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DATE: April 28, 2016

TO: Boards of Trustees
Presidents and Superintendents/Chief Executive Officers
Community College Attorneys

FROM: Thuy Thi Nguyen Vice Chancellor and Interim General Counsel

SUBJECT: **Requests to Change Local District Election Systems**
Legal Advisory 16-02

Education Code Section 72036 authorizes governing boards of community college districts to change from an *at-large* election system to a *by-trustee area* election system without first holding an election to authorize the change. *At-large* electoral systems are subject to challenges under the California Voting Rights Act of 2001 (Voting Rights Act). Education Code Section 72036 was adopted, in part, to assist community college districts in complying with the Voting Rights Act.

The board of trustees of the community college district must adopt a resolution in support of the change in election system and obtain the approval of the Board of Governors of the California Community Colleges. The California Community Colleges Chancellor's Office (CCCO) recently made minor revisions to the Election System Change Request Form, which can be found at the following link:

<http://extranet.cccco.edu/Portals/1/Legal/Updates/Request%20to%20Change%20Election%20Systems%2011.15.pdf>

Since 2011, several community college districts have utilized the process provided in Section 72036 to change from an *at-large* election system to a *by-trustee area* election system. The purpose of this Legal Advisory is to remind districts of the available electoral options and to provide an overview of the Section 72036 process.

Benefits of Education Code Section 72036 and By-Trustee Area Election Systems

Education Code Section 72036 was enacted in 2011 to provide community college districts with a simplified, streamlined and cost-effective procedure for adopting *by-trustee area* election systems.

To establish trustee areas, the governing board must divide the territory of a district into trustee areas, with one member of the governing board being elected from each trustee area. Candidates for election are required to reside in, and be registered to vote in, the trustee area he or she seeks to represent. The governing boards are authorized to set the initial boundaries of each trustee area to reflect the population identified in the most recent federal census. Prior to the enactment of Education Code Section 72036, a district was required to seek voter approval for the electoral change, an expensive and time consuming process.

In an *at-large* election system, voters are eligible to vote for all seats up for election. By contrast, in a *by-trustee area* system, voters who live within a geographic area elect a trustee to represent the interests of that particular geographic area. Section 72036 requires a community college district to obtain the approval of the Board of Governors for the proposed change in trustee election systems.

What Districts Need To Do

The Chancellor's Office has established an electronic application process for districts to utilize when seeking Board of Governors approval for a *by-trustee area* election system. Prior to submission to the Board of Governors, all applications are reviewed by the Office of the General Counsel for completeness and timeliness.

Consistent with Section 72036(a), a governing board of a community college district shall do all of the following:

1. Adopt Resolution of Support. The governing board must adopt a resolution in support of electing the trustees in accordance with Section 72036(a).	NOTE: The district should, as part of the application package, submit a signed copy of the adopted resolution to the Chancellor's Office.
2. Divide Territory into Trustee Areas. The territory of a district shall be divided into trustee areas consistent with Section 72036(a).	NOTE: The resolution should identify the proposed trustee area plan (with map) delineating the new trustee areas.
3. Establish Elections by Trustee Areas. One member of the governing board shall be elected from each trustee area. A candidate for election shall reside in, and be registered to vote in, the trustee area he or she seeks to represent.	NOTE: The resolution should clearly establish that candidates for each trustee area must reside in and be registered to vote in the trustee area in question.
4. Ensure Trustee Areas Reflect Substantially Equal Population. The governing board shall set the initial boundaries of each trustee area to reflect substantially equal population in each district as enumerated in the most recent federal census.	NOTE: Many districts hire a consulting firm to assist with the creation of trustee areas, maps and corresponding population/demographic charts. The proposed trustee areas must be based on the most recent federal census (2010), and must have substantially equal population.

Please contact the Office of the General Counsel if you have any questions about requests to change local election systems pursuant to Section 72036.