



Board of Education

Julie Farnbach

Kevin Hill

Sandra Hinkson

Dr. Allen Pulsipher

Dr. Kristi Rutz-Robbins

SUPERINTENDENT

Timothy Ritter

August 23, 2016

Riverside County Grand Jury
PO Box 829
Riverside, CA 92502

Riverside County Clerk-Recorder
2720 Gateway Dr.
Riverside, CA 92507

Hon. Harold W. Hopp, Presiding Judge
Superior Court of California, County of Riverside
4050 Main St.
Riverside, CA 92501

Re: Response to Grand Jury Report Dated May 25, 2016

Pursuant to Penal Code sections 933(c) and 933.05, the Board of Education of the Temecula Valley Unified School District ("District") provides the following response to the findings of the Riverside County Grand Jury in its report dated May 25, 2016.

Response to Findings:

Finding No. 1:

The District disagrees with the statement within Finding No. 1 that "[the] second statement indicated that the applicant was asked to leave a previous employer, Pala Casino that was not listed on the application." In fact, the written statement submitted by the applicant at the request of the District's Human Resources Office stated she was "asked to leave my job until further investigation." This is perhaps a minor substantive difference but it is one upon which the Grand Jury Report relies very heavily. Similarly, the reference to the applicant's "no" answer concerning being dismissed or asked to resign is also misleading. The District understands the facts to be that the applicant was neither dismissed nor asked to resign, and no contrary evidence is cited by the Grand Jury. Certainly, the applicant's employment with Pala Casino eventually ended after the incident leading to the charge and conviction, but the "no" answer was truthful.

This is an error of form over substance. The gravamen of the Grand Jury's finding is that the applicant lied on her employment application by checking the "no" box. This was not a lie as the "no" answer was literally true and accurate. But even if it appears to be *technically* untrue, this must be weighed against the fact that the applicant fully disclosed the

circumstances of her charge, plea, and cessation of employment with Pala Casino in a written statement provided to the District during the application process. There is no reasonable argument that there was any concealment of the matter, and therefore the squabble over the technicality of checking the “no” box is immaterial to any overall finding of inappropriateness.

The District also disagrees with the finding to the extent it is based on the lack of a District interview with the applicant to “determine when or where the incident occurred or the outcome of the proceedings.” It is plainly obvious that the District’s follow-up practice concerning the DOJ report was met by requesting and receiving the applicant’s second written statement. Any implication that the District failed to uphold its practice is, again, form over substance. The District made the inquiry and received the answer.

Finally, the District disagrees with the inclusion of the sentence “The circumstances of the crime and her subsequent conviction have never been discussed with the applicant.” This statement is factually incorrect. The applicant has discussed the circumstances with numerous current and former employees of the District and, ostensibly based on the content of the Grand Jury’s report, the Grand Jury itself. This sentence should be changed or deleted to remedy this ambiguity.

Finding No. 2:

The District disagrees with the statement in Finding No. 2 that “[t]he applicant’s name did not appear on the Consent Calendar for the BOE meeting in April 2013, or anytime thereafter...” This statement is incorrect. The applicant’s name appeared on the Consent Calendar for the July 16, 2013, Board of Education meeting. See excerpt from minutes from July 16, 2013, enclosed herewith.

The remainder of Finding No. 2 implies some level of active concealment that the applicant was related to the Superintendent. There is no evidence of any such concealment or even of lack of knowledge of the relationship by the Board of Education. The Grand Jury interviewed two of the five members of the Board, neither of whom testified to any concealment.

Based on the evidence described in the report, the inference made by the Grand Jury is not supported by the facts.

Finding No. 3:

The District does not disagree with the factual findings contained in Finding No. 3.

However, the implication raised in Finding No. 3 is that the Superintendent should not have agreed to accommodate the Riverside County Sheriff’s Department in an undercover operation to combat illegal drug sales at the District’s schools without consulting legal counsel concerning potential liabilities. This Finding makes sense only if the District was found to have engaged in improper conduct that resulted in liability. It was not.

It is a matter of public record that the Superior Court ruled in the District’s favor concerning the damages claim brought against it arising from the undercover drug operation. The “should not have” implication of the Finding becomes moot with the District’s vindication in court.

Response to Recommendations:

Recommendation No. 1:

The District responds that it has in place adequate policies and practices to ensure all applicants are treated equally and no applicant receives better (or worse) treatment than any other. The lack of any specific finding of nepotism or unfair hiring practices supports the District in this regard.

However, the second part of this Recommendation is contrary to the neutrality of the first part. The Recommendation goes on to say the District should develop a “more comprehensive” policy when relatives of employees are considered. The District already has a specific policy ensuring that once hired, relatives of current employees will not receive more favorable treatment (or the appearance thereof). However, the District disagrees that engaging in disparate treatment through the use of harsher screening of certain applicants is appropriate.

The District will continue to enforce its existing policies to ensure that all applicants, including those related to current employees at every level, receive fair consideration and equal treatment – no more or less stringent than any other applicant.

Accordingly, pursuant to Penal Code section 933.05(b), this recommendation will not be implemented because it is not warranted and is not reasonable.

Recommendation No. 2:

This recommendation is based on the incorrect conclusion in Finding No. 2 concerning the Consent Calendar. The District need take no additional action as the applicant in question was listed.

The second sentence of the Recommendation is unclear and appears overreaching. The District does not see the need to identify a relative of every existing employee as “an applicant.”

Accordingly, pursuant to Penal Code section 933.05(b), this recommendation will not be implemented because it is not warranted and is not reasonable.

Recommendation No. 3:

The District appreciates the apparent goal behind this recommendation but responds that as drafted it is impractical and creates grave potential safety concerns. “[A]ll future requests for operations from law enforcement” would encompass any emergency call to 911 seeking police action. To suggest that the Superintendent must consult with legal counsel for opinions on potential liability before calling to report a crime in progress or other similar safety-related emergency would subject staff and students to greater potential danger during the delay.

The District does agree that effective immediately, the Superintendent or designee will seek legal advice in advance of authorizing any future long-term undercover operations where there is no exigency factor.

Accordingly, pursuant to Penal Code section 933.05(b), to the extent noted above, this recommendation has been implemented. To any further extent, this recommendation will not be implemented because it is not warranted and is not reasonable.

Conclusion:

The District regrets the necessity for the Grand Jury investigation which ultimately uncovered no wrongdoing or violations of policy or law. It appears evident the allegations were brought by one or more citizens with a specific agenda related to recent controversy in the community, and that they were not well-founded in fact. If further inquiries are made it is our hope that a well-meaning citizen will seek prompt and effective informal resolution through established policies rather than resorting to the secretive adversarial process employed by the Grand Jury in this case.

Sincerely,



Mark W. Thompson
District Legal Counsel
On Behalf and at the Direction of the
Temecula Valley Unified School District
Board of Education

cc: Board of Education
Timothy Ritter, Superintendent
Laura Boss, Public Information Officer

C. CLASSIFIED PERSONNEL

TERMINATION: (continued)

1. Employee #: 225142
Position: Bus Driver
Site: Transportation Department
Effective: 6/07/2013
Reason: Unsuccessful Probationary Period
Recommendation: Approval

SUBSTITUTES: See Attached List
Recommendation: Ratify – Approval, pending fingerprints

**CERTIFICATED SUBSTITUTES
July 16, 2013 (Ratify)**

Gregory, Julie

**CLASSIFIED SUBSTITUTES
July 16, 2013 (Ratify)**

Chaiyakum, Sean
Chavez, Vanessa
Gardner, Richard
Gilmore, Marina
Gonzalez, Francisco
Lozon, Samantha
Martinez, Teena
Molina, Sarai
Ritter, Lindsey
Rivera Zuniga, Indalecio
Ruiz, Rene
Sellas, Rhonda