

TEMECULA VALLEY UNIFIED SCHOOL DISTRICT
RESPONSE TO
2004-2005 GRAND JURY REPORT

SEPTEMBER 06, 2005

Introduction:

The Board of Education of the Temecula Valley Unified School District hereby responds to the 2004-2005 Grand Jury Report in accordance with the provisions of California Penal Code section 933.05.

Response to Comments in "Background":

The Grand Jury states:

"In the course of this investigation, the Grand Jury requested information authorized by the California Public Records Act (CPRA), California Government Code Sections 6250-6270.* The TVUSD Board of Education, District Managers, and staff only provided public information after receiving subpoenas from the Grand Jury."

District Response:

This statement is inaccurate and misleading. Over the course of an investigation that spanned two school years, the District received numerous requests from the Grand Jury for testimony and information. These were inconsistent in form, coming on some occasions in the form of a telephone call to the District seeking the appearance of employees, sometimes in the form of a letter, and ultimately, upon request, in the form of a subpoena. On numerous occasions documents were requested. For example, the request of August 19, 2004 came in the form of "Grand Jury Subpoena", which was, in reality, a subpoena duces tecum seeking a long list of documents. In response, the District provided several boxes of documents, and a detailed index, organized by date and type of document to assist the Grand Jury in its review. A second example: On June 3, 2005, the Human Resources office received a fax request for copies of four Board policies, which were provided by fax on June 6, 2005. A voicemail message in February 2005 was left, requesting information regarding acquisition of school busses. The information was promptly faxed to the Grand Jury.

The background statement is inaccurate in that it suggests that the District refused to produce documents pursuant to the Public Records Act, or that it only provided documents which were otherwise available under the Public Records Act. Contrary to the statement, the District requested a subpoena only for the personal appearance of Board members and employees. It did not insist on a subpoena for any documents which were public records.

Apparent Bias of the Grand Jury:

It has become clear to the Governing Board that over the course of two school years that this investigation covered, there was a strong element of bias and retaliation in the Grand Jury's investigation. In school year 2002-2003, the District initiated dismissal charges against a senior classified employee in the District's business division on numerous charges of serious misconduct. An eleven day hearing before an independent hearing officer resulted in the hearing officer upholding the District's recommendation for dismissal, notwithstanding blistering attacks on the District and its employees by the charged employee and counsel for the employee, and their numerous efforts to blame the employee's misconduct on others.

Despite the Hearing Officer's decision upholding the District's recommendation of dismissal, the employee filed suit against the District in Superior Court, litigation that continues to this day. Commencing at the time of the service of charges on the employee and continuing to the present date, the employee's spouse has made many inaccurate and misleading public comments, misrepresenting the conduct of District employees and criticizing the leadership of the Governing Board. A close colleague of the dismissed employee remains in the employment of the District. The District has never taken disciplinary action against that individual, nor discriminated against that person in any fashion. The District has been told that the colleague is a family member of one of the Grand Jurors who played a prominent role in the questioning of District Board members and senior District employees. Some of the juror's questions to District witnesses probed the same spurious and false allegations made by the dismissed employee and by the employee's spouse. It is readily apparent from the extensive scope and tenor of the questioning, and the tone and lack of substance of the findings of the Grand Jury that a strong retaliatory element exists in this process which is inconsistent with the purposes for which a Grand Jury is established. The Board is dismayed and disappointed that the Grand Jury investigative process has been used in this fashion.

DISTRICT RESPONSE TO FINDINGS OF THE GRAND JURY

Finding No. 1:

"The TVUSD Board of Education is unaware and does not fully understand the application of the laws pertaining to CPRA and, therefore, relies on legal counsel in this regard."

District Response to Finding No. 1:

The District disagrees with this finding.

Contrary to the finding of the Grand Jury, the District's Board, Superintendent, senior administrators, and public information officer are very familiar with the Public Records Act and the depth of obligations of public entities under that law. When necessary, they consult counsel for assistance and comply fully with their responsibilities.

Failure to engage in such thoughtful and active compliance would be irresponsible conduct on the part of public officials.

Further, it appears that there has been a campaign by certain individuals to attempt to set up the District as non-compliant with the Public Records Act. During the period covered by the Grand Jury investigation, the District received numerous Public Records Act requests, many unspecific and demanding immediate production, others sent via the Internet by an unidentified sender. In each instance, the District complied with the full extent of its obligations under the Public Records Act. The Grand Jury report fails to cite a single specific instance of the District's failure to comply with the Public Records Act.

Finding No. 2:

“The TVUSD Board of Education described the operation of the district as its ‘Culture,’ which through our interviews was defined as ‘The way we do things around here.’”

District Response to Finding No. 2:

The District disagrees with this finding.

The Temecula Valley Unified School District, like other public school districts, operates according to the mandates of state and federal law and board policy. Characteristic of the board and the administration is the District's prevailing emphasis on conducting its business in a manner that: (1) makes paramount the opportunity for children to learn and maximize their potential; (2) demonstrates fiscal responsibility in the prudent use of the taxpayer funds. We fail to understand the Grand Jury's apparent criticism of our culture of achievement and fiscal responsibility.

Finding No. 3:

“Our investigation revealed that the Board of Education has not updated policies and procedures that would prohibit discriminatory practices when an employee files a grievance against their supervisors, testify in court or opposes board policies.”

District Response to Finding No. 3:

The District disagrees with this finding.

Contrary to the unspecific and unsupported representation of the Grand Jury, the District regularly updates its Board Policies regarding prohibition of discrimination and retaliatory practices. In fact, the District has done so on recent occasions including the legal updates to Board policies related to school harassment and workplace harassment in February 2003. A review of the District's policy update service, provided by the California School Boards Association shows that the most recent recommendation of that organization for such policy revisions was consistent with the date of the District's revision. The District is a subscribing member of a policies service provided by the California

School Boards Association, and frequently updates the referenced policies, along with other Board Policies.

Finding No. 4:

“Investigation revealed that one employee had not received a performance evaluation in eleven (11) years.”

District Response to Finding No. 4:

The District disagrees with this finding.

This finding, like the others, is unspecific and unsupported by facts. It is the longstanding policy and the practice of the District to periodically evaluate all employees in accordance with the requirements of the Education Code, applicable collective bargaining agreements, and Board Policy. The Grand Jury never identified the employee nor requested that the Superintendent or the Human Resources office provide supporting evidence to corroborate this allegation. Had the Grand Jury done so, the District would have immediately investigated and, if warranted, taken appropriate corrective action.

Finding No. 5:

“The TVUSD Board of Education disclosed that there had been incidents of misuse of District computers in which employees accessed inappropriate material.”

District Response to Finding No. 5:

In each instance of the District becoming aware of policy violations and/or misuse of District computers, it has been thoroughly investigated and reported to law enforcement as appropriate. In each instance of a violation, the District took appropriate, confidential disciplinary action. Due to this strict adherence of the District to the privacy rights of its employees, other employees would have no knowledge of such disciplinary action.

Finding No. 6:

“The TVUSD Board of Education and Management are unaware of the proper procedures for mandated reporting.”

District Response to Finding No. 6:

The District disagrees with this finding.

First, in the lack of the specificity of what mandated reports the Grand Jury refers to. In the context of public school districts, the term “mandated reporter” is typically used in the context of mandated reports when a district reasonably believes that a child may have been the victim of child abuse pursuant to provisions of California Penal Code section 11165 et seq. The District follows the Penal Code, maintains Board Policy 5141.4 “Child

Abuse Reporting Procedures”, and inservices its employees on their obligations to report suspected child abuse.

Finding No. 7:

“Financial records revealed that a department revolving fund (Petty Cash) had been used by an employee for personal business. Board Policy has not been revised since March 20, 1990.”

District Response to Finding No. 7:

The District disagrees with this finding to the extent that it implies that the current Board Policy is not consistent with current legal requirements. District witnesses freely admitted that they became aware of an instance where an employee had not followed statutory and policy requirements for use of petty cash. They also reported to the Grand Jury that they thoroughly investigated the matter and took corrective action.

Moreover, the District’s policy service from the California School Boards’ Association has not recommended a change in this policy, the current policy complies with all legal requirements. The Grand Jury states that the Board Policy has not been revised since March 20, 1990, in an apparent reference to Board Policy 3314.2 and Education Code section 42801. The Grand Jury neglects to read further in the Education Code. While section 42801 establishes a requirement for a bond by the District officer in charge of the petty cash fund, section 42801.5 specifically allows the district, in lieu of the purchase of a bond to, “insure against losses caused by an employee or officer of the school district.” The District has consistently maintained such insurance coverage, satisfying the legal requirements of section 42801. Moreover, the District’s policy service from the California School Boards’ Association has not recommended a change in this policy. Finally, District audits by outside, independent auditors have consistently found the District in compliance and have not recommended a change in this policy, or District revolving fund procedures. The current policy complies with all legal requirements.

DISTRICT RESPONSE TO THE RECOMMENDATIONS OF THE GRAND JURY

Recommendation No. 1:

“The TVUSD Board of Education, follow Section 6250-6270 of the CPRA in releasing information to parents, teachers, staff and the general public in regard to the overall operation of the school district.”

District Response to Recommendation No. 1:

The District has implemented this finding in that it consistently followed these recommendations prior to the initiation of a Grand Jury investigation or the issuance of its report.

Recommendation No. 2:

“The TVUSD Board of Education review district policies, rules and regulations to ensure that the accepted principles that govern the conduct of the educational and professional requirements of certificated and classified employees comply with the district’s quality work standards and its ‘Core Values.’”

District Response to Recommendation No. 2:

The District has implemented this finding in that it consistently followed these recommendations prior to the initiation of a Grand Jury investigation or the issuance of its report.

Recommendation No. 3:

“The TVUSD Board of Education update policies and procedures to prohibit retaliation and intimidation by administrators, staff or department directors against any district employee who complains, testifies or participates in a district grievance process.”

District Response to Recommendation No. 3:

The District has implemented this finding in that it consistently followed these recommendations prior to the initiation of a Grand Jury investigation or the issuance of its report.

Recommendation No. 4:

“TVUSD Human Resources Department review all employee records to ensure that all employees receive performance evaluations as required.”

District Response to Recommendation No. 4:

The District has implemented this finding in that it consistently followed these recommendations prior to the initiation of a Grand Jury investigation or the issuance of its report.

Recommendation No. 5:

“The TVUSD Board of Education develop policies and procedures for the monitoring of computers, to include appropriate and corrective actions for improper and unauthorized use by employees.”

District Response to Recommendation No. 5:

The District has implemented this finding in that it consistently followed these recommendations prior to the initiation of a Grand Jury investigation or the issuance of its report.

Recommendation No. 6:

“The TVUSD Board of Education must ensure that the Superintendent or designee shall provide training regarding mandated reporting duties. In the event that mandatory training is not provided, the Superintendent or designee shall report to the California Department of Education the reasons that such training is not provided as required by *Penal Code 11165.7.*”

District Response to Recommendation No. 6:

The District has implemented this finding in that it consistently followed these recommendations prior to the initiation of a Grand Jury investigation or the issuance of its report.

Recommendation No. 7:

“The TVUSD Board of Education review and update *Board Policy 3314.2, 'District Revolving Fund,'* to ensure that all funds are audited regularly and that bonding provisions are in place as per *Education Code 42801.*”

District Response to Recommendation No. 7:

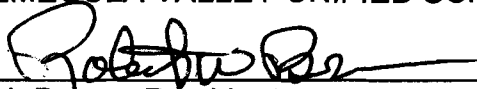
The District has implemented this finding in that it consistently followed these recommendations prior to the initiation of a Grand Jury investigation or the issuance of its report. The current policy is up to date and the District continues to be in compliance with *Education Code 42801.*

SUMMARY


Neither the findings, nor the recommendations of the Grand Jury substantiate any wrongdoing or unlawful conduct by the District or its employees. The District respects the right of the Grand Jury to review the workings of public agencies in accordance with state law, and has fully cooperated with the requests of the Grand Jury in the course of this investigation. To the extent, however, that the constant demands for appearances and documents took the District's focus away from its ultimate mission of providing quality instruction to children and conducting business in a fiscally sound fashion, the District regrets the distraction and the expense that the Grand Jury's extended process has caused the taxpayers of the Temecula Valley Unified School District.

Sincerely,

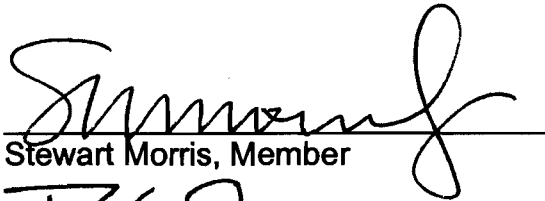
BOARD OF EDUCATION OF THE
TEMECULA VALLEY UNIFIED SCHOOL DISTRICT



Bob Brown, President



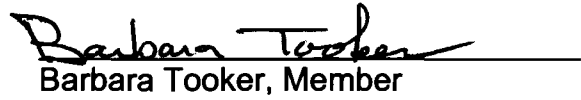
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