

July 12, 2024

Judge Lauren C. Bowers
The Presiding Judge of the El Dorado County Civil Grand Jury
Superior Court of El Dorado County
2850 Fairlane Court, Suite 120
Placerville, CA 95667

VIA U.S. MAIL AND EMAIL (complaints@edcgrandjury.com)

Subject: Response to Grand Jury Report
"County Office of Education: Are Schools Doing Enough to Address
Sexual Harassment?" Case 24-07

Dear Judge Bowers:

The following is the El Dorado County Office of Education's (EDCOE) response to the findings and recommendations of the 2023-2024 El Dorado County Grand Jury's Report entitled "County Office of Education: Are Schools Doing Enough to Address Sexual Harassment?" For purposes of readability, the Grand Jury's findings and recommendations are listed in bold.

FINDINGS

F1. In 2023 there were three arrests of local school employees for sexual acts toward our students. This is three too many.

We *agree* with this finding.

F2. EDCOE has policies and procedures in place that follow the California Education Code and National Laws regarding background checks of applicants.

We *agree* with this finding.

F3. EDCOE screening and background checks, while in compliance with these laws, are inadequate to prevent the hiring of sexual predators.

We *partially disagree* with this finding. EDCOE's hiring and background check protocols comply with all state and federal legal requirements. EDCOE requires all applicants to be fingerprinted and submits those records to the Department of Justice to conduct a criminal background check for all potential certified and classified positions as well as for all volunteers. Applicants are not eligible for any position within EDCOE until the Department of Justice provides a clear background report which comports with the mandates under

state and federal law. EDCOE also complies with all background laws and requirements under the California Education Code and the California Labor Code. EDCOE also conducts reference checks for applicants as a part of its hiring processes. EDCOE continues to review and refine its hiring processes to ensure alignment with state and federal law.

F4. EDCOE's job application asks applicants and references about past release from employment for misconduct.

We *partially agree* with this finding. EDCOE's application requests that the applicant to state whether the applicant has ever been dismissed or asked to resign and provides an opportunity for the applicant to explain the circumstances. The application does not specifically ask if an applicant has been released due to misconduct.

F5. County school districts have entered into non-disclosure agreements with terminated or resigned employees who allegedly exhibited inappropriate behavior toward others.

We *disagree* with this finding. EDCOE lacks the knowledge regarding whether school districts within the county that are operated independently from EDCOE have engaged in the acts described by this finding. EDCOE has not engaged in the acts described.

F6. EDCOE provides inconsistent sexual harassment prevention training to classified staff.

We *disagree* with this finding. EDCOE provides sexual harassment prevention training that satisfies state and federal legal obligations and informs employees regarding their responsibilities. EDCOE monitors compliance with employee sexual harassment training participation to ensure all employees receive the training.

F7. It is unclear when or if the County school districts provide student training on recognizing sexual harassment and how to report it.

We *disagree* with this finding. EDCOE lacks the knowledge regarding whether school districts within the county that are operated independently from EDCOE have engaged in the acts described by this finding.

F8. EDCOE bus drivers are not monitored during transportation of students due to their collective bargaining agreement restrictions.

We *disagree* with this finding. EDCOE remains in communication with all bus drivers via radio. Additionally, each bus radio is equipped with GPS.

F9. EDCOE and County school district websites are out of compliance with Title IX requirements.

We *disagree* with this finding. EDCOE's website complies with Title IX requirements.

- F10. Classified staff at EDCOE lack close supervision and are outside alone on campus around students on a regular basis, increasing the risk of sexual misconduct.**

We *disagree* with this finding. EDCOE maintains supervision of its employees during the performance of their job duties.

- F11. EDCOE Law Enforcement MOU appears to be an excellent collaboration effort but does not adequately address sexual misconduct by both students and school employees.**

We *partially disagree* with this finding. EDCOE works collaboratively with local law enforcement regarding any conduct that may be considered criminal, whether or not it is described in the MOU. Situations involving sexual misconduct would be directed to local law enforcement like any other conduct that could be considered a crime.

RECOMMENDATIONS

- R1. EDCOE should implement enhanced and more stringent background check processes, including character checks for all applicants who might, or do work around, or with students to prevent sexual predators from being hired. This should begin by January 1, 2025.**

We are unsure what the report is referring to by “enhanced and more stringent background check processes.” EDCOE follows all state and federal laws regarding background checks. EDCOE requires all applicants to be fingerprinted and submits those records to the Department of Justice to conduct a criminal background check for all potential certified and classified positions as well as for all volunteers. Applicants are not eligible for any position within EDCOE until the Department of Justice provides a clear background report which comports with the mandates under state and federal law. EDCOE also complies with all background laws and requirements under the California Education Code and the California Labor Code. EDCOE also conducts reference checks for applicants as a part of its hiring processes. There are also background matters that Employers are not allowed to consider under California law. EDCOE continues to review and refine its hiring processes to ensure alignment with state and federal law.

- R2. EDCOE should ensure all employees complete state required sexual harassment prevention training by September 30, 2024. Local school districts should ensure the training is completed by all employees every two years and records are tracked.**

This recommendation is already in place. In accordance with California Government Code section 12950.1, EDCOE provides the required sexual harassment prevention training to all employees. It also provides all sexual harassment prevention training required under federal law.

- R3. EDCOE should work with the employee unions to revise their bargaining agreements to permit schools to automate tracking on all buses and monitor bus drivers' locations during transportation of students. This should be completed by March 31, 2025.**

This recommendation is already underway. EDCOE buses are equipped with radios with GPS tracking for EDCOE employees. EDCOE will further address this issue with the applicable bargaining units during the 2024-2025 school year.

- R4. EDCOE should work with the employee unions to revise their bargaining agreements to permit schools to install cameras that have monitoring capability on all buses. A designated staff person or automation should monitor the locations of buses during transportation of students.**

We have implemented and plan to further implement this recommendation. After collective bargaining negotiations, in February 2023, EDCOE installed cameras on some vehicles as part of a pilot program. Currently all vehicles transporting Special Services students, home-to-school and school-to-home, are equipped with video cameras. EDCOE will further address this issue with the applicable bargaining units during the 2024-2025 school year.

- R5. EDCOE should develop and implement policies and procedures that require supervisors and managers to closely monitor classified staff while working around students. If necessary, they should hire additional staff to achieve this goal. This should be done by March 31, 2025.**

We require further analysis of this recommendation. EDCOE will further address this issue with the applicable bargaining units during the 2024-2025 school year.

- R6. EDCOE should implement sexual harassment prevention training for all students, including how to recognize and report it. This training should begin in kindergarten. EDCOE should offer parents the option to opt out. This should begin by March 31, 2025.**

We require further analysis of this recommendation. Generally, a student in grades K-3 cannot be suspended or expelled for sexual harassment. (See Cal. Educ. Code § 48900.2). Students in grades 7-12 receive instruction regarding “sexual harassment, sexual assault, sexual abuse, and human trafficking.” (See Cal. Educ. Code 51934.) EDCOE Superintendent Policy 5145.7 provides that all EDCOE students receive age-appropriate information on sexual harassment.

- R7. EDCOE should implement a ‘buddy system’, or other means, for all students when traveling on school campus during class times.**

We are unable to implement this recommendation. The diverse range of students served by EDCOE would make implementing such a system impractical and likely impossible.

R8. EDCOE and County school districts should bring their Title IX website requirements up to date by December 31, 2024.

We have already implemented this recommendation for EDCOE. EDCOE does not have any authority to require independently operated school districts to undertake any specific actions regarding their website content.

R9. EDCOE should provide all classified staff with radio transmitters to enable contact with their supervisor while working on campus. EDCOE should also provide all classified staff with body cameras and make their use a condition of employment.

We are unable to implement this recommendation and are unclear as to the scope of what is being proposed. EDCOE staff working on campuses currently have many different means of communicating with their supervisors. This recommended requirement would implicate several different legal concerns under state and federal laws including but not limited to student, parent and staff privacy rights under the California Education Code and the California Labor Code. Particularly in relation to our special education student community and their right to medical privacy. It is not clear how such a program could feasibly be implemented and EDCOE is unable to implement it at this time. All staff are trained on how to recognize signs of sexual harassment and potential abuse under all state and federal laws including California's Child Abuse and Neglect Reporting Act and Title IX.

R10. EDCOE should work with their MOU Law Enforcement partners to expand the MOU to address sexual misconduct by both students and school employees.

We plan to implement this recommendation. EDCOE will discuss the possibility of expanding the MOU with the various signatories to the agreement.

R11. EDCOE should consider installing cameras in school hallways and classrooms so that no student or child is alone.

We require further analysis of this recommendation.

R12. EDCOE should abolish the practice of allowing employees to resign and enter into a settlement agreement or enter into a non-disclosure agreement to avoid prosecution or public awareness of their inappropriate/illegal behavior.

We will not implement this recommendation. Settlement agreements with employees subject to dismissal who are entitled to an evidentiary hearing may be the only guaranteed method of ensuring that the employee leaves the organization. Disciplining employees, including dismissal, is a significant public, and therefore, tax-payer expense. Removing EDCOE's ability to enter into settlement agreements to separate employees would increase expenses, require potentially unnecessary evidentiary hearings, and worsen student outcomes. However, EDCOE works closely with law enforcement to report

evidence of illegal behavior. Under California law, a public entity cannot enter into a non-disclosure agreement.

Please contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, reading "Ed Manansala", followed by a horizontal line extending to the right.

Dr. Ed Manansala
El Dorado County Superintendent of Schools