



## GARDEN GROVE UNIFIED SCHOOL DISTRICT

10331 Stanford Avenue • Garden Grove, CA 92840-6353  
Phone: (714) 663-6000 • Fax: (714) 663-6100

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Gabriela Mafi, Ed. D.

September 22, 2016

Honorable Charles Margines  
Presiding Judge of the Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 92701

Re: Garden Grove Unified School District Response to Orange County Grand Jury report,  
*"Dealing with Asbestos in Orange County Public Schools"*

Dear Judge Margines:

Enclosed is the Garden Grove Unified School District response to the recommendations of the 2015-2016 Orange County Grand Jury report, *"Dealing with Asbestos in Orange County Public Schools"*, in compliance with *Penal Code 933.05(a) and (b)*.

Sincerely,

Rick Nakano  
Assistant Superintendent, Business Services

RN:jt

Enclosure: Response to Grand Jury Report

c: Gabriela Mafi, Ed.D., Superintendent  
George West, Ed.D., President, Board of Education  
Orange County Grand Jury

**GARDEN GROVE UNIFIED SCHOOL DISTRICT'S RESPONSE TO  
2015-2016 GRAND JURY SURVEY ON ASBESTOS  
FINDINGS AND RECOMMENDATIONS**

**Findings**

- F1. All but one of Orange County's twenty-eight school districts have (encapsulated) asbestos present at one or more its schools.**

The Garden Gove Unified School District has no personal knowledge of the conditions at other school districts in the county. Garden Grove Unified School District updates on an ongoing basis and keeps records in compliance with federal AHERA and EPA requirements on all its facilities, including whether its facilities have encapsulated asbestos. We have no knowledge of the status of facilities in other school districts and, therefore, cannot verify the accuracy of the Grand Jury's findings.

- F2. Although current EPA standards provide that encapsulated asbestos does not present an immediate hazard to people who come near it, any physical disturbance and/or weathering which damages that encapsulation and releases asbestos fibers into the air will present an immediate hazard to anyone exposed to those fibers. Hence, broad-based awareness of where encapsulated asbestos is located is essential to avoid disturbing it such that it does become a threat to students and staff.**

The Garden Grove Unified School District disagrees partially with this finding. Broad-based awareness of where encapsulated asbestos is located that in many cases may be in places where students, parents or members of the community may never be (e.g., boiler rooms) may lead to vandalism or other malicious mischief that could destroy the encapsulated materials, thereby putting school district facilities, employees and students at risk. Certainly, employees of the school district, and contractors performing demolition, construction or modernization, need to be aware of where asbestos is located but we disagree that members of the public need to know as this may create safety and security concerns. Garden Grove Unified School District agrees that encapsulated asbestos does not pose a health hazard to the public, and current regulatory standards do not call for its removal. A large disturbance would be required to create a possible health hazard.

- F3. Many school districts are not in full compliance with the AHERA regulatory requirement to have applicable AHERA reports available in the main offices of each school for public review.**

The Garden Grove Unified School District has no personal knowledge of the conditions at other school districts in the county. Garden Grove Unified School District is in compliance with AHERA regulations. Our AHERA report is available for public review at our district office and at each of our schools in compliance with AHERA regulations, 40 C.F.R. section 763.80 et seq.

- F4. Many school districts are not in full compliance with the AHERA regulatory requirement to identify at each school in their district a “Designated Person” and to train each Designated Person to EPA-defined standards.**

The Garden Grove Unified School District has no personal knowledge of the conditions at other school districts in the county. Our school district is in compliance with AHERA regulations and has a designated and trained person at the district level cognizant of the conditions at each school site who is also responsible for maintaining and implementing the District’s plan for managing asbestos containing materials in District school buildings. The AHERA regulations do not require a trained designated person at each school site.

- F5. Although nearly all school districts train their facilities and maintenance staff on hazardous materials management, many fail to provide hazardous materials training to their teaching and administrative staff.**

The Garden Grove Unified School District disagrees with this finding. Garden Grove Unified School District has trained maintenance staff and other staff as mandated by AHERA regulations to recognize the hazards of asbestos and the District’s plan for managing asbestos containing materials in District school buildings.

- F6. Orange County public schools are subject to very infrequent EPA inspections for AHERA compliance.**

The Garden Grove Unified School District disagrees with this finding. We do not control the frequency of EPA inspections nor can we make an assessment as to whether inspections are frequent or infrequent. The District is nevertheless in full compliance with current federal AHERA and EPA requirements.

- F7. Inadequately managed construction efforts at more than one Orange County public school have led to expensive and disruptive hazardous materials events. Many Orange County school districts lack one or more *documented* requirements for contracting for construction that implement generally recognized best practices for dealing with hazardous materials. Such written best practices include:**

- a. **Performing all work at schools that deals with, or potentially deals with, hazardous materials at times when students and staff are not present,**
- b. **Controlling the scope of construction/modernization/major repairs undertaken in any one year to remain within the district’s ability to manage the efforts,**
- c. **Separately contracting for hazardous materials inspection, abatement, and construction work once hazardous materials are abated,**
- d. **Including clear schedule performance requirements in every contract,**

- e. **Defining intermediate schedule milestones for all construction-related work that is expected to take over one month to complete, and**
- f. **Requiring monitoring by district senior staff of progress on construction work via personal walkthroughs of the work in progress.**

The Garden Grove Unified School District disagrees wholly with this finding. The Garden Grove Unified School District manages its construction projects in accordance with federal and state laws and regulations and utilizes best practices. We are unaware of processes at other districts.

- F8. Many school districts with public charter schools approved and financed by their district, lack, and have not provided their charter schools with, written definitions of the respective roles and responsibilities of the district and the charter school in dealing with, written definitions of the respective roles and responsibilities of the district and the charter school in dealing with hazardous materials and with AHERA regulatory compliance.**

The Garden Grove Unified School District disagrees wholly with this finding. Under state law, it is the responsibility of the independently run charter schools to manage their facilities and comply with AHERA regulations. The Grand Jury's finding is inconsistent with state charter school law.

- F9. Many school districts rely on paper documents for recording key information such as facilities data, facilities construction and repair plans, and AHERA reports.**

The Garden Grove Unified School District disagrees wholly with this finding. The Garden Grove Unified School District complies with AHERA regulations which require the maintenance of paper records. The Grand Jury's finding is inconsistent with federal law and AHERA regulations.

- F10. Some school districts have no documented facilities plans, and many districts that have plans lack key information in their plans such as estimated costs, funding sources, and schedules for work initiation and completion.**

The Garden Grove Unified School District disagrees wholly with this finding. The finding is vague as to the types of plans, information, costs, funding sources, and schedules that are referred to. The Garden Grove Unified School District maintains plans and important information in various forms depending on the nature of the project that is being considered. The Grand Jury's "one size fits all" approach without considering the nature, timing of project implementation, and size of the individual project is impractical, unreasonable, wasteful, and not required by law. Nevertheless, for all demolition, construction, and modernization projects in Garden Grove Unified School District, the District determines the estimated costs, funding sources, and schedules for work initiation and completion for all projects.

- F11. Many school districts fail to post key safety-related information on their web sites such as upcoming activities at school facilities involving the abatement of hazardous materials.**

The Garden Grove Unified School District disagrees wholly with this finding. Posting safety-related information on the school district's website as suggested by this finding may increase safety and security issues. Safety-related information is available at the District office. The District calendars its demolition, construction, and modernization projects that may disturb existing encapsulated asbestos at times when they will not interfere with or physically interact with ongoing school activities,

**F12. Despite the fact that all Orange County school districts serve highly language-diverse communities, several districts have no provision for communicating with their community in any language other than English.**

The Garden Grove Unified School District disagrees wholly with this finding. The Garden Grove Unified School District complies with state law regarding the translation of documents provided to parents.

## Recommendations

- R1. Each school district should request the Orange County Department of Education to devote, in the year following publication of this Grand Jury report, one or more of its monthly “all districts” meetings to discussion and advice on handling hazardous materials. Representatives from each school district should participate in these meetings, and discussions should cover, AHERA compliance, resources available for in-depth AHERA training, and contract management. (F1, F2, F3, F4, F5, F6, F7, F8)**

This recommendation will not be implemented because it is not warranted, is not reasonable, and is vague. There is no legal authority that would authorize the Orange County Department of Education to require school district employees to attend meetings at the Orange County Department of Education. The Orange County Department of Education frequently provides information to school districts on a wide range of subjects and may, in the future, provide information on AHERA to school districts. Nevertheless, District staff responsible for District business, facilities and operations regularly address AHERA compliance in their own District meetings.

- R2. Each school district should within nine months of the publication of this Grand Jury report develop and document a communications plan for parents and other stakeholders and post the plan on its web site. The plan should identify what information will be provided and by what means this communication will be accomplished. The plan should address how issues relating to hazardous materials will be communicated, and in what languages, to ensure effective communication. (F10, F11, F12)**

This recommendation will not be implemented because it is not warranted and is not reasonable. The current practice of making the AHERA report available to the public at the District office and each school site is sufficient and complies with current federal laws and regulations. The AHERA report is available upon request to any person asking for it. The Grand Jury’s recommendation will raise public alarm, security and safety concerns by documenting existing conditions at District school sites, when no new or increased risk to asbestos exposure exists. This could put school district facilities (as noted above), employees and students at risk and create unwarranted fear. The Grand Jury’s recommendation is not required by law.

- R3. Each school district should within nine months of the publication of this Grand Jury report create and have a process in place to use and keep up-to-date their web site communications with parents and stakeholders of that district. (F9, F10, F10)**

This recommendation will not be implemented because it is not warranted, is not reasonable and is very vague as to what type of communications are being referred to. The current practice of making the AHERA report available to the public at the District office and each school site is compliant with and meets federal law. The Grand Jury’s recommendation will raise security and safety concerns that could put school district facilities, employees and students at risk and create unwarranted fear. The Grand Jury’s recommendation is not required by law.



- R4. Each school district should develop and maintain a computerized database listing all district buildings and structures and post that information in its web site. The database should contain the following for each building: date and types of construction, dates and costs of major repairs and modernization, numbers and sizes of classrooms, lists of other facilities including offices, lounges, gyms, cafeterias, laboratories, computers and other data processing equipment, and playground equipment. (F9, F10)**

This recommendation will not be implemented because it is not warranted and is not reasonable. The current practice of making the AHERA report available to the public at the District office and each school site is compliant and meets federal law. The Grand Jury's recommendation will raise security and safety concerns that could put school district facilities, employees and students at risk. The District is already required to document this information with the California Department of Education and the Division of the State Architect. Posting the design, plans, size and location of classrooms for each school site on the internet puts at risk the buildings and the security of students and staff making this information readily available to anyone wishing to do harm at a school site. The Grand Jury's recommendation is not required by law. This recommendation will require additional funding or a transfer of funds from educational programs. Prioritization of funding should be determined by the elected school board in accordance with its Local Control Accountability Plan (LCAP).

- R5. Each school district should within nine months of the publication of this Grand Jury report create a comprehensive baseline plan for school facilities construction including new construction, retirement of schools or buildings at schools, modernization, hazardous materials, abatement, and major repairs. Each effort should include estimated cost, planned funding source and status, and schedule for start and completion of work. This plan should be updated annually and posted on the district's web site. (F9, F10)**

This recommendation will not be implemented because it is not warranted and is not reasonable. The current practice of making the AHERA report available to the public at the district office and each school site is compliant and meets federal law. The District already has in place a master facilities plan – available to the public – that prioritizes future construction and modernization work. The Grand Jury's recommendation bears no relation to current federal AHERA or EPA regulations, and will raise security and safety concerns that could put school district facilities, employees and students at risk. The Grand Jury's recommendation is not required by law. This recommendation will require additional funding or a transfer of funds from educational programs. Prioritization of funding should be determined by the elected school board in accordance with its LCAP.

- R6. Each school district should within nine months of the publication of this Grand Jury report create a plan, identifying funding sources, to remove all asbestos from schools and other facilities in their district within twenty years or sooner and report progress on this plan annually at its board meetings. If the removal of asbestos would include removal of other hazardous materials as part of the same effort, the plan should describe this. (F1, F2, F10)**

This recommendation will not be implemented because it is not warranted and is not reasonable. The current practice of encapsulating asbestos is safe, efficient and cost effective, and consistent with federal regulatory laws. The Grand Jury's recommendation is not required by law. Prioritization of funding should be determined by the elected school board in accordance with its LCAP. The removal of all asbestos is not required by law and would require the transfer of funds from educational programs for students. The recommendation is wasteful and unnecessary because encapsulated asbestos does not pose a safety hazard.

- R7. Each district should within nine months of the publication of this Grand Jury report document and implement requirements to budget for and perform AHERA inspections every three years. (F6)**

This recommendation has already been implemented. The Garden Grove Unified School District budgets for and conducts an AHERA inspection every three years and has done so for a number of years.

- R8. Each district should within nine months of the publication of this Grand Jury report document and implement requirements to make available at the main office of each school in its district the AHERA reports applicable to that school. (F3, F6)**

This recommendation has already been implemented. The Garden Grove Unified School District maintains a copy of its AHERA school report at each school in the school district.

- R9. Each district should within nine months of the publication of this Grand Jury report appoint an EPA-defined "Designated Person" at each school, and provide the EPA-required training for those persons. (F4, F6)**

The District is already in compliance with this recommendation. The AHERA regulations only require a designated person at the District level. The District's designated and trained person at the District level is cognizant of the conditions at each school site, and is responsible for maintaining and implementing the District's plan for managing asbestos containing materials in District school buildings.

- R10. Each district should within nine months of the publication of this Grand Jury report identify the hazardous materials training requirements for management, facilities (including maintenance contractors if they are used), and administrative personnel, and teaching staff in its district. Each district should maintain records on the training provided, including content, to whom it was provided, when it was provided, who provided it, qualifications of trainer(s). (F5)**

This recommendation is already implemented at Garden Grove Unified School District to the extent required by AHERA regulations, 40 C.F.R. section 763.92. All custodians, maintenance and facilities staff are trained in the hazards of asbestos. The appropriate maintenance staff are trained each year. There is limited time for training teaching staff and that time must be prioritized in conformance with state LCAP priorities and priorities set by the elected school board.



- R11. Each district should within nine months of the publication of this Grand Jury report document and implement requirements to schedule and complete any work involving hazardous materials for days when students and staff are not present in the affected areas. (F7)**

The Garden Grove Unified School District already complies with this recommendation and times its demolition, construction, and modernization work accordingly. The District will continue to comply with all applicable federal and state laws and regulations and follow best practices. It is not always feasible to close an entire school when construction work is taking place. Depending on the nature and scope of the construction project, District officials exercise their professional judgment and discretion and decide on a case-by-case basis on what is legally required and what is the safest approach to protect the wellbeing of students and employees while construction is taking place.

- R12. Each district should within nine months of the publication of this Grand Jury report document and implement requirements for district schools to contract separately for hazardous materials inspections, remediation/abatement of those materials, and the actual construction in areas requiring remediation. (F7)**

This recommendation will not be implemented because it is not warranted, is not reasonable, and is overly broad. The use of the term “contract separately” is ambiguous and seems to state the District should not, in some cases, contract with a general contractor who then, in turn, retains subcontractors to do the work. It should be noted that in cases where more than 100 square feet of potential asbestos is involved, the Garden Grove Unified School District contracts separately for asbestos inspections with competent and qualified inspectors, and contracts for the remediation and abatement of asbestos with appropriately licensed contractors and general contractors. The Garden Grove Unified School District believes that the decision to contract separately or contract with a general contractor who contracts with subcontractors should be left to the discretion of school district officials to decide on a case-by-case basis taking into consideration the size, scope and nature of the construction project.

- R13. Each district should within nine months of the publication of this Grand Jury report document and implement requirements for district schools to include schedule performance requirements in every contract for repairs, modernization, and/or new construction. Intermediate schedule milestones should be defined in every contract for all work anticipated to take longer than one month to complete. (F7)**

This recommendation will not be implemented because it is overly broad, inflexible, rigid, is not warranted, and is not reasonable, exceeds the authority of the Grand Jury, and attempts to substitute the constitutional authority of the District’s Board to prioritize the educational needs of its students, the prioritization of its contracts for repairs, construction, and modernization, and purports to dictate to the District the means and methods by which repairs, construction and modernization are to be conducted. Repairs, construction, and modernization are already highly regulated processes, with oversight by the California Department of Education, the California Building Code, other state and national building codes, project inspectors required by the Division of the State Architect, and the Division of the State Architect. Recommending rigid requirements for every contract, large or small, regardless of the scope or nature of the project is wasteful,

capricious and arbitrary and fails to take into consideration the variations in the type of construction projects school districts engage in.

- R14. Each district should within nine months of the publication of this Grand Jury report document and implement requirements for district schools to monitor contractor schedule performance. Such monitoring should be via personal staff walk-throughs of work in progress. Procedure should require every contractor to report monthly on that contractor's performance in meeting schedule milestones and report on the current estimated date of completion of all work. (F7)**

The District already complies with this recommendation. Nevertheless, this recommendation is overly broad, inflexible, rigid, and is not reasonable. Recommending rigid requirements for every contract, large or small, regardless of the scope or nature of the project is wasteful, capricious and arbitrary and fails to take into consideration the variations in the type of construction projects school districts engage in. Again, repairs, construction, and modernization are already highly regulated processes, with oversight by the California Department of Education, the California Building Code, other state and national building codes, project inspectors required by the Division of the State Architect, and the Division of the State Architect.

- R15. Each district with current plans for modernization and/or major repairs to school facilities which lack schedules for completion, which lack cost estimates, and/or which fail to identify funding sources should within nine months of the publication of this Grand Jury report update its plans to include these data. (F10)**

The District already complies with this recommendation. The District determines the estimated costs, funding sources, and schedules for work initiation and completion for all projects. This recommendation is overly broad, inflexible, rigid, is not warranted, and is not reasonable. The needs of each school district are different and a blanket recommendation is wasteful of scarce resources and should be left to the discretion of school officials in each school district. It should also be noted that state funding for school construction is erratic making it difficult to plan future construction projects.

- R16. Each district should within nine months of the publication of this Grand Jury report share all site specific AHERA inspection data with all prospective bidders on repair, modernization, and/or new construction at that site. (F7)**

The Garden Grove Unified School District has implemented this recommendation as this has been standard practice in the District for quite some time.

- R17. Each district should within nine months of the publication of this Grand Jury report document and implement requirements to maintain all current AHERA reports electronically with a backup at one remote location, and not rely exclusively on that district's web site. (F9, F10)**

This recommendation will not be implemented because it is unwarranted and unreasonable. Maintaining electronic copies is not required by law and the District maintains paper copies in multiple locations. The AHERA regulations require the

maintenance of paper copies. The District will consider maintaining electronic copies at its discretion.

- R18. Each district should within nine months of the publication of this Grand Jury report document and implement requirements to make its AHERA reports available on that district's web page. (F9)**

This recommendation will not be implemented because it is unwarranted and unreasonable. Maintaining electronic copies is not required by law and the District maintains paper copies in multiple locations. The AHERA regulations require the maintenance of paper copies. The District will consider maintaining electronic copies at its discretion.

- R19. Each district should within nine months of the publication of this Grand Jury report prepare written procedures for district charter schools clearly defining roles and responsibilities for facilities maintenance including the handling of hazardous materials. The procedures should address how district charter schools will pay for, achieve, and maintain AHERA compliance (e.g., AHERA inspections, identification and training of AHERA Designated Person(s), and availability of AHERA reports). (F8)**

The District currently has no charter schools within the District. Under state law, it is the responsibility of the independently run charter school to manage their facilities and comply with AHERA regulations.

- R20. Each district should within nine months of the publication of this Grand Jury report prepare and implement written procedures defining roles and responsibilities for contracting for and monitoring performance of all construction activities at district charter schools. (F8)**

The District currently has no charter schools within the District. Under state law, it is the responsibility of the independently run charter school to manage their facilities and comply with AHERA regulations.



# GARDEN GROVE UNIFIED SCHOOL DISTRICT

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## BOARD OF EDUCATION

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## SUPERINTENDENT

Gabriela Mafi, Ed. D.

January 9, 2017

Carrie L. Carmody, Ph.D.  
Foreperson  
Orange County Grand Jury  
700 Civic Center Drive West  
Santa Ana, CA 92701

Re: Garden Grove Unified School District Response to Orange County Grand Jury report, "*Dealing with Asbestos in Orange County Public Schools*"

Dear Dr. Carmody:

This is in response to your letter dated December 23, 2016, confirming that the Garden Grove Unified School District's previously submitted response to the recommendations of the 2015-2016 Orange County Grand Jury report, "*Dealing with Asbestos in Orange County Public Schools*", was approved by our governing Board of Trustees at the September 20, 2016, Board of Education meeting.

Sincerely,

Rick Nakano  
Assistant Superintendent, Business Services

RN:jt

c: Gabriela Mafi, Ed.D., Superintendent  
Lan Quoc Nguyen, President, Board of Education