



August 26, 2014

The Honorable Glenda Sanders  
Presiding Judge of the Superior Court  
700 Civic Drive West  
Santa Ana, CA 92701

RE: Response to Grand Jury Report on Community College Trustees

The Honorable Glenda Sanders:

This letter represents the response of the Board of Trustees and Chancellor of the South Orange County Community College District (“The District”) to the Report issued by the Orange County Grand Jury titled “Community College Trustees: Responsibilities, Compensation, and Transparency” (“The Report”).

The District wishes to convey its concern regarding the obvious omission of Rancho Santiago Community College District from the Report since it governs approximately 25% of Orange County’s community college constituents. By its own definition on the Orange County Grand Jury website, the Grand Jury reports that “the civil, or ‘watchdog’ responsibilities of the grand jury include the examination of *all aspects of county government, including special districts*, to ensure the county is being governed honestly and efficiently and county monies are being handled appropriately.” However, the Grand Jury did not, in fact, examine *all* community college districts for *this* Report. The District observes that this omission represents both a disservice to the public and hypocrisy, considering that the Grand Jury Report focuses on *transparency* as one of its main foci, but does not articulate any reason for the omission of the Rancho Santiago Community College District from the report. The District calls into question the credibility and motives of the Report. The subjectivity of the Grand Jury Report should concern Orange County taxpayers who entrust the Grand Jury to be objective and thorough in its service to the public.

With these concerns in mind, the SOCCCD and its Governing Board respond as follows to the Grand Jury’s Report.

I. **SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT’S  
RESPONSE TO SPECIFIED GRAND JURY FINDINGS**

F.3. **Trustees govern under guidelines, restraints and recommendations provided by the California Legislature, State Chancellor's Office, accreditation commissions and professional membership organizations.**

*The District agrees with this Finding.*

**F.6. There is a lack of ethics training received by trustees and there is minimal oversight over their actions and behaviors, particularly their spending habits for travel.**

*The District disagrees partially with this Finding*, but will consider requiring Board members to complete ethics training on a regularly scheduled basis. Even though the Legislature has made the policy choice not to mandate ethics training for community college governing Board members, SOCCCD Board members and administrative staff do receive ethics training and must comply with a number of state laws regulating ethics and conflicts of interest in public service. Training is received through a variety of sources including presentations by the District's legal counsel, the Community College League of California, Board member service or employment with other public entities subject to Government Code section 53234 et seq. (Statutes of 2005, Chapter 700, section 4, "AB 1234.")

Further, the Board has adopted *Board Policy 110: Code of Ethics - Standards of Practice*, and *Board Policy and Administrative Regulation 154 governing conflicts of interest*. The Ethics Policy is required of all districts by Accrediting Commission for Community and Junior Colleges ("ACCJC") through Standard IV, B.1. The Code of Ethics and Conflicts policies impose requirements and limitations on Board member conduct, and enforce compliance by way of censure resolution, and other potential legal consequences. The Policies broadly prohibit Board member participation in decisions in which they have a conflict of interest.

Oversight of District operations and expenditures is far from "minimal." The District's expenditures are dictated and accounted for in accordance with extensive provisions of State law and regulations established by various State agencies, most significantly, the Board of Governors of the California Community Colleges. The State dictates how and when the District will report all expenditures. Further, the District is subject to annual audits required by State law and conducted in accordance with standards established by the Board of Governors, and consistent with national professional accounting and auditing standards. The District's constituent organizations, such as the two academic senates, students, and employee unions carefully scrutinize and question District Board meeting agendas, budgets, and expenditure authorizations and patterns. Agenda items are made public at least 72 hours prior to a Board meeting in compliance with the Brown Act and are prominently posted in multiple locations at each of the District's campus locations. The agenda is also published on the home page of the District's website. Notices are sent by email announcing agenda postings. Board meeting agendas are sent by email or fax to a wide range of community constituents and media outlets by the District's initiative.

With respect to "spending habits for travel," District expenditures for trustee travel are quite conservative as demonstrated by the chart on page 21 of the Grand Jury's report. However, the District notes in its response to F.3 that trustees participate in statewide community college organizations' training to maintain current their understanding of fiscal and policy initiatives and laws in order to uphold the responsibilities of their elected office. Increasing state and federal mandates require trustees to continually stay informed. When possible, trustees participate in online or local training; however, state and federal training opportunities and requirements often occur outside of Orange County, California.

Lastly, trustees must submit and discuss agenda items in public session when requesting attendance to conferences and/or in advance of any travel expenses. Discussion among trustees occurs in public session to determine the need for travel and the number of trustees that should attend. Frequently, the Board will send only one trustee to a conference and that trustee will share resources and information with the entire Board to decrease expenditures.

**F.8. Trustees provide extensive personal information on the district website but little information about their performance in office.**

*The District disagrees with this Finding.* The finding is ambiguous.

Information regarding Trustee performance is readily available to the public on the District website. Trustees provide oral reports of their participation in college or community activities at the beginning of each Board meeting. These reports are summarized in “Board Meeting Highlights,” a newsletter published the day after each Board meeting. The highlights are posted prominently on the District’s home page dating back to 2001 and they are emailed to all employees. All regular Board meetings are also televised. Agendas, minutes and video recordings of Board meetings going back to August of 2007 are available on the District home page. These communication tools are made searchable on the District website to further assist the public. Agendas dating back to 1969 are published on the District website under “Past Agendas.” All decisions made by trustees are documented in these public agendas.

While the Board is disappointed that more members of the general public do not attend its meetings to see how well their tax dollars are being spent, notice of meetings as well as the agendas for meeting are posted and published as required by law. See F.6 response.

The Board, as part of its required self-evaluation, conducts “customer satisfaction surveys” at least annually. The Board invites the public as well as all District constituent groups to attend a special public meeting for the purpose of providing the Board with input with respect to how the Board and District are performing. Honest and valuable feedback and suggestions for improvement are received at these meetings. The Board establishes annual goals based on information gleaned from the evaluations, the workshop, and strategic planning goals of the District and colleges.

The District and colleges issue announcements and press releases regarding important issues and activities relating to Board performance, as well the activities and operations of the colleges. The Board has every interest and intent to make all of its activities well known to the public it serves, consistent with the District’s mission of providing high quality educational programs to the community.

**F.9. Laws, regulations, guidelines and ethics require trustees to be fully transparent in all aspects of their actions, behavior, and performance. The actions of trustees should be readily available for public review.**

*The District agrees with this finding.* See responses to F.6 and F.8 above.



## II. RECOMMENDATIONS OF THE GRAND JURY

- R.1. The chancellor and trustees should complete an "Ethics Training" program similar to the requirements of California AB1234. A record of this should be maintained on the district website. (F.1., F.2., F.3., F.5., F.6., F.7., F.8., F.9.)**

Given that Board members already receive ethics training from a number of sources and are responsible for complying with and enforcing District ethics policies, the District responds that this recommendation requires further study and analysis. Further, the Legislature has made the policy determination not to make the provisions of Government Code section 53234 et seq. applicable to community college district boards. *Despite this legislative determination, the District's Chancellor will provide to the Board different options for bi-annual ethics training. The Board will agendize a public discussion of this issue for a meeting to be held prior to the end of the current calendar year. Please note that if online training is provided through such organizations as the California Fair Political Practices Commission or Community College League of California, Board members may not receive certificates of completion for the training.*

- R.2. The chancellor and trustees should maintain a list (e.g. CA Form 460) of campaign contributions made to each member of the board during the previous four years. This list should be reported and updated on the district website in July and January of each year. (F.1., F.5., F.6., F.8., F.9.)**

The Legislature has determined that campaign finance matters are the responsibility of the individuals seeking elective office. The Political Reform Act of 1974, as amended, makes clear that it is the "candidates and elected officers and their controlled committees" who are responsible for "filing their campaign statements required by Section 84200 with the **elections official of the county** in which the candidate or elected official is domiciled." (Emphasis added.) See, Government Code section 84215. It is for a variety of good policy reasons, such as avoiding even the appearance of favoritism or involvement in political activity, that the District as an entity must not be involved in campaign finance matters, except as may be specifically authorized by the Legislature. (For example, the Board is authorized by Education Code section 72029 to establish campaign expenditure limitations and to initiate the establishment of term limits pursuant to section 72103, but otherwise it must not be involved in electoral politics. See Education Code section 7050 et seq.) Detailed records of campaign expenditures are available to the public on the Orange County Registrar of Voter's website. (See, <http://www.ocvote.com/voting/campaign-finance-info/>.) *As authorized by Penal Code section 933.05(b)(4), this recommendation will not be implemented because it is not warranted or reasonable.*

- R.3. The chancellor and trustees should strongly consider advising the entire board of "potential" conflicts of interest on district contracts involving campaign donors from the previous four years. (F.1., F.5., F.6., F.7., F.8., F.9.)**

Members of the District's Governing Board already disclose situations involving the appearance of a conflict of interest, and where appropriate recuse themselves from voting. Where recusal is not required as a matter of law, Board members also have an obligation to the public to vote on the matters before them.

The Legislature has determined that disclosure of conflicts of interest is an individual official's responsibility and obligation. The Political Reform Act of 1974, as amended, makes clear that it is the public official's responsibility to not "make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest." Government Code section 87101 et seq. Section 87105 dictates when certain public officials must recuse themselves from participation in governmental decisions, and section 87200 et seq. establishes the obligation of public officials to file full and complete disclosures of their economic interests. *As authorized by Penal Code section 933.05(b)(4), this recommendation will not be implemented because it is not warranted or reasonable.*

- R.5. The chancellor and trustees should report their total individual travel expenditures in a public meeting and on the district website. This should be reported four times each year. (F.1., F.2., F.6., F.7., F.8., F.9.)**

With respect to "spending habits for travel," District expenditures for trustee travel are quite minimal as demonstrated by the chart on page 21 of the Grand Jury's report. Participation of Board members in professional community college training opportunities is carefully evaluated in public meetings via the agenda process. (see F6, F.8 responses.) Trustees hold each other accountable via public discussion as to the necessity of training and travel expenses. It is possible that in some cases training and resulting travel could increase due to state and federal mandates which place further burden on trustees. Such training enables the trustees to serve the District's students and community in an informed manner. *Pursuant to Penal Code section 933.05(b)(3), the Chancellor will engage in further analysis as to whether more frequent reporting is necessary and appropriate. The Chancellor will provide the Board with different options for reporting, and the Board will agendize a public discussion of this issue for a meeting to be held prior to the end of the current calendar year.*

- R.6. Trustees should report, on the district website biography section, any official political party leadership positions. (F.1., F.3., F.4., F.5., F.6., F.8., F.9.)**

The office of community college trustee is nonpartisan. Whether a Board member holds any political party leadership positions is irrelevant to service on the District's Governing Board, and plays no role in Board decision-making. *As authorized by Penal Code section 933.05(b)(4), this recommendation will not be implemented because it is not warranted or reasonable.*

- R.7. The chancellor should report the value of all district compensation received by each trustee during the previous fiscal year. This should be reported at the first board meeting in September of each year and posted on the district website. (F.1., F.4., F.6., F.7., F.9.)**

Salary schedules of all District employees are currently posted on the District website under Human Resources>Employee Info. Information about compensation for all state employees is published annually on the State Controller's website at: <http://publicpay.ca.gov/> and a link to this website is also provided on the District's website. *However, the District will report the value of all trustee compensation for the previous fiscal year at the first Board meeting in September of each year and the*

*information will be posted on the District website.*

**R.8. Strong consideration should be given to sending a copy of this 2013-2014 Orange County Grand Jury study and district responses to collaborating educational organizations. (F.1., F.2., F.3., F.4., F.5., F.6., F.7., F.8., F.9., F.10.)**

- a) **The appropriate accrediting commission agency,**
- b) **The California Community College Board of Governors and**
- c) **The California League of Community Colleges.**

The District already reports extensively the information sought by these entities, if any. The ACCJC and State Chancellor's office regularly engage in far more thorough and meaningful assessments of issues relating to District governance and the performance of Governing Board members. *As authorized by Penal Code section 933.05(b)(4) this recommendation will not be implemented because it is not warranted or reasonable.*

**R.9. Strong consideration should be given to posting the chancellor's complete employment contract on the district's website to promote transparency. (F.10.)**

*The Chancellor's salary was previously posted on the District website along with all other employee salary information. It was also previously published in public Board meeting agendas. However, pursuant to this recommendation, the complete contract has been posted to promote further transparency.*

The District's administration and Governing Board look forward to discussing the Grand Jury's report, its conduct, and the District's responses provided herein.

Sincerely,



T.J. Prendergast III, President  
Board of Trustees  
South Orange County Community College District

cc: Mr. Gary Poertner, District Chancellor  
Mr. Paul Borzcik, Foreman of the 2014-2015 Orange County Grand Jury