responsibilities of the position as compared to other County Superintendents and California state officials.

2. Pursuant to Education Code §1209, the County Superintendent shall, at the next regularly scheduled Board meeting on April, 6, 2022, provide to the board his 2021-2022 salary, remuneration, benefits, stipends and/or allowances (hereinafter “benefits package”) to the County Board for the purpose of providing the Board notification.

3. The County Superintendent’s yearly base salary of \$ _____ shall become effective upon the commencement of the County Superintendent of Schools 2022-2026 term of office on July 1, 2022 through June 30, 2026.