

# EDUCATION

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## **Education Committee**

### ***Ralph M. Brown Act Survey***

#### **Reason for the Report**

In the course of other investigations, the Grand Jury found numerous violations of the Brown Act. Therefore, it decided to do a survey to determine if these violations were because of a lack of understanding of the Act. The purpose of the Ralph M. Brown Act is to create a presumption in favor of public access. The Act generally requires deliberation, discussion and information gathering to be open and subject to public scrutiny. The Act provides specific exceptions to the public meeting requirement where government has a demonstrated need for confidentiality.

#### **Scope of the Investigation**

The Education Committee of the 2000/2001 Grand Jury:

- Devised a questionnaire and accompanying letter and sent them to school districts, fire districts, public utility districts, community service districts and cities throughout the county; and
- Tabulated and analyzed the results of the survey.

#### **Findings**

- F1. The Grand Jury received responses from 34 of the 55 districts surveyed.
- F2. In some cases, only a portion of the elected officials responded.
- F3. Although the Grand Jury requested responses from individual elected officials, some districts submitted one response for the entire group of elected officials. It is not known how these responses were determined or if only one member responded.
- F4. The inconsistency of the responses may have been confusion on the part of the elected officials. However, the accompanying letter states "...The Grand Jury feels that completion of a brief survey requiring only a few check marks, would be much more convenient and less time consuming than requiring the personal appearance of *each* of such a large group of *individuals*." (Emphasis added)
- F5. In tabulating the results of the survey, the Grand Jury assumed that the responses from the districts with a single response indicated the feelings of all five of the elected officials of that entity.

- F6. The Grand Jury received 73 responses, but using the method described in Finding 5, we tabulated 90 responses.
- F7. Results of Question 1, "How confident do you feel about your understanding of the Ralph M. Brown Act?"
- Quite confident - 27
  - Fairly confident - 54
  - Not very confident - 9
  - Not confident at all -1
- F8. Results of Question 2, "What sort of training have you had on the provisions of the Brown Act?" There are multiple answers to this question as members reported several kinds of training.
- Formal seminar - 60
  - Reading publications - 45
  - Informal discussion - 40
  - No training at all -3
- F9. Results of Question 3, "When did you last have any formal training on the provisions of the Brown Act?"
- A year ago or less - 28
  - 2 to 3 years ago - 25
  - Over 3 years ago - 8
  - Never had training - 26
- F10. The California School Board Association puts on two formal seminars per year, which include updates or revisions regarding the Brown Act. It is not known how many school districts within the County require their board members to attend these training sessions.

### **Commendation**

The Grand Jury commends the six entities in which five board members responded. These were: Mother Lode Union School District, Black Oak Mine Unified School District, Garden Valley Fire Protection District, El Dorado Hills Community Service District and Pioneer Fire Protection District.

### **Recommendations**

- R1. The Board of Supervisors should provide, via the County Counsel, two seminars per year on the Brown Act; one in the Tahoe area and one on the Western Slope. It should notify all elected officials of the time and place of these seminars.

R2. All Boards subject to the Brown Act should provide training and insure they conduct business in compliance with the Brown Act.

**Responses Required for Findings**

No responses required

**Responses Required for Recommendations**

R1 El Dorado County Board of Supervisors

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## **Education Committee**

### ***Black Oak Mine Unified School District***

Citizen Complaint #00/01-C-008

#### **Reason for the Report**

This investigation responded to a citizen complaint of a violation of the Ralph M. Brown Act by the Board of Trustees (Board) of the Black Oak Mine Unified School District (BOMUSD).

The intent of the Brown Act is that the actions of public commissions, boards and councils, and other agencies in California be taken openly and that their deliberations be conducted openly.

The philosophy of the Brown Act is that the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.

#### **Scope of the Investigation**

The Education Committee of the 2000-2001 Grand Jury:

- Reviewed Government Code sections relating to the Brown Act;
- Reviewed pertinent provisions of the Education Code;
- Reviewed the Board Policy Handbook of the BOMUSD;
- Interviewed all five members of the 1999 Board;
- Interviewed the 1999 Superintendent of the BOMUSD;
- Reviewed the appropriate personnel file;
- Reviewed Minutes and Agendas of the 1999 Board Meetings; and
- Reviewed relevant correspondence from attorneys.

#### **Findings**

- F1. The majority of the BOMUSD Board intended to reassign an administrator to the classroom in the hope that that person would resign.
- F2. There is a question as to whether the action to reassign the administrator took place at the Board's March 11, 1999 meeting or at its May 26, 1999 meeting.
- F3. The Board did not preserve audio tapes of either meeting, as its practice was to maintain tapes of open sessions for only one month. Further, the Board's practice was to not tape closed sessions as is permitted in Government Code Section 54957.2 (a).

- F4. The Grand Jury finds the action was taken on May 26, 1999 for the following reasons:
- a. A letter dated August 16, 1999 from counsel for the Board to the counsel for the Administrator refers to action taken on May 26, 1999.
  - b. The Board's minutes show that all members of the Board were present at the May 26, 1999 meeting, but not at the March 11, 1999 meeting.
  - c. The original, unsigned, minutes of the May 26, 1999 meeting do not reflect any reassignment action. In the August 12, 1999 meeting, the Board moved, seconded, and unanimously carried that the minutes of the May 26, 1999 board meeting be amended to reflect the action of reassigning the administrator.
- F5. Section 35163 of the Education Code provides: "Every official action taken by the governing board of every school district shall be affirmed by a formal vote of the members of the board, and the governing board of every school district shall keep minutes of its meetings, and shall maintain a journal of its proceedings in which shall be recorded every official act taken."
- F6. No formal vote was taken at the May 26, 1999 closed session meeting for the action reassigning the administrator to the classroom.
- F7. Section 54957.7(b) of the Government Code provides: "After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Sec. 54957.1 of action taken in the closed section."
- F8. Government Code Section 54957.1 provides: "The legislative body of any local agency shall publicly report action in closed session and the vote or abstention of every member present thereon."
- F9. The minutes of the May 26, 1999 board meeting violate the above sections for the following reasons:
- There was no mention of a closed session in accordance with the Agenda;
  - There was no mention of action taken or votes of the members in the Closed Session;
  - There was no reporting out of the action;
  - The Minutes are not signed.
- F10. Subsequent to notice of this violation of the Brown Act in a letter from the administrator's attorney on July 9, 1999, the Board on August 12, 1999 amended the minutes of the May 26, 1999 meeting to reflect that "the Board directed the Superintendent to notify complainant of the action taken on May 26, 1999." No



mention of the vote of all members present, as required by Government Code Section 54957.1, was made in this amendment.

- F11. This amendment of the May 26, 1999 board meeting minutes constitutes an admission that the Board violated the Brown Act on that date.
- F12. As a matter of custom and practice, the Board's Agendas contain generic notices of closed session discussions regarding evaluation of administrators regardless of the specific purposes of the Closed Sessions. This custom and practice effectively controverts the intent of the Brown Act that the public be notified of the actual intentions of the Board.
- F13. BOMUSD Board Policy BB 9323.2(a) states:
- “An 'action' by the Board means:
- a. A collective decision by a majority of the Board members;
  - b. A collective commitment by a majority of the members to make a positive or negative decision; or
  - c. A vote by the majority of the members when sitting at the Board. (Gov. Code Sec. 54952.6)”

This policy is inconsistent with Education Code Section 35163, which states: “Every official action taken by the governing board of every school district shall be affirmed by a formal vote of the members of the board, .....

- F14. The Minutes of the Board Meetings of May 26 and August 12, 1999 do not contain sufficient detail to adequately reflect the discussions and/or actions. Similar deficiencies are noted in minutes of other meetings of the Board.
- F15. The Grand Jury investigation of actions taken by the Board of the BOMUSD was unnecessarily delayed by the current Superintendent and the President of the 2000 Board.

### **Recommendations**

- R1. The Board should follow the legal procedure set forth in the Education Code by taking action only by a formal vote of its members, and should modify its Board Policy to conform to the legal requirements of Education Code Section 35163.
- R2. The Board should follow the law by reporting out its closed session actions and the vote taken on those actions, as required by Government Code Section 54957.1.

- R3. Board Meeting Agendas should reflect only the intended subjects of discussion or specific intended action to be taken in Closed Session. The use of generic categories should be discontinued.
- R4. The Board should add an Index and/or Table of Contents to its Policy Handbook to make it more user friendly.
- R5. Although it is not required to do so by law, the Board should retain the tapes of all meetings, including both Open and Closed Sessions, for four years, to preserve the best evidence for potential litigation purposes.
- R6. The Board should hold a workshop regarding the Brown Act and include as a participant the Secretary to the Superintendent who prepares the Agendas and Minutes of Board Meetings.

**Responses Required for Findings**

F1 through F15                      Black Oak Mine Unified School District Board of Trustees

**Responses Required for Recommendations**

R1 through R6                      Black Oak Mine Unified School District Board of Trustees

## **Education Committee**

### ***El Dorado Union High School District***

#### **Oak Ridge High School**

#### **Reason for the Report**

This Grand Jury decided to follow up on responses to Grand Jury reports made within the last five years to confirm that the responses to prior recommendations have been implemented. In addition, the Grand Jury inquired into other matters of current interest.

#### **Scope of the Investigation**

Grand Jury members visited Oak Ridge High School in El Dorado Hills and interviewed an Assistant Principal and the Maintenance Supervisor.

#### **Findings**

- F1. Many of the buildings at this school are twenty years old and built with concrete block construction. Because of this type of construction, when water permeates the concrete block and then evaporates, it creates an alkali residue inside the building.
- F2. Because of the age of the building, the district allocates additional funds for maintenance.
- F3. The new maintenance supervisor has created a maintenance schedule and has implemented a program to seal the concrete block to prevent further water damage.
- F4. All damage seen by the 1999/2000 Grand Jury has been repaired. New carpet has been installed in building PA-1.
- F5. Warning signs are posted to prevent blocking access to electrical panels.
- F6. Finding 6 of the 1999/2000 Grand Jury states, "Recurring problems with blockage of electrical panels and exits in the Performing Arts Center have led to several violations by the Fire Marshall. Due to failure to correct these conditions, the Principal was cited, fined, and placed on probation for a period of one year." The response from the school district states: "The issue has already been addressed by the Principal. The teacher is cooperative and no longer blocks the areas mentioned. Staff knows to maintain clear access to hallways, exits and panels."
- F7. Access to electrical panels was blocked in the Performing Arts Center and in an area adjacent to one of the Science Labs.

- F8. The above constitutes a repeat violation of the same type found by the 1999/2000 Grand Jury.
- F9. One of the light fixtures in Building E, that could not previously be opened, has been repaired. The second one has been slated to be repaired when its light tube burns out.
- F10. During an emergency drill students and faculty are required to go into the nearest room available. At a drill observed by Grand Jury members, one group from the kitchen went into a storage area that had no PA system and only one exit/entrance.
- F11. The school has 2 1/2 assistant principal positions to investigate charges of harassment as part of their duties. There are four counselors on staff. To provide additional counseling, the County provides the services of the New Morning Agency.
- F12. There are four campus monitors and a full-time County Probation Officer on campus.
- F13. Although the school does not have a "hot line", it does have voice mail so students can anonymously report incidents or information to the administration.

**Recommendations**

- R1. The Board of Trustees should continue to monitor the program of maintenance that has been implemented.
- R2. The Board of Trustees should promulgate a regulation regarding storage of materials blocking electrical panels and exits and enforce that regulation.
- R3. The Board of Trustees should reevaluate the procedure during emergency drills so that students and staff are not in a room that has no PA system for communication or that has only one exit.
- R4. The Board of Trustees should ensure that students, parents, and staff is aware of the voice mail system and its telephone number, for anonymous reports to the administration.

**Responses Required for Findings**

F6 through F8 & F10                      Board of Trustees, El Dorado Union High School District  
El Dorado County Superintendent of Schools

**Responses Required for Recommendations**

R1 through R4                                Board of Trustees, El Dorado Union High School  
El Dorado County Superintendent of Schools

## **Education Committee**

### ***Golden Ridge School at Juvenile Hall***

#### **Reason for the Report**

As part of the Grand Jury's required inspection of detention facilities within the County, the Education Committee examined the educational program and facilities of Juvenile Hall.

#### **Scope of the Investigation**

The Education Committee of the 2000-2001 Grand Jury:

- Visited Golden Ridge School and interviewed the principal ;
- Reviewed the 2000-2001 Budget for the El Dorado County Office of Education and interviewed the County Superintendent of Schools and her staff; and
- Interviewed several students chosen at random during a separate visit.

#### **Findings**

- F1. Diversity in age, academic proficiency, and length of incarceration, require each student to work on an individualized curriculum.
- F2. The space of the facility is inadequate for the following reasons:
- The 2000/2001 Budget of El Dorado County Office of Education allocates funds based on "...an average daily attendance of approximately 53 students."
  - According to a letter from the County Superintendent of Schools, the facility can handle 40 students. If attendance goes over 40 students, "the administrator has implemented a contingency plan of bringing in another teacher and moving some students and desks into the common area of the building for instruction."
  - The principal/counselor's office is a walk-through office situated between a classroom/computer lab and a classroom/library/work area. This does not enable the principal/counselor to engage in impromptu and/or individual counseling in a private manner.
  - There is no workroom or breakroom for educational staff.
- F3. According to the budget document, "Primary emphasis is improving self-esteem, responsibility skills, and developing ability to work cooperatively with others within a structured setting." The students interviewed reported the school was meeting these goals.
- F4. In the opinion of the students we interviewed, they are not receiving adequate individual instruction in advanced math.

- F5. The school has acquired computers which are being utilized with a wide variety of educational software. At the time of our visit, they were not yet connected to the Internet. The administration wanted to be sure the filtering system is adequate.
- F6. Students reported that counseling on drug and alcohol abuse was much more effective by guest presenters, rather than films.
- F7. The students reported that their stay at Juvenile Hall was a positive experience and that their attitude and plans for the future were very optimistic.

**Recommendations**

- R1. The Principal and County Superintendent of Schools should be consulted when the County reviews plans for a new Juvenile Hall, especially regarding space requirements.
- R2. The County Superintendent of Schools and the Principal should advertise and aggressively solicit the general public and the business community for pro bono assistance in providing advanced math instruction to those students in need.

**Commendation**

The Grand Jury commends the staff of Golden Ridge School on their success in their primary emphasis of providing a positive attitude in their students for their future life.

**Responses Required for Findings**

- F2, F4, F5, F6            El Dorado County Board of Education  
El Dorado County Superintendent of Schools

**Responses Required for Recommendations**

- R1                            El Dorado County Board of Supervisors
- R2                            El Dorado County Superintendent of Schools