

EL DORADO COUNTY
2015-2016 GRAND JURY
REPORT



**COUNTY SUPERINTENDENT OF SCHOOLS
— AN ELECTIVE OFFICE, BUT WHY?**

CASE 15-12 • JUNE 9, 2016

Public Release
JUNE 24, 2016

EL DORADO COUNTY 2015-2016 GRAND JURY

COUNTY SUPERINTENDENT OF SCHOOLS — AN ELECTIVE OFFICE, BUT WHY?

Case 15-12 • June 22, 2016

SUMMARY

In June and then again in August of 2015, former El Dorado County Superintendent of Schools, Jeremy Meyers, was arrested for driving under the influence (DUI). Both arrests came during normal business hours and in both cases his blood alcohol level was more than twice the legal limit. Subsequent to both arrests, the El Dorado County (EDC) Trustees of the Board of Education (BOE) called for special public meetings to discuss their concerns about the arrests. Members of the grand jury attended both special meetings.

The public was given the opportunity to address the BOE at both meetings and there was a genuine outpouring of support, pleas for the Superintendent to seek help, and at least one call for the Superintendent to be treated the same as any teacher would be - fired. During the first meeting, the lawyer for the El Dorado County Office of Education (EDCOE) advised the Trustees that the County Superintendent of Schools was not their employee; he was an elected official. Therefore, their recourse was limited. Most of both Trustee meetings were in closed session and there were no reports out of the closed session. The lack of discernable action by the Trustees precipitated the grand jury to investigate the matter further.

BACKGROUND

The State Constitution, Article IX, mandates the "Legislature shall provide a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year..." The state constitution also mandates that there be a county superintendent of schools. In 1976 the state Legislature authorized the voters in each county to decide whether to continue to elect their county superintendent of schools or fill the office as an appointment by the county board of education. A California Constitutional amendment gave the county boards of education the power to fix the salary of county superintendents.

There are 58 county superintendents of schools in California. Fifty-three county superintendents are elected; the remaining five that appoint their superintendents are some of the largest counties: Sacramento, San Francisco, Santa Clara, Los Angeles, and San Diego.

In the counties which elect their superintendents, the county superintendent of schools is legally independent from the county board of education as well as county board of supervisors. An elected county superintendent is governed by the California Constitution and the Education Code.

METHODOLOGY

- Review California Constitution, County Charter, California Education Code
- Interviewed former and current superintendents of both elected and appointed offices
- Interviewed board members for county boards of education
- Reviewed El Dorado County election records
- Reviewed *An Administrative Janus, Elected and Appointed County Superintendents of Schools in California*, Donald A. Dixon, 2006

DISCUSSION

The names El Dorado County Superintendent of Schools and El Dorado County Board of Education give the illusion that those offices and boards are created and governed by county government and that the Superintendent and Board of Education have broad oversight of all public schools within El Dorado County. This is a common misconception that is patently incorrect.

There are currently fifteen school districts within El Dorado County. Each of the districts has its own board of trustees and its own appointed superintendent. These districts include El Dorado Union High School District, Lake Tahoe Unified School District, Placerville Union School District to name just a few. To be clear, each district has its own appointed superintendent, an employee of the district, that answers to the elected board of trustees who are empowered to both employ and terminate that superintendent.

There are local appointed school district superintendents, elected and appointed county superintendents of schools, and an elected state Superintendent of Public Instruction. This report focuses solely on the elected County Office of Education's (COE) Superintendent of Schools.

California Education Code states the county superintendents of schools shall, among other duties:

- Supervise the schools in their county.
- Maintain responsibility for the fiscal oversight of each school district in their county.
- Visit each school to observe operations, examine the sufficiency of textbooks, the overall condition of the facilities, the accuracy of the data reported on the school accountability report card, etc.
- Distribute all laws, reports, circulars, instructions that they receive from the state for the use of the school officers.
- Review and approve, conditionally approve, or disapprove school district budgets and ongoing expenditure patterns before they are sent to the California Department of Education.

It can be seen from reviewing the County Superintendent of Schools' duties vis-à-vis other school districts in the county, that the office serves as an intermediary between the state and the individual school districts. If a school district within the county is being horribly mismanaged or bordering on bankruptcy, the County Superintendent of Schools would report that to the state Department of Education.

Vicki Barber, Ed.D., served as the EDC County Superintendent of Schools from 1994 until June 2013. She was appointed by the BOE to fulfill the unfinished term of her predecessor, Kenneth Lowry. Dr. Barber ran unopposed during the entire course of her nearly 20-year career. Upon Dr. Barber's retirement in June 2013, with one year remaining in her term, the EDC BOE appointed Jeremy Meyers, EDCOE Assistant Superintendent of Schools, to finish the final year of Dr. Barber's term. In 2014, running unopposed, Mr. Meyers was elected to a four-year term.

By the summer of 2015, the Superintendent's second DUI arrest in a short period of time was viewed by many as a very serious and escalating condition. The question of his suitability for duty and talk of perhaps being removed from office was widespread. However, as noted earlier, the El Dorado County Board of Education has no real authority over an elected Superintendent. They solely have the power to set the Superintendent's salary and, in the event of a vacancy, appoint a replacement. Absent felonious conduct, (both DUI's were charged as misdemeanors) there was no recourse but recall; removal of a recalcitrant Superintendent would require a recall election, a time consuming and costly undertaking.

So what did happen? Mr. Meyers resigned his elected office with a negotiated severance package. While the taxpayers were stung and probably taken aback with the \$125,000 buyout agreement, they were spared an estimated \$300,000 for the cost of a special election for the purposes of a recall. And, the matter was settled expeditiously.

The grand jury was unable to find any contested elections for County Superintendent of Schools as far back as the early 1980's. There has been a demonstrable lack of interest by anyone in this county to step forward and challenge an incumbent. We can only speculate as to the reasons. A candidate must reside in this county, possess at least a Master's Degree in an area of relevant study and have a valid California Administrative credential. Further, this individual must be willing to finance a campaign and go through the rigors of an election challenging an incumbent. It is not surprising that no one has done it in the past 34+ years.

After Jeremy Meyers resigned his position with 3 years remaining in his term, the EDC BOE publicized the vacancy nationally and conducted interviews with qualified applicants. An applicant from the El Dorado County Office of Education was appointed.

The Grand Jury endeavored to determine if there was an advantage to appointing versus electing a County Superintendent of Schools. There is scant evidence and fewer studies to provide guidance on this issue. One helpful research paper on this topic is the Dixon Report¹. The following is what was gleaned from our research, observations, and testimony from both elected and appointed Superintendents and County Board of Education Trustees.

Perceived benefits of having an elected superintendent:

- The public may feel it has more control over the schools
- An elected superintendent may be more responsive to the citizen's needs
- Lower turnover
- Elected superintendents must reside within the county
- Generally, an elected official has considerably more independence and may not experience as much pressure from the unions, legislature and hiring board.

Perceived disadvantages of having an elected superintendent:

- There is no performance review, goal setting or direction from an elected executive board.
- Limits candidate pool to only those residing in EDC.
- Qualified candidates may be dissuaded to pursue this position because of the need to launch and fund an election campaign.
- Anyone with the required credentials may run for office. They may not be the most knowledgeable or have the highest skills. A less qualified candidate may prevail on name recognition or popularity.
- As witnessed in our county, outright removal from office can only be done via recall with substantial public cost.

Perceived benefits of having an appointed superintendent:

- Board of Education would be allowed to recruit qualified candidates from all over the country.
- Potential increase in administrative efficiency.
- Having a professional rather than political superintendent.
- The ability to discipline and/or remove a failing superintendent

Perceived disadvantages of having an appointed superintendent:

- Higher turnover
- Expense to COE for recruitment.

¹ An Administrative Janus, Elected and Appointed County Superintendents of Schools in California, Donald A. Dixon, 2006

FINDINGS

- F1. The election of the EDC Superintendent of Schools has been uncontested for the past 34 years, possibly longer.
- F2. The EDC Board of Education does not have the legal authority to discipline or remove the elected EDC Superintendent of Schools.
- F3. Transitioning from an elected to an appointed county superintendent of schools would require a call to action from El Dorado County's citizens and placing the proposal on the ballot. The measure, to be successful, would require a simple majority vote.

RECOMMENDATIONS

- R1. The El Dorado County Board of Education should thoroughly examine the pros and cons of retaining an elected Superintendent of Schools and issue a report to the Board of Supervisors of their findings and recommendation.
- R2. Based on the findings from the above recommendation, the County Board of Supervisors and the County Board of Education should consider putting the matter on the ballot.

REQUEST FOR RESPONSES

Responses to both findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05.

From the following governing bodies:

- El Dorado County Board of Supervisors on or before September 22, 2016
- El Dorado County Board of Education on or before September 22, 2016

Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

The Presiding Judge of the El Dorado County Superior Court additionally requests that responses be sent electronically as a *Word* or *PDF* file to facilitate the economical and timely distribution of such responses. Please email responses to El Dorado County Grand Jury reports to: courtadmin@eldoradocourt.org.

Reports issued by the 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 Grand Jury.