

Modesto City School District Board of Education and Administration
Civil Grand Jury Case No. 10-10C
2009/2010

SUMMARY

The 2009/2010 Stanislaus County Civil Grand Jury received a complaint requesting an investigation into certain practices of the Modesto City Schools Superintendent, Deputy Superintendent - Human Resources, and the Modesto City Schools Board of Trustees.

The complaint alleged significant breaches of the law and public ethics on the part of the Superintendent, the Deputy Superintendent of Human Resources and the Modesto City Schools Board of Trustees.

After a three-month long investigation which included the review of thousands of pages of documents and eleven sworn interviews, the Stanislaus County Civil Grand Jury did not find any evidence of actionable wrongdoing on the part of the Superintendent, the Deputy Superintendent - Human Resources, or the Modesto City Schools Board of Trustees.

BACKGROUND

In April 2009 the Superintendent of Modesto City Schools District (hereinafter District) decided to place the District Deputy Superintendent of Chief Business Official (CBO) on paid administrative leave. The Deputy Superintendent - CBO subsequently resigned in July 2009. There were numerous Modesto Bee articles and letters to the editor regarding the resignation and the events leading up to it. These articles and letters also highlighted ongoing conflicts between upper level District administrators beginning in 2007 when the former Superintendent retired and the Board hired the current Superintendent.

At one point during the events surrounding the departure of the Deputy Superintendent of CBO, a number of emails between the Deputy Superintendent-CBO and a trustee of the Modesto City Schools Board of Trustees were released to the Modesto Bee and published. Information in the emails led to a public reprimand of the trustee by three of her fellow trustees on the Board. However, the Board of Trustees did not act on the reprimand as a body, as some of the trustees did not know about the reprimand until it was issued, including the trustee to whom it was directed.¹

After conducting a thorough investigation of the allegations made in the complaint, it is apparent to the Grand Jury that many of the concerns raised in the complaint relate directly to discretionary decision making by key District administrators. While a few of the criticized

¹ The Modesto City Schools Board of Trustees at the time of the Complaint was composed of the following persons: President Steven Grenbeaux, Vice President Kimberly Gerber-Spina, Steve Collins, Belinda Rollicheck, Nancy Cline, Gary Lopez and Cindy Marks. After the November 3, 2009, election the Board's composition changed.

decisions may have been questionable, in fact the vast majority of the instances cited in the complaint were explicitly refuted by documentary evidence secured and/or sworn testimony taken during the course of the investigation. As such, while the outcome of the investigation includes some findings and recommendations, the Grand Jury did not find any evidence of actionable wrongdoing on the part of any of the persons named in the Complaint.

The Grand Jury received the complaint on 9/23/09. The complaint consists of numerous allegations and is twelve (12) pages long. The complaint is organized in three sections ó A, B and C. Section A lists several areas of concern regarding the District's current Deputy Superintendent- Human Resources. Section B lists several concerns regarding the District's Superintendent. Section C lists several concerns regarding the (as then composed) Modesto City Schools District Board of Trustees.

APPROACH

The Grand Jury requested and reviewed a large number of documents from the District including, but not limited to, the following:

1. Agendas and minutes from all Board of Education meetings conducted from April 2009 to October 2009.
2. The Governance Team Handbook, adopted in February 2008.
3. Copies of the current Collective Bargaining Agreements for Classified and Certificated Employees.
4. Copies of the current Modesto City Schools's District policies on new hires, hiring practices in general and harassment in the workplace.
5. The District's 2008/2009 District Retirement Incentive Plan and a list of teachers who utilized the plan.
6. Information regarding hiring practices involving student council advisors at the junior high level.
7. The Fair Political Practices Commission (FPPC) forms for the current Superintendent and Deputy Superintendent ó Human Resources.
8. Organizational charts for the District, Enochs and Modesto High Schools, and La Loma Junior High.

The Grand Jury also reviewed the entire text of the internal emails released to the public during the summer of 2009, all of the Modesto Bee articles and letters to the editor published regarding the departure of the Deputy Superintendent ó CBO, and numerous other documents produced by the persons interviewed.

The Grand Jury conducted sworn interviews with the following:

- The Superintendent of Modesto City Schools;
- Present and former Deputy Superintendents;
- Present and former Trustees;
- Present and former employees;
- Representatives of the Modesto Teachers' Association.

DISCUSSION

Upon completion of the Grand Jury investigation a few items were noted:

- The hiring of a new Superintendent in 2007 caused discord within some of the District's administrative offices and the Board of Trustees.
- The concerns raised by the complaint were very serious issues, but when they were evaluated in light of the vast amount of information gathered during the Grand Jury's document review and interviews, it became apparent that most of the concerns were relatively easily resolved, involving discretionary decisions that were appropriately reviewed and rendered.

The previous Superintendent was in charge for over 20 years. Thus, any discord caused by the hiring of a new Superintendent after such a long period of time was not completely avoidable, but it became apparent to the Grand Jury during the course of its investigation that sufficient measures were not taken to lessen the impact of this change.

Some interviewees indicated that while there were transitional issues, there were no serious problems. Others described a "culture of suspicion" that seemed to be taking hold in the District, with employees believing it was necessary to choose between allegiance to the "old ways" or unquestioning acceptance of the changes being implemented.

Such a perception is unfortunate because in the process, undoubtedly, some legitimate concerns on the part of employees were not expressed due to these beliefs.

FINDINGS

The Grand Jury finds as follows:

- F1. There is no evidence that any member of the Modesto City Schools Board of Trustees, as composed prior to 11/3/09, violated the Brown Act;
- F2. While there is no evidence of a Brown Act violation on the part of the Modesto City Schools Board of Trustees, the "public reprimand" of a trustee by three fellow trustees, without any notice to the public, the trustee being reprimanded or even those trustees who did not sign the "public reprimand," gives an impression of backroom dealing that is troublesome and should be avoided in the future;

- F3. Insufficient measures were taken by the Modesto City Schools Board of Trustees, as well as District Administration, to lessen the impact of the transition of hiring a new Superintendent on District staff and employees. Part and parcel of this error appears to be the Board of Trustees' decision to quickly implement sweeping changes District-wide;
- F4. During the transition period there was a failure to effectively communicate changes in policies and procedures both internally and externally;
- F5. There does not appear to be a clear and concise personnel policy protecting those employees who bring to their supervisors' attention misbehavior or malfeasance of fellow District employees, or who wish to question the manner in which day to day business is being conducted.

RECOMMENDATIONS

The Grand Jury found no actionable wrongdoing as a result of its investigation, therefore the recommendations we make are limited:

- R1. While there is no evidence that the Modesto City Schools Board of Trustees violated the Brown Act, the Grand Jury believes that it would be in their best interest to annually evaluate the ongoing education programs for Trustees, with a specific emphasis on the Brown Act;
- R2. Furthermore, if the Board of Trustees finds it necessary to make a formal "public reprimand" of a member, such action should be placed on the Board's agenda, with appropriate notice to the Trustee involved;
- R3. In the future, when the Board of Trustees hires a new superintendent, it should take into consideration the need for a new superintendent to familiarize him or herself with the culture of the District;
- R4. To encourage effective communication both internally and externally, it would be in the District's best interest to designate a person as its Public Information Officer;
- R5. The District should adopt a comprehensive "Whistleblower Policy" which complies with all State and Federal laws.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

- The Modesto City Schools District Board of Trustees.

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

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Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.