Response to Grand Jury Report

Report Title: POINT ARENA SCHOOLS

Report Date: April 21, 2015

Response by: Colleen Cross, District Superintendent

1.1.1.1 Findings

I (we) agree with the findings numbered: **F.1 and F.8**

I (we) disagree wholly or partially with the findings numbered: **F.2, F.3, F.4, F.5, F.6, F.7, F.9, F.10, F11 (please see attached report)**

Attach a statement specifying the findings or portions of the findings that are disputed, and include an explanation of the reasons therefor.

1.1.1.2 Recommendations

Recommendations numbered **F.1 – F.12 (all)** have been implemented.

Attach a statement describing the implement actions.

Recommendations numbered **N/A (none)** have not yet been implemented, but will be implemented in the future.

Attach a statement with the schedule for implementation(s).

Recommendations numbered **N/A (none)** require further analysis.

Attach an explanation, and the scope and parameters of the analyses or studies, and a timeframe 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 timeframe shall not exceed six months from the date of publication of the grand jury report.

Recommendations numbered **N/A (none)** will not be implemented because they are not warranted or are not reasonable.

Attach an explanation.

Signature: Colleen Cross Colleen Cross Date: 5-14-15

Number of pages following: 9

RESPONSE to the Grand Jury Report
By The District Superintendent of
POINT ARENA SCHOOLS

May 14, 2015

Response to the Grand Jury report from the District Superintendent for Point Arena Schools is set forth below in bold.

SUMMARY

The Grand Jury investigated numerous complaints associated with the Point Arena Joint Union High School (High School).

The Grand Jury found that the School District drug testing policy was not correctly implemented by the District Superintendent. ***Mistakes made in 2014 in the implementation of the new policy were immediately recognized and promptly corrected. All further testing has been properly handled, as noted by the Grand Jury.***

The District Superintendent also invalidated all students' math exit exam results due to allegations of cheating by just three students. ***The District found that widespread cheating had in fact occurred during the March 2012 CAHSEE math test. The Superintendent compiled an extensive file of evidence and the decision to invalidate the tests was made in consultation with the California Department of Education, The Educational Testing Service and legal counsel. More information on this item is provided in the "Findings" section.***

It was reported that a negative work environment was the cause of an exodus of over 40 percent of certificated employees. ***The "exodus" consisted of six (6) teachers who left the District in 2014; the reasons for leaving included retirement (two), professional advancement (to an administrative position), and personal family care issues unrelated to District business.***

The Grand Jury found that a lack of transparency in lottery fund allocations added to this problem. ***Lottery funds were appropriately distributed to all teachers for classroom use.***

The District Superintendent's salary of $145,000 is exorbitant for a district of its size.

The District Superintendent has <u>never</u> received a salary of $145,000. The Grand Jury had access to this information as a public record.

The District School Board violated the Brown Act on numerous occasions, in various ways, and in the presence of the Grand Jury. ***The Board has acknowledged and addressed Brown Act issues and did so well before this report was published.***

The District School Board published incomplete meeting minutes and also held their meetings at inconvenient times for the working public. ***The report does not provide any details to support this assertion. The Board believes the minutes meet Education Code requirements. The current meeting time was determined after research, and when the time was changed,***

attendance at meetings increased. There is no time of day the Board could select that would be preferred by all.

BACKGROUND

The Grand Jury received complaints from citizens concerning the High School. The complaints regarded working conditions at the High School and the operations and conduct of the District Administration including the District School Board.

APPROACH

The Grand Jury interviewed many citizens, active and retired employees of the School District, attended District School Board meetings, reviewed minutes (audio, paper, and electronic copies) and did on-line document research. The Grand Jury also referred to the California Education Code and the California Government Code regarding the Brown Act.

FACTS

Schools

Drug testing on the girl's volleyball team was administered by the District Superintendent with all team members present. Both positive and negative results were disclosed publicly in front of team members as well as a reporter from the local newspaper. A positive result was later found to be incorrect. ***The Superintendent's response to this paragraph is included in the "Findings" section (F.1).***

Since the above event, a revised drug policy has been established and a Mendocino Youth Project counselor has been contracted to administer the drug policy and provide counseling services.

The High School Principal of 13 years left the school district at the end of 2012-13. The current District Superintendent became the acting Principal while remaining as the Superintendent.

Response: The Grand Jury report is in error with regard to the statement, "The High School Principal of 13 years left the school district at the end of 2012-13. The current District Superintendent became the acting principal while remaining as the Superintendent." When the veteran Principal left, the District hired a principal for Point Arena High School for 2013-14 who served in that capacity for one year. The District Superintendent did not serve as acting principal for Point Arena High School until August 2014, and then only through December 2014.

During a State mandated exit exam in 2013-14, it was alleged three students cheated on the math portion. Because the alleged cheating students could not be identified, the District Superintendent/acting Principal invalidated that portion of the exam for all students. This action placed the High School in the School Improvement Program. ***The Superintendent's response to this paragraph is included in the "Findings" section (F.2).***

Over 40 percent of certificated staff left the High School at the end of school year 2013-14. Interviewees indicated the new administration had created a negative work environment and

there was a lack of an identifiable chain of command. ***The Superintendent's response to this paragraph is included in the "Findings" section (F.3).***

For school year 2013-14, the High School received $24,600 in lottery funds. This varies annually as lottery money fluctuates. ***The Superintendent's response to this paragraph is included in the "Findings" section (F.4).***

Prior to school year 2013-14, the High School Principal (in collaboration with teachers) determined the use of lottery funds for classroom needs. Teachers that were interviewed are no longer aware of how lottery funds are being distributed.

When interviewed, the District Superintendent was unaware of the amount of lottery funds received or how they were disbursed. ***The Superintendent's response to this paragraph is included in the "Findings" section (F.4).***

Reduction in force notifications (pink slips) were handed out by the District Superintendent in front of students and other staff. ***The Superintendent's response to this paragraph is included in the "Findings" section (F.5).***

School Board

Prior to the High School Principal leaving in 2013, during an open session of a District School Board meeting, the Superintendent remarked that unless the District School Board matched the compensation offered by another school district, the Superintendent would leave prior to the end of the Superintendent's contract. The District School Board complied and raised the salary to $145,000. This is the highest salary paid in Mendocino County in districts of a similar student population.

Response: The "facts" presented above are incorrect. 1) the Superintendent never remarked, demanded or even insinuated that the Board must match the other district's offer or she would leave; 2) the Superintendent asked to be released from her contract, but the Board did not agree to release her; 3) The Superintendent's salary was not raised to $145,000; in fact, the District has never paid the Superintendent a salary of $145,000, as evidenced in the board-approved salary schedule listed below.

Base (2012-13)	Step 1 (2013-14)	Step 2 (2014-15)	Step 3 (2015-16)
$130,000	$133,250	$136,581	$139,996

Work year is 220 days.

2.5% annual step increase.

Doctorate Stipend = $2,000

Board Approved: September 12, 2012

District School Board minutes are not representational of actual occurrences during board meetings. The audio recordings are difficult to understand because of background noise, those

speaking are unidentified, and only one microphone is used. ***The Superintendent's response to this paragraph is included in the "Findings" section (F.6).***

In meetings attended by the Grand Jury, the Grand Jury observed behaviors that were not civil or appropriate for public meetings. ***The Superintendent's response to this paragraph is included in the "Findings" section (F.9).***

The time of District School Board meetings was changed from 6:00 p.m. to 4:30 p.m. Many interviewees indicated that this time change made it very difficult for the working public to attend. ***The Superintendent responded to this point previously.***

The Grand Jury observed the District School Board did not have available the required copies of agenda items to be discussed during the public portion of the meeting. (California Government Code §54954.1)

Response: California Government Code §54954.1 cited by the Grand Jury above, refers to the requirement that agendas and agenda packets be mailed to anyone who requests them. The District complies with such requests.

The District School Board does not consistently report out at the end of closed sessions the decisions made and votes taken. (California Government Code §54957.1)

Response: No details are provided to support this erroneous assertion. The Board "consistently" report out all action taken in closed session as required by law. On one occasion (December 10, 2014), a legal action was reported out of closed session, but the report needed more detail.

Parents and teachers reported that District School Board meetings were held without adequate notice. (California Government Code §54954.2)

Response: This statement is incorrect. The Board posts all agendas as required by the Brown Act (72 hours for regular meetings and 24 hours for special meetings). All regular meeting dates are set in December for the school year. The report fails to provide any specificity as to any meeting not properly posted in accordance with the Brown Act.

In an open District School Board meeting, with students present, a board member used profanity. It was reported by multiple individuals that this has happened on numerous occasions. ***The Superintendent's response to this paragraph is included in the "Findings" section (F.8).***

The Grand Jury was present at a District School Board meeting when a visiting presenter's report was given on a potential nutrition program for the District. During the presentation, the above mentioned board member stated he would rather have a "Big Mac and Fries." ***The Superintendent's response to this paragraph is included in the "Findings" section (F.9).***

The Independent Coast Observer newspaper reported that according to a, "... Staff Attorney for the California Newspaper Publishers Assn., there was a Brown Act violation by the board for failure to consider public comment on agenda items 'before and during' the discussion of the items and the board taking action." ***Response: Past Brown Act violations have been addressed in detail and the Board has received additional training. The quote from the Brown Act above is incorrect; the Brown Act comment occurs "before <u>or</u> during", not "before <u>and</u> during" an item.***

District School Board meeting attendees reported that Brown Act violations are common.
Response: No facts are supplied to support this assertion.

Point Arena Union High School and Arena Union Elementary School are in two separate districts with one governing board. Point Arena Union High School's tax revenue per student is approximately $25,000 annually and Arena Union Elementary School's is approximately $9,000 per student annually. The two schools have different geographic areas from which revenue is accumulated.

Response: The numbers the Grand Jury states in this item are not accurate, as evidenced by public records. For example, the 2013-14 unaudited financials show per ADA tax revenue was $9,684 for Arena Union Elementary, and $22,924 for Point Arena High School.

By directive of the State Board of Education, both the Arena Union Elementary School and the Point Arena Union High School are combined for budgeting purposes only. The revenues of the two schools are combined in a single account but the expenditures are accounted for separately.

Response: The statement "combined for budgeting purposes only" is not accurate. Per Resolution 03-102, the two districts "shall be deemed a single school district for <u>all purposes</u> including but not limited to budget and personnel matters." The <u>revenues</u> are generated and calculated separately for each district, then combined in a single budget for expenditures as allowed by the aforementioned resolution.

FINDINGS

F1. The District Superintendent failed to follow the established drug testing policy to take reasonable steps to assure the confidentiality of student drug testing results. [Board Policy 5131.61(b)] This caused embarrassment to the student and exposed the school district to potential legal action.

Response: ***Agree***

The District superintendent, who was acting as high school principal and district superintendent at the time (August 2014), has fully admitted that an error occurred in connection with implementing the initial drug testing for the first sports team tested in August 2014. The District Superintendent has apologized both publicly and privately numerous times for this mistake. In addition, after this error occurred, adjustments to the testing protocol were instituted within one week, and the drug testing responsibilities were thereafter shifted from the high school principal to the Mendocino County Youth Program's Youth Worker. A review committee convened by the superintendent further refined the program in the months immediately following the initial drug testing in August 2014.

F2. When three students were alleged to have cheated on an exit exam; the Superintendent invalidated the math portion of the exam for all students. This punished all of the students by requiring them to retake the exam as well as placing the High School in the School Improvement Program.

Response: ***Disagree***

The finding implies that there was very limited cheating, if any, and that "all students" were thereafter improperly punished. To the contrary, the District found that cheating was widespread on the March 2012 CAHSEE test; it involved many students, not just three students. For example, the data the District obtained show that on the first test of CAHSEE Math, 44 students were tested, and 43 passed (98%). On the retest, 26 of 43 students scored lower on the retest, and 8 students who passed the first time did not pass on the retake (net: 81% pass rate). This significant discrepancy was indicative of cheating. Statistically, due to testing effect, students should have scored better, not worse, on the retake (e.g., the vast majority of students who take the SAT a second time improve their score). The historical data for CAHSEE test results for Point Arena High School show a consistent range of exit exam results for the high school over several years, with the average for the 5 years prior to the 2012 test being 68.6%. The 98% pass rate in 2012 was a significant anomaly to this trend and was indicative of widespread cheating.

The District received other reports that "everyone cheated, and everyone knows everyone cheated." The Superintendent worked with the California State Department of Education's CAHSEE Testing office and the Educational Testing Service (ETS) regarding the procedure for an alleged breach of testing protocol. The CAHSEE office was clear that a school district must, by law, self-report any known irregularities. It was not an option to ignore the cheating, as implied by the Grand Jury report.

F3. The negative work environment at the High School caused over 40 percent of the certificated staff to terminate their employment at the end of the 2013-14 school year. (Note: From page 4—"Interviewees indicated the new administration had created a negative work environment and there was a lack of an identifiable chain of command.")

Response: ***Disagree***

During the 2013-14 school year, there were 14 teachers at the high school; between March 1, 2015 and August 11, 2015, six (6) teachers notified the district that they were leaving. Of the 6 teachers who left, two (2) teachers retired; their retirement had been planned for some time. One (1) of the teachers who resigned secured a position as a Principal/Superintendent in August 2014. That teacher left for professional advancement. One (1) teacher let the district superintendent know in January 2014 that he/she may be leaving for personal/family reasons unrelated to district business. Two (2) others also left for personal/family reasons unrelated to district business.

Two (2) of the six (6) teachers indicated they were/are interested in returning to the District.

The PAHS site principal for 2013-14 left at the end of the school year, after serving for one year.

Recruiting and retaining teachers and administrators at this District is, historically, an ongoing challenge. The District loses teachers every year for a variety of reasons: their spouse cannot get a job, housing (the cost of living here is very expensive), some do not like the weather or how remote it is, they are lonely, they obtain a higher paid position elsewhere, etc.

F4. The previous principal worked with the teachers in allocating lottery funds; this is no longer the procedure. The current Principal/Superintendent was unaware of either the amount of lottery funds or their distribution.

Response: ***Disagree***

The District is and has always been in full compliance with regulations regarding how lottery funds are allocated and spent. Lottery funding is complex and has changed over time. During the economic downturn, the State stopped giving districts a specific textbook fund. Given that fact, for 2011-12 and 2012-13, lottery funds were used to pay for textbooks and instructional supplies for teachers, and site principals were aware of that. For the past 2 years, the site principals have worked with the Business Manager to distribute the lottery funds directly to teachers, giving them each a portion of the funds to use as a classroom budget as they see fit. Teachers have wide discretion as to how to spend these funds. Teachers are told how much their classroom budget is, but they may not necessarily have been told what the funding source was for the funds.

In 2013-14, the District budget had over 50 different funding sources, only one of which was related to the lottery. The Grand Jury report was in error in stating that the high school received $24,600 in lottery funds in 2013-14. In actuality, the District received $65,935 in lottery funds; Point Arena High School received $25,302, and Arena Union Elementary received $40,633.

It is true that during an unannounced "interview" the District Superintendent did not know exactly how much was received in lottery funds for a given year, but she could have obtained that data from the files had she been asked. Instead, it appeared the questioners were not interested in the answer; only whether the Superintendent knew the answer without looking it up in the financial records. With over 50 funding sources for the two districts, even the Business Manager would not be able to accurately answer such questions without looking up the information.

F5. The Grand Jury determined the confidentiality of personnel matters was breached when the District Superintendent handed out reduction in force notifications publicly causing both embarrassment and low morale.

Response: ***Disagree***

Four (4) years ago (2011), during the District Superintendent's first year, a lay-off notice was handed to an employee in a <u>sealed</u> envelope on campus. One week prior

to the notice being delivered, the Board agenda and packet containing lay-off specifics had been posted by position. The position-specific lay-offs were publically voted on in open session the evening before lay-off notices were delivered, and the affected employees knew the notices must be delivered by March 15th as required by Education Code. Based on the above, there was no breach of confidentiality.

F6. District School Board meeting audio recordings are difficult to understand due to inadequate equipment and the lack of identification of those speaking.

Response: ***Disagree***

The audio recordings are used to assist in the preparation of minutes. Staff find that the recordings are adequate for this purpose. There is no legal requirement to audio tape Board meetings. The suggestion of upgrading the audio equipment can be considered by the board in connection with its development of the budget.

F7. Attendance by the working public, and their opportunity to have input, is curtailed by the current District School Board meetings being held at an inconvenient time.

Response: ***Disagree***

The board has solicited opinions from staff and community members and determined that the 4:30 meeting start time is preferred by most. The Board has noted that since the time changed from 6:00 PM to 4:30 PM, attendance at board meetings has increased.

F8. A District School Board member using profanity during a public District School Board meeting is never acceptable.

Response: ***Agree***

F9. The Grand Jury heard the same Board member ridicule a visiting presenter's report on nutrition, causing embarrassment to both the presenter and those in attendance.

Response: ***Disagree***

This appears to relate to a comment during a presentation on nutrition, when a Board member remarked that he would rather have a hamburger and fries. The report states that this remark subjected the presenter to "ridicule" and "embarrassment;" this is an opinion of the Grand Jury observers not shared by other in attendance.

While profanity at a meeting is not acceptable (F8), the Board recognizes that elected officials have a First Amendment right to speak on issues--we do not think that an attempt at humor by a Board member, if even not particularly funny in retrospect, warrants Grand Jury findings.

F10. It is critically important to continue maintaining separate balance sheets for each school since they have a combined budget.

Response: ***Disagree***
The phrase "critically important" is subjective.

Given that the budget comments within this report refer to revenue and expenditure activity, the District believes that the words 'balance sheet' stated in F10 and R11 should be replaced with the words 'income statement'. It is the income statement that contains Revenues and Expenditures. Furthermore, it is true that Point Arena Schools assigns Site budget coding to revenue and expenditure activity line items within the budget (in line with the Grand Jury recommendation), and will continue to do so.

The District has always tracked revenue and expenditures by site similar to the way a unified school district would; however, the 2004 Resolution No. 03-102, which consolidated the two school districts into a single district pursuant to Education Code 35110, states that the two districts "shall be deemed a single school district for all purposes including but not limited to budget and personnel matters." The district budget is board-approved as a single budget and reported to the State as a single budget under a single State budget accounting number.

F11. There are multiple Brown Act violations during District School Board meetings that can be remedied with education, training, and a desire to act professionally.

Response: ***Disagree***

There are not "multiple" Brown Act violations during meetings. The report fails to provide factual examples to support the finding. The District agrees that board training sessions are important. All Board members attended Brown Act and ethics training on November 11, 2014 and March 2, 2015. The Board will continue to receive regular training regarding these issues.

RECOMMENDATIONS

As noted previously in this response, the District Superintendent has worked with the Board to address all of the recommendations well before this report was issued.

The Grand Jury recommends that:

R1. The school administration follows the established drug testing policy. (F1)

Agreed.

R2. Academic testing be monitored more closely to reduce the risk of cheating. (F2)

Agreed. The District Superintendent will continue to work with the site principal and Testing Coordinator to ensure that they closely monitor academic testing.

R3. The administration work together with all employees to create a more positive work environment.(F3)

Agreed. It is always beneficial to maintain a positive working environment and the District Board and all staff should work together to create and maintain such an environment.

R4. The use of lottery funds be transparent to all staff. (F4)

Agreed. Teachers have complete discretion as to how to spend the lottery funds for classroom and teacher professional development purposes. The district will inform the Principal and teachers of the funding source.

R5. Personnel issues, including reduction in force notifications, be handled confidentially. (F5)

Agreed. The District will honor confidentiality as required by law.

R6. The District Board President ask all speakers to identify themselves. (F6)

Agreed. In early April 2015, the board president instituted the practice of stating the speaker's name into the recording device during meetings, to the best of his ability.

R7. The District Board utilize more than one microphone and place them in better locations. (F6)

Agreed. For over a year, the board has utilized three (3) microphones in three (3) locations in the board meeting room. The board may evaluate whether audio recording is necessary and, as a budgetary matter, whether it is appropriate to spend additional funds to improve audio capability.

R8. The District Board meetings be held at a convenient time for the working public. (F7)

Agreed. The board has consulted with staff and community members and determined that the 4:30 meeting time is preferred by most. However, the Board is open to revisiting the start time if that seems appropriate.

R9. All speakers and program presenters be respected and treated with courtesy. (F8, F9)

Agreed.

R10. The District Board members who use profanity be reprimanded and asked to remove themselves from the room. (F8, F9)

Agreed that use of profanity in board meetings may be cause for censure of a Board member.

R11. The School District continue to use separate balance sheets for Point Arena Union High School and Arena Union Elementary School. (F10)

The District tracks financial information by site, but legally operates under a single budget for County and State reporting, and required annual audits.

R12. All District Board members and Administrators receive Brown Act training annually. (F11)

Agreed that board members, administrators and staff who are involved with agenda issues receive regular Brown Act training.

RESPONSES

Pursuant to Penal Code §933.05, responses are *required* from the following individuals:

- Superintendent, Point Arena School District
- Superintendent, Mendocino County Office of Education

Pursuant to Penal Code §933.05, responses are *required* from the following governing body:

- Point Arena District School Board

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code §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 Civil Grand Jury.