



To: Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court

From: El Dorado County Board of Education

Date: September 6, 2016

Subject: Response to June 24, 2016 El Dorado County 2015-2016 Grand Jury Report,
Public Release June 24, 2016 "Report"

The El Dorado County Board of Education commends the El Dorado County Grand Jury for its thoughtful, thorough and well-considered report as it pertains to its findings and recommendations. As required by California Penal Code Section 933, the Board hereby submits its response as required by law.

The Report makes Three Findings and Two Recommendations. Each Finding and Recommendation is addressed seriatim as follows:

FINDINGS

Finding 1:

The election of the El Dorado County Superintendent of Schools has been uncontested for the past 34 years.

Response to Finding 1:

The El Dorado County Board of Education has no basis on which to disagree with Finding 1 and, based on information and belief contained within the Report, find it to be true and correct.

Finding 2:

The El Dorado County Board of Education does not have legal authority to discipline or remove the elected El Dorado County Superintendent of Schools.

Response to Finding 2:

Based on information regarding the incidents and circumstances contained in the Report, and based on prior advice of legal counsel, the Board has no basis on which to disagree with Finding 2 and, based on information and belief contained within the Report, find it to be true and correct.

Finding 3:

Transitioning from an elected to an appointed County Superintendent of Schools would require a call to action from El Dorado County citizens and placing the proposal on the ballot. The measure, to be successful, would require a simple majority vote.

Response to Finding 3:

The El Dorado County Board of Education has no basis to disagree with Finding 3 and, based on information and belief contained within the Report, find it to be true and correct.

RECOMMENDATIONS

Recommendation 1:

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 recommendations.

Response to Recommendation 1:

The Board disagrees with Recommendation 1.

(Explanation)

Given that some 53 of the 58 counties of California have elected County Superintendent of Schools, we believe that there is an overwhelming statewide consensus that it is the electorate which can best determine who shall serve as County Superintendent. Education Code Section 7054 prohibits the County Board of Education from using any funds, supplies, or equipment for the purpose of urging the support or defeat of any ballot measure. Moreover, if the electorate believes a change from an elected to an appointed County Superintendent is in the community's best interest, the electorate is the appropriate body to initiate and make such a change.

As a secondary consideration, it should be noted that a change in the way a County Superintendent of Schools is selected (appointment or election) requires a ballot measure. Education Code Section 7054 prohibits the County Board of Education from using any funds, supplies, or equipment for the purpose of urging the support or defeat of any ballot measure. Therefore, while the Board is permitted to provide information to the public about the effects of ballot measures, under certain circumstances, it is specifically prohibited from using public funds, supplies or equipment to urge the support or defeat of ballot measures under penalty of being charged with a felony or misdemeanor and being subjected to imprisonment for up to one year. The County School Board believes it would be inappropriate for it to urge the support of a ballot measure by making a recommendation to the Board of Supervisors to the extent it entailed the County Board of Education using public funds, supplies or equipment in any way.

Finally, it should be further noted that the County Board of Education, generally speaking, is not an arm or subdivision of the County governmental structure and does not come within its jurisdiction. As a consequence it would seem inappropriate for the County Board of Education to formally report to the County Board of Supervisors in the context of a grand jury format.

(Action)

No action to be taken.

Recommendation 2:

Based on the findings from the above recommendation, the County Board of Supervisors and the County Board should consider putting the matter on the ballot.

Response to Recommendation 2:

The Board disagrees with Recommendation 2.

(Explanation)

Based on the requirements of California Constitution, Article 9, Section 3, in light of apparent lack of authority in provisions of the California Education Code, and given the statutory proscription of Education Code Section 7054, the Board is informed and believes it has no authority to directly place a measure on the ballot regarding the election or appointment of the County Superintendent of Schools.

(Action)

No action to be taken.

cc: El Dorado County Board of Supervisors