

# **SAN DIEGO UNIFIED SCHOOL DISTRICT TRUSTEE'S OVERREACH: ABUSE OF POWER?**

## ***SUMMARY***

In American governance, public officials are expected to adhere to the highest ethical standards. Any questionable behavior can have far-reaching consequences. A U.S. Senator noted that the appearance of impropriety can be as damaging as the reality of impropriety.

With this benchmark in mind, it is clear the policies and procedures adopted by the San Diego Unified School District (SDUSD) to prevent actual or implied undue influence by members of the Board of Trustees are not adequate.

The 2014/2015 San Diego County Grand Jury found the San Diego Unified School District Board of Trustees Code of Conduct, Conflict of Interest Policy and Board Governance Manual are not sufficient to prevent Trustees from exerting undue influence in matters involving a particular school within their district.

The Grand Jury also found that there is no specific training for trustees on issues addressed in these documents and no requirement a trustee sign or acknowledge his or her understanding and acceptance of the information contained in these documents. In addition there is no training on how a trustee with a child (or immediate family member) enrolled in the district should interact with school staff.

Understandably, such a situation presents difficulty for both trustees and school staff. It is essential that clear lines are drawn to avoid any real or perceived appearance of impropriety. District employees at all levels (administrators, teachers and staff) must be confident that the rules of conduct governing their roles and responsibilities regarding a student are the same regardless of whether a trustee is related to a student or has some other special interest in the student.

## ***INTRODUCTION***

The Grand Jury received a complaint that certain staff at a school may have been adversely impacted by the conduct of a trustee, which raised concern of undue influence concerning a particular student at the school. Witnesses and documents established that certain staff members at the school were removed and transferred to other jobs. Other staff members were disciplined. According to some of the witnesses, the cause for these transfers and discipline was unclear, but may have some connection to the conduct of a trustee.

The Grand Jury investigated the process by which district employees and trustees interface. The focus of the investigation was to determine what safeguards, if any, are in place to make sure district employees are able to fulfill their responsibilities to school operations and student supervision without undue influence from trustees in the district. The difficulty for staff arises when the interaction with the trustee concerns a specific student (a child or relative of the trustee)

as opposed to issues of general concern for all students. The district staff has very few resources to assist them in resolving the potential conflict.

There are no confidential procedures for employees to utilize when confronted with this situation. Trustees as elected officials serve independently from the review process within the SDUSD. The District Superintendent would be the logical person to bring this to the Board of Trustees, but the Superintendent serves at the will of the Board of Trustees. If a trustee violates the code of conduct and improperly interferes with school staff there is no reliable process to resolve the conflicts on behalf of the employee. The current inadequate procedures create the opportunity for impropriety and unethical behavior by elected officials and thereby undermine the public trust and integrity of the District.

### ***PROCEDURE***

The Grand Jury interviewed past and present members of the San Diego Unified School District Board of Education, administrators, teachers, counselors and other school staff. The Grand Jury also reviewed school and district documents including:

- San Diego Unified School District Board Governance Policies;
- SDUSD Bylaws, policies and procedures;
- Reports;
- Written communications; and
- Emails.

### ***DISCUSSION***

The role of the Board of Education is one of governance, not operations.

The Board Governance Policy Manual section GC-2, Governing Commitments, reads the board will "...focus on governance matters rather than administrative issues; observe clear separation of board and superintendent roles..."

Section GC-7, Board Member's Code of Conduct, reads "The board and its members will conduct themselves lawfully with integrity and high ethical standards in order to model the behaviors expected of staff and students and to build public confidence and credibility. 1. Board members will serve the interests of the people of the entire school district. Members recognize this responsibility to the whole to be greater than..." c. conflicts based upon the personal interest of any board member who is also a parent of a student in the district; d. conflicts based upon being a relative of an employee of the district..." and "2. Board members will not attempt to exercise individual authority over the operation of the school district. a. Members will not attempt to assume personal responsibility for resolving operational problems or complaints, but may monitor through the superintendent the disposition of complaints; b. Members will not personally direct any part of the operational organization..." and "4. Members will exercise personal discipline in the performance of their duties, including proper use of authority and appropriate decorum when acting as board members".

A board member attempting to exercise individual authority over the operation of the school district and school policies undermines trust in the system. There is a line of demarcation for trustees to avoid abusing and intimidating faculty, staff, and administrators in a school where a trustee has a child. A trustee needs to practice due diligence when visiting schools and speaking

to school personnel about his/her child. The act or perception of making special requests, bending rules, intimidation and threats of retribution must be avoided. Trustees should exhibit a detached attitude concerning the operation of a school. The board members must judiciously insure they are not perceived as overstepping their authority.

The school leadership and employees need to have a culture that supports and protects them from intimidation and retribution.

The district leadership needs to set higher standards for trustees. Trustees must be held accountable for improper acts and the perception of impropriety. The leadership needs to provide a process and an environment for school employees to feel free to report abuses. The leadership needs to provide a process to report concerns without retribution.

In its investigation, the Grand Jury found that there is testimonial and documentary evidence to suggest the possibility of improper conduct.

Specifically:

- Witnesses reported that in the matter of the Common Application School Report (CASR) certain conduct was of concern because the CASR for a particular student (the child of a trustee) may have been modified without justification. The CASR is relied upon by colleges and universities to evaluate whether a student should be admitted for study. It is confidential and is not to be distributed to unauthorized persons. It was reported that the CASR was improperly released to the parent/trustee and was subsequently superseded by a second CASR, created by a different staff member. The Grand Jury was not able to find a single other instance that resulted in a new CASR based upon a complaint by a parent or trustee. But the Grand Jury was able to determine that two different CASRs were created for the student in question.
- A staff member was disciplined for carrying out his/her routine responsibilities regarding the actions of a student who is a child of a trustee. The discipline was viewed as overly harsh and the staff member was reassigned. It was reported that the staff member had excellent evaluations.
- The following year, another staff member of a school was reassigned by district administrators because of lapses of administrative leadership and “lack of confidence”. This was done without consulting performance evaluations of the staff member who had performed well at the school for many years. According to information provided by witnesses to the Grand Jury, the reassigned staff member may have been the subject of concerns expressed by a trustee because of the manner in which his/her child was treated by school staff.

### ***FACT AND FINDINGS***

**Fact:** Trustees in San Diego Unified School District are empowered to make decisions about the Policies and Procedures of the district.

**Fact:** Trustees are not to personally direct the day-to-day operations of the schools.

**Fact:** Several administrators, teachers and support staff stated they felt intimidated because of the actions taken by a trustee on behalf of a child in their district.

**Fact:** Two staff members were removed from a school where a trustee's child was a student, and in spite of the fact that they performed well in their positions.

**Finding 1:** The removal of two staff members from the school attended by a trustee's child was perceived by other staff to have been improperly influenced by a trustee.

**Finding 2:** Several school staff members testified that they made decisions regarding a trustee's child out of fear of retribution.

**Finding 3:** A trustee may have failed to follow the Code of Conduct and Governance Culture GC-7, section 2.a, by attempting to interfere with operational issues at a school attended by their child.

**Fact:** Confidential student information may have been improperly provided to a trustee/parent.

**Fact:** A school employee was admonished for violations of district policy regarding the handling of confidential student information.

**Fact:** Another school employee who was deemed not supportive enough of the student's prospects for college was disciplined.

**Fact:** Conflicting Common Application School Reports (CASR) were completed by two staff members for a student who was the child of a trustee.

**Finding 4:** These actions conflict with Governance Culture Policy GC-7 section 1.c. "conflicts based upon the personal interest of any board member who is also a parent of a student in the district."

**Finding 5:** District and school personnel have difficulty maintaining appropriate boundaries with a trustee parent as distinguished from a trustee without a personal interest in school operations.

**Fact:** There is no mandatory training required to ensure that trustees are fully informed about their obligations and responsibilities under the Board Member Code of Conduct and Ethics Policy.

**Fact:** There is no requirement that trustees acknowledge in writing that they have read and understood the documents.

**Fact:** District officials provide no training to either the trustees or the school employees about proper interactions with a trustee who has a child in the school.

**Fact:** Employees believe there is no confidential procedure/process to report conflicts regarding a trustee.

**Fact:** The District has no ombudsman for resolving issues regarding trustees.

**Fact:** Employees believe their positions may be in jeopardy if they make decisions contrary to the interests of a trustee.

**Finding 6:** There is no perceived confidential procedure for employees to utilize when faced with conflicts regarding a trustee.

## ***RECOMMENDATIONS***

The 2014/2015 San Diego County Grand Jury recommends the Board of Education and the Superintendent of the San Diego Unified School District:

- 15-30:** Create a stand-alone Code of Conduct and Conflict of Interest Statement for Trustees.
- 15-31:** Require trustees to sign a formal declaration acknowledging their understanding and acceptance of the Code of Conduct and Conflict of Interest Statement for Trustees.
- 15-32:** Implement a mandatory annual training program for all trustees regarding Code of Conduct, Conflict of Interest, Ethics, Roles and Responsibilities of Board Members.
- 15-33:** Implement a mandatory in-service program for school staff, administrators, and faculty to include the roles and responsibilities of staff when interfacing with trustees or district administrators, including the appropriate conduct when a trustee or administrator is also the parent of a child who attends the school.
- 15-34:** Establish the position of Ombudsman as part of a newly developed independent confidential process for all employees to report and resolve complaints in the district without fear of reprisals.
- 15-35:** Establish an Ethics Review Panel independent of the San Diego Unified Schools District to monitor Board Member actions.

## ***REQUIREMENTS AND INSTRUCTIONS***

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made no later than 90 days after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
  - (1) The respondent agrees with the finding
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with Penal Code §933.05 are required from:

<b>Responding Agency</b>	<b>Recommendations</b>	<b>Due Date</b>
<b>Board of Education, San Diego Unified School District</b>	<b>15-30 through 15-35</b>	<b>8/19/15</b>
<b>Superintendent, San Diego Unified School District</b>	<b>15-30 through 15-35</b>	<b>8/19/15</b>