

Mendocino-Lake Community College Board of Trustees

The Mendocino-Lake Community College Board of Trustees (Board) governs Mendocino College (College), balancing the needs of the community, the advice of the College President/Superintendent (President), and the mandates of the State. Areas of concern include the Board's lack of understanding of its responsibilities to direct rather than follow the President, incomplete information the Board receives, an inadequate grievance process, a lack of public and constituent participation in the Board process, and Brown Act violations. With a new President, the Board has the opportunity to consider new approaches to communication with its constituents and staff.

Method of Investigation

The Grand Jury interviewed all seven members of the Board individually and as a Board, the College President, Academic Vice-President, Financial Vice-President, Deans, Faculty Senate President, and faculty members. The Grand Jury reviewed the College Board Policies and Administrative Regulations, Handbooks for each of the bargaining units, Mendocino College 2000 (MC2000), the California Community College League Board of Trustees Handbook, the California Education Codes relating to Board responsibilities, and the Brown Act, California Government Code §54950 et seq. The Grand Jury reviewed grievance procedures from Contra Costa and Foothill-DeAnza Community Colleges. The Grand Jury also reviewed files of claims against the College from 1990 to March 2001 and Board agendas for the corresponding time periods. The Grand Jury reviewed Board Agendas, Minutes, and Reports from August 1999 to April 2001. Representatives of the Grand Jury attended Board meetings between September 2000 and May 2001, and toured the Ukiah campus.

Background Information

The Board has seven representatives elected from geographical areas in Mendocino and Lake Counties.

Board Policy 001 states, "The supervision of the College's program and centers of this District shall be conducted by the Board of Trustees." The Board hires a President to serve as chief school officer and Secretary to the Board. The President administers all College programs and staff.

In January 2001, the current President announced that he would retire this summer. The Board is currently in the process of selecting a new President and is scheduled to make a decision in August.

The Board meets on the first Wednesday of each month and at other times as necessary. The Board receives official reports and information at Board meetings from the following:

- a. President's Report
- b. Staff Reports
- c. Faculty Senate Minutes and the Faculty Senate President
- d. Student Representative Board Member
- e. Classified Staff Report
- f. Management/confidential Staff Report
- g. Financial information from Financial Vice-President
- h. Other reports as necessary by Administration or requested by the Board.

In addition, there is a public participation item on each agenda and the public may speak on other agenda items.

Findings

Board Policy

- 1. The Board policy manual does not have a usable format. Currently, the Board Policies and Administrative Procedures are intermingled in a large notebook. Board members testified that the current manual is difficult to use and expressed the need for a separate policy manual.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with part of this finding. The policy manual is large by necessity. After each policy (the "what"), the administrative procedures (the "how") follow. The Board reported to the Grand Jury that we have been working on updating the manual for the last two years and have completed much more than the finding indicates. Not only were policies updated, but also others were reviewed and subsequently deleted by board action. See response to question number three. We also note that the format follows that recommended by the California School Boards Association (GSBA).

Whether or not we have a "separate policy manual" is within the purview of the sitting board.

- 2. Many policies are outdated or incomplete.**

Response (Mendocino-Lake Community College Board of Trustees): We agree with this finding although it lacks specific examples. As noted elsewhere in this response and in the Grand Jury Report, steps have been in place for some time to address this concern.

3. Recognizing that the policies need to be updated, during the past year, the Board as a group revised the following policies: Mission and Vision (101), Philosophy (102), and Institutional Objectives (103).

Response (Mendocino-Lake Community College Board of Trustees): We disagree with part of this finding because it is incomplete. In the last six months the following policies have been either updated or deleted as indicated in Board minutes:

Updated:

Policy 101 Mission and Vision

Admin. Reg. 528.8 Non-Resident Tuition

Admin. Reg. 813.1 Circulation

Admin. Reg. 813.2 Reference Services

Admin. Reg. 813.3 Facilities Use

Admin. Reg. 813.5 Classification/Cataloging

Deleted:

Policy 102 Institutional Objectives

Policy 103 Educational Goals

Admin. Reg. 307.1 Cancelled Classes, part-time faculty

Policy 309 Child Development Specialist I

Policy 313/433 Administrative and Professional/Management Vacation Leave

Admin. Reg. 316.1 Sick Leave for Part-time Faculty

Policy 327 Contract and Regular Certificated Employee Professional Growth and Evaluation

Policy 329 Temporary/Part-Time Faculty Professional Growth and Evaluation

Policy 336 Credentials/Temporary Certificates

Admin. Reg. 336.1 Credentials/Temporary Certificates

Policy 338/408 Overtime

Policy 405 Dismissal and Disciplinary Action

Admin. Reg. 417.1 Reclassification and Review Procedure

Admin. Reg. 417.2 Promotion

Policy 431 Short-Term, Temporary Salary Schedule

Policy 516 Employment of Mendocino College Students

Admin. Reg. 516.1 Employment of Mendocino College Students

- 4. A committee working on revision of Board Policies includes one Board member, the President, and a staff person.**

Response (Mendocino-Lake Community College Board of Trustees): We agree with this finding and statement of fact.

- 5. During the past two years, the board has reviewed the Policy Governance style of Board governance, which would establish definite policy parameters for the President. Board members state that they intend to adopt some aspects of Policy Governance.**

Response (Mendocino-Lake Community College Board of Trustees): We agree with this finding. The Board concluded that it would not adopt Policy Governance as a whole but would make some changes based on what would work best for our particular board. As an example, our current agendas reflect changes that grew out of our look at Policy Governance.

The President and the Board

- 6. Board policies do not clearly delineate how the President reports to the Board.**

Response (Mendocino-Lake Community College Board of Trustees): We agree that the Board policies do not clearly delineate how the President reports to the Board, however a revised position description, adopted by the Board in April 2001, details in 16 separate areas the president's responsibilities. The first statement in the position description: "The Superintendent/President reports to, and is under direction of, the Board of Trustees whose official decision-making authority is limited to a majority vote of a seven member Board."

- 7. To govern effectively, the Board must have a clear mission statement and policies that direct the President. In turn, the President must continuously inform the Board about the status of implementing the mission of the College. The Board has not actively set up this kind of exchange between the President and the Board.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with part of the finding. The Board and the President actively and regularly review the progress of the college in fulfilling its mission. That there is always room for improvement is, of course, something toward which both the Board and the President as well as the rest of the college constituencies are striving.

- 8. Review of the President's Reports from August 1999 to April 2001 shows that the reports do not address issues of substance for the Board. The reports for the most part read like a social calendar, reporting on College events and**

lunch engagements with various community and school representatives. Annual reports are a chronicle of events.

Response (Mendocino-Lake Community College Board of Trustees): We disagree with part of this finding. The referenced President's reports are intended to note significant and interesting events that have appeared on his calendar for the past month. The board welcomes this monthly report as one way of seeing that the President is involved in outreach within the college and the community.

At the suggestion of the board, the President has recently initiated a semiannual progress report, which addresses, in detail, progress in achieving short and long-term goals, including the implementation measures being undertaken by instructional, business and support staff at the direction of the President and the Board of Trustees.

- 9. All information the Board receives as a Board is channeled and filtered through the President. The President makes the decision about what information goes to the Board and evidence shows that necessary information is not presented publicly at Board meetings.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. The agenda for each board meeting is set by the President of the Board and the President of the college, acting as Secretary to the trustees. Moreover, the Board has multiple points of access to information at its disposal that do not rely upon the president as a filtering mechanism. Department heads and constituent group representatives regularly attend Board meetings, presenting both written and oral reports to the Board. Frequently, Board members directly ask questions of staff members at Board meetings and responses are given directly with no filtering by the president. In addition, individual Board members often make direct inquiries to managers, faculty members and support staff that are responded to without being channeled through the president.

- a. In October 2000, the President received a letter from the State stating audit findings and requesting a \$61,239 refund. The information was not presented or discussed at the November or December Board meetings.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. This information was presented to the Board after staff had sufficient time to discuss repayment options with Chancellor's Office staff and to formulate a proposed budgetary mechanism for repayment of the monies. After determining the various means of repayment, the president reported this information in public session to the Trustees, along with the recommended course of action, on December 6, 2000 at their regularly

scheduled board meeting. It was also important to utilize our internal process to acknowledge the repayment, which took additional time.

- b. Mendocino College 2000 (MC2000), a public and internal survey reporting on the challenges and future needs of the College, is an example of the type of public input the Board needs to develop plans for the College. However, rather than originating with the Board, the Administration planned the survey without Board knowledge or involvement. Originally called “Environmental Scan,” MC2000 first surfaced at the Board level on the March 2000 President’s Report when the President noted that he had talked to individual Board members on specific dates during the previous month. The Board as a whole learned of the study after the fact. The Board should have been involved from the beginning as part of the Board function of learning community needs.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with part of this finding. The president, with assistance from staff, laid the groundwork for MC 2000 and announced the plans for this project in a public board meeting. While, upon hindsight it is true that trustees should have been involved in the planning, it was originally decided by the president that this work was a matter of gleaning information so that the trustees would have the data/information to assist them in reviewing mission/goals/vision statements. The board members had an opportunity to discuss their level of involvement before the survey began and concluded that some of them wanted to attend the public meetings and did so. The trustees took an active part in public discussion sessions.

- c. Evidence shows that the Board is not always informed of personnel changes in a timely manner.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. This finding is extremely vague and in the absence of specific examples of personnel changes about which the Board was allegedly not informed, it is not possible for the District to prepare a detailed response to this finding. As a matter of standard practice, all personnel changes are reported to the Board in a timely manner.

- 10. Individual Board members reported that they routinely receive information from the President through private meetings, telephone calls, memos, and e-mail. The President’s monthly reports repeatedly indicate that he met with individual Board members, but usually the topic of discussion is not stated.**

This manner of President and Board member communication is inappropriate. It gives the impression that the President does not trust the Board as a whole and must convince each individual. The practice also gives the impression that the President is making deals or getting Board member

support for certain items. In addition, all Board members may not have the same information, despite assurances to the contrary.

Furthermore, communication by e-mail is not secure and should not be used for dissemination of confidential information.

Response (Mendocino-Lake Community College Board of Trustees): We disagree with a large part of this finding. The manner in which the President meets with individual members of the Board is entirely appropriate. When events or circumstances require the President to inform all Board members at the same time, this is done by mail, electronic mail, or telephone messages. Email is not used for sensitive matters.

11. The selection of a new President will give the Board the opportunity to redefine the relationship between the Board and the President.

Response (Mendocino-Lake Community College Board of Trustees): We agree in part with this finding. The new President will undoubtedly bring forth her/his own style of relating to the Board. The same is true for the Board, as its composition changes. This is not to say that Dr. Ehmann's relationship with the Board has not been laudatory.

Administrative Practices and the Board

12. The Administration presented the Board with a plan for selecting a new President. After the process began, the Board took control, making meetings and decisions public.

Subsequently, Administration held back information at a Board meeting. An administrator did not inform the Board about discussion with the consultant hired to aid the selection of the new President and planned schedule changes. The Board rejected the changes and followed the original schedule.

In the absence of the President, when the Board took control, the Board demonstrated that it understands its responsibilities and is willing to accept those responsibilities.

Response (Mendocino-Lake Community College Board of Trustees): We disagree. Sometimes it happens that the Board President must make "tentative" judgments about process before the entire Board has had an opportunity to review the matter. In such cases, upon review by the entire body, the Board may often revise a proposed action. Such was the case when the selection process was being developed.

The Board and Grievances

- 13. Board Policy 003 states: “The Board may hear and judge appeals in complaints and grievances that arise from its acts or the acts of the Superintendent.” The January 12, 2000 Management and Confidential Handbook grievance procedure, p.38, concludes with “The decision of the Superintendent/President shall be final.” All other College bargaining units have recourse to the Board for final hearing; the lack of appeal process to the Board conflicts with Board Policy 003.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. The language in Policy 003 is “may”. In this case, the Board approved an agreement, which is not in conflict with policy.

- 14. The meet and confer procedure that created the Management and Confidential handbook does not relieve the Board of its responsibility to create a document that protects both the employee and the College.**
- a. The complaint procedure is inadequate as is illustrated by a recent complaint where the employee was required to file a grievance through the very people the employee was filing a complaint against.**
 - b. A review of grievance procedures for Contra Costa Community College and Foothill-DeAnza Community College finds far more realistic, fair, reasonable processes.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. The Management/Confidential group discussed and approved the contents of the handbook. An agreement was approved by the trustees as a result. In the vast majority of cases, the grievance procedure set forth in the Management and Confidential Handbook has served the District and its employees well.

The Board and Claims against the College

- 15. A review of the 14 claims filed against the College in the last ten years showed the following:**
- As is customary with all governing boards, the Board rejected all claims.**
 - Seven claims, for a variety of personal injuries, resulted in no court action by the claimants.**
 - Two claims regarding employment practices involving one person were settled in 1994 and 1995 in the amounts of \$15,000 and \$10,000 (paid from College funds).**

- ❑ **One claim, for sexual harassment and job hiring discrimination, was settled in July 2000; the College agreed to seal certain documents and the College's insurance company paid the claimant \$12,000.**
- ❑ **Four claims are currently pending: one personal physical injury claim, one claim resulting from actions by a College employee, and two claims regarding employment practices.**

Response (Mendocino-Lake Community College Board of Trustees): We agree with this finding, since it is basically a list of claims and a matter of record, in most cases.

- 16. Administration stated the Board is aware of all claims, but has not necessarily reviewed specific files. Administration provided Board agendas where the claims might have been considered. The agendas do not identify cases.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. The cases considered in closed session are included on the agenda in accordance with the Brown Act. The degree of disclosure required by the Brown Act varies according to the nature of each individual matter.

- 17. The Board asserts that it approves settlements for claims; however, no documentation exists in Board minutes or the case files.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with part of this finding. Documentation of the discussion of matters of this nature is neither required nor appropriate in light of the confidentiality of such matters. In certain cases, if it is not clear about the final disposition, where settlement conditions allow and the legally required confidentiality of affected parties can be protected, it would be appropriate to report this information.

- 18. The Brown Act allows for closed sessions for various items subject to confidentiality. The Board does not keep minutes or tape recordings of closed sessions as allowed by Law (§Govt. Code 54957.2).**

Response (Mendocino-Lake Community College Board of Trustees): We agree with the finding. The Brown Act leaves the decisions regarding taping and/or keeping minutes of closed sessions to the discretion of each individual governing Board, but does not require either. The Board has chosen not to record or keep minutes of closed sessions.

- 19. Neither the Administration nor the Board has a method for recording dates or Board actions when claims and litigation are brought to the Board.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. The Board agendas include a closed session item

indicating that matter(s) of litigation will be discussed in closed session whenever that is the case.

The Public and the Board

- 20. Board Policy 003 states: “Through its rule-making power it shall be the policy of this Board to promote the educational needs of the community by constant communication with citizens, employees and students. The Board shall establish rules which aid in the progress toward the achievement of educational goals of the District.”**

Response (Mendocino-Lake Community College Board of Trustees): We agree with this statement of fact. No action is required.

- 21. The Board states that it should to reach out more to the public to know the needs of the community. Some members of the Board have attempted to hold informal informational gathering meetings with their constituents, but report little citizen involvement.**

Response (Mendocino-Lake Community College Board of Trustees): We agree with this statement of fact. No action is required.

- 22. Board members are hesitant to have meaningful discussions in public.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. Although “meaningful” is defined differently by different persons, the trustees have discussed many important issues in depth when they have been appropriately agendized.

- 23. Administration tells citizens who request items be added to Board meeting agendas that the proper place for items is under Public Comments. Then when the citizen presents an issue under Public Comments, he is told that the Board cannot comment because the items is not on the agenda.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. The Board Agenda is prepared by staff in consultation with the Board President. It is not the practice of administrative staff who prepare the agenda to give advice of this nature. Citizens are allowed to place items on the agenda with appropriate notice. Occasionally, groups or individuals wish to make statements directly to the Board, which are appropriately made under the Public Comments section of the agenda.

- 24. There is little public involvement in Board meetings. Citizens who do come to Board meetings leave after speaking during the public comments item on the agenda, even though agendas clearly state that the public may comment on other agenda items. College faculty and staff sometimes attend as representatives of bargaining units.**

Response (Mendocino-Lake Community College Board of Trustees): We agree with this finding and statement of fact. Public participation, excluding staff, generally numbers in the low single digits. The public has consistently been given the opportunity to speak on items of concern. Over the years, several items, raised originally during Public Comments, have been included in the agenda of a subsequent meeting so detailed discussion could take place. Whether the public decides to leave or stay at a meeting is their choice.

- 25. Board meetings are not adequately publicized in the media or College facilities. The College web site, <http://www.mendocino.cc.ca.us>, lists meeting dates, but does not have current agendas posted. Minutes from previous meetings are posted sporadically. The Grand Jury found no agendas posted on bulletin boards around the Ukiah campus of the College.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with a major part of this finding. There are at least four places that meeting notices are posted before each meeting even though the Brown act requires one posting. A calendar of regular board meetings for the academic year is always posted just outside the Board Room.

- 26. Board meetings are neither audio nor video recorded.**

Response (Mendocino-Lake Community College Board of Trustees): We agree with this finding. Sometimes a member of the audience records the meeting and the media may do so as well as long as it does not interfere with the meeting.

Brown Act Violations

- 27. The Board does not have a working knowledge of the Brown Act. Board members do not have specific training on requirements of the open meeting law. The Board delegates preparation of the agendas to the staff.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with a major part of this finding. We agree that the board properly delegates much of the agenda preparation to staff in consultation with the board president. The board members do have a working knowledge of the Brown Act. Board members do have specific training on the open meeting law as evidenced by documentation given to members of the Grand Jury by college staff.

- 28. Agendas, Board members, and the College Guide for Public Participation misstate Brown Act regulations for responses to public comments and concerns during Public Comments. Board members seem unaware of the following information from the Brown Act:**

“No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising

their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities.

Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.” (Govt. Code §54954.2).

The Board agenda Public Comments item has inconsistent and inadequate statements regarding Board and staff responses allowed. For example, the May 17, 2000 agenda stated, “Trustees may not discuss items that are not on the agenda. They will listen, and if necessary, clarify or assign staff to research.” The April 4, 2001 agenda stated, “Trustees may not discuss items that are not on the agenda.”

Response (Mendocino-Lake Community College Board of Trustees): We agree with part of this finding if this finding is meant to point out the inconsistent use of the statement on the agenda. The former statement (“Trustees may not discuss items that are not on the agenda. They will listen, and if necessary, clarify or assign staff to research.”) is preferable and will be used henceforth. Board member response to comments made under “Public Comments” has not been inconsistent with Government Code Section 54954.2.

29. Agendas and minutes reflect several Brown Act Violations.

- a. Agenda items must contain a “brief general description generally not to exceed 20 words.” (Govt. Code §54954.2) Agendas for several meetings during the period reviewed, including March 7 and 15, 2001, had final agenda items, “Other discussion,” which does not meet the requirement of the information sufficient to inform the public of the nature of the item to be considered.**

Response (Mendocino-Lake Community College Board of Trustees): We disagree with part of this finding. A brief general description is used to explain items on the agenda. Henceforth, “Other discussion” will be used only with a brief general description as authorized by Government Code Section 54954.2.

- b. At the March 7 meeting, without proper noticing, the Board added an action item 7.c. “Select Consultant,” for the Presidential search. The Chair stated that the item was a continuation from the March 5 meeting; however, “Select Consultant” was not an item on that agenda and no statement was made at the meeting that the item would be continued on March 7. The March 7 minutes incorrectly state hat the item was continued pursuant to Education Code 54954.2. If the item has been**

continued properly, it would have done so pursuant to Government Code §54952(b)(3).

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. Our research indicates that this item was agendized properly and the correct Government Code was referenced. The Grand Jury finding is incorrect. The Government Code §54952(b)(3), which the Grand Jury indicated should be used, does not exist. The minutes of March 7 are incorrectly stated in the finding.

Excerpt from Minutes of March 7:

“M/S/C (Eriksen/Pauli) To approve the agenda as amended. Pursuant to Education Code 54954.2(b)(3), item #IV-C, Choosing a Consultant, was added to the agenda.”

Excerpt from Minutes of March 5:

“A full discussion will take place and a vote will be taken at the March 7, 2001 Board meeting.”

The Grand Jury appears to have used an incorrect citation of the Government Code.

c. The Board has not provided the appropriate closed item agenda descriptions as found in the Brown Act. (Govt. Code §54954.5)

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. There were no examples cited; therefore, a meaningful response is not possible. The Board of Trustees consistently works with advice from the college legal counsel to make sure that the wording used for describing closed session agenda items is consistent with Brown Act requirements.

d. The Board does not report “any action taken in closed session and the vote or abstention of every member present,” as required by the Brown Act (Govt. Code §54957.1). No minutes report on decisions made in closed session, even though testimony from Board members and the review of the Claims against the College indicate that actions have been taken. In an attempt to avoid the reporting requirement, the Board now routinely reports before the closed session that no action will be taken in closed session.

Response (Mendocino-Lake Community College Board of Trustees): We disagree with this finding. In most instances the Board takes no action during closed session and the Board so indicates prior to entering closed session as a courtesy to the audience. In those cases, when the Board does take action in closed session, such action is duly reported during the following open session.

Recommendations

A. The Board revise the policy manual to make it a usable document. (Findings 1-5)

Response (Mendocino-Lake Community College Board of Trustees): The recommendation has been implemented. During the fall of 2000, the Board chair appointed a subcommittee to review the policy manual. The process of updating the policy manual is on going.

B. The Board continue its efforts to provide direction to the Administration. (Finding 12)

1. The Board establish and delineate responsibilities for the new President. (Findings 6-11)

Response (Mendocino-Lake Community College Board of Trustees): The recommendation was implemented during the search for the new CEO.

2. The Board establish clear procedures and expectations for communication between the new President and the Board to ensure that Board receive information in a timely manner. (Findings 6-11)

Response (Mendocino-Lake Community College Board of Trustees): The recommendation will not be implemented because it is not warranted. It is a current practice of the Board. The Board already has clear procedures and expectations for communication between the current President and the Board and would expect that to continue under the next President.

3. The Board seek information from sources other than the President in order to have input from more than one perspective. (Finding 9)

Response (Mendocino-Lake Community College Board of Trustees): The recommendation will not be implemented because it is not warranted. It is a current practice of the Board. The board receives information via constituent group minutes, which are included in every board packet. Trustees often ask questions about these minutes. Constituent group representatives are present at each board meeting, and the President of the Academic Senate is seated at the trustee table. (See response to Item 9 above) The President's Advisory Council, which includes membership from student, classified, faculty and management groups, discusses policy issues, which are reported to the board. The Board has often exercised its prerogative to ask questions of representatives of the various college constituencies.

4. Publicly present communications between the Board and the President. If the President needs to inform the Board members of information between Board meetings, all members should receive the same information that then could be referenced in Board meetings. If the information is of a

confidential nature, it should be presented during closed sessions and noted on the agendas. (Findings 9.10)

Response (Mendocino-Lake Community College Board of Trustees): This recommendation will not be implemented because it is not warranted. The conversations between board members and the President are not for the purposes of generating votes or forming a consensus on a particular matter as implied in the Grand Jury's findings. This would be polling and would be a violation of the Brown Act.

- C. The Board and Management Confidential Bargaining Unit work together to revise the appeal process to eliminate the conflict between the Board Policy and the Handbook and to review the results of the meet and confer process to make sure the results protect the college and the employee. (Findings 13, 14)**

Response (Mendocino-Lake Community College Board of Trustees): The recommendation will not be implemented because it is not warranted. There is not a conflict, as stated in the response to item 13.

- D. The Board and Management Confidential Bargaining Unit develop alternative appeal process. (Finding 14)**

Response (Mendocino-Lake Community College Board of Trustees): The recommendation will not be implemented. The Board is satisfied that the current appeal process is satisfactory, and has no information from the Management & Confidential group to indicate otherwise.

- E. The Board consider taking minutes during closed sessions (Findings 15-19)**

Response (Mendocino-Lake Community College Board of Trustees): The recommendation will not be implemented because it is not warranted or is unreasonable. Taking minutes during closed session is not required by the Brown Act. Closed session items are discussed because of their confidential or sensitive legal nature. Because minutes taken in closed session can be subpoenaed, it would compromise the confidentiality of the discussion to take minutes in closed session.

- F. The Board direct the Administration to keep a log stating when the Board has discussed and acted on each claim (Findings 15-19)**

Response (Mendocino-Lake Community College Board of Trustees): The recommendation will not be implemented. The law does not require that such a log be maintained. Further, it is important to note that most claims and lawsuits are resolved without any formal participation by the District. By way of example, workers' compensation and most property and liability claims are resolved by the District's insurance providers. In these instances the District

usually receives, often after the fact, notice of the resolution. These matters are not typically presented to or approved by the Board on an individual basis.

As for those claims for which there is no insurance coverage and which are, therefore, resolved by the District itself, it is the District's practice to comply with the Brown Act.

In this regard, Government Code Section 54957.1 (a)(3) provides as follows:

(a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as specified below:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

The District believes that compliance with the Brown Act provisions noted above provides a sufficient record of those matters.

G. The Board needs to reach out more to the public by publicizing meetings and providing audio and videotapes of meetings for citizens who cannot attend the Board meetings. (Findings 20-26)

Response (Mendocino-Lake Community College Board of Trustees): Most of this recommendation will not be implemented because it is the current practice of the Board. A small part will be implemented in the future. For many years, the Board agendas have been provided to members of the media, currently 13, in addition to the Grand Jury. Agendas are posted in excess of the requirements of the with the Brown Act. Providing audio and videotapes is not required by the Brown Act. Minutes are available for those who do not attend board meetings. As indicated in the response to Finding 25 above, the District intends to endeavor to publicize Board meeting agendas more broadly by utilizing the web site beginning with the September 2001 meeting. Attendance at Board meetings by a reporter of the local newspaper and subsequent factual reporting of the proceedings would be a great asset in this area.

H. The Board direct Administration to post agendas on the College web site and College bulletin Boards on all campuses prior to Board meetings. (Finding 25)

Response (Mendocino-Lake Community College Board of Trustees): This recommendation will not be implemented because it is not warranted. This is currently the practice of the Board. Agendas are posted in an enclosed bulletin board near the Boardroom and in an enclosed bulletin board outside the Business Office. For the convenience of staff, agendas are also posted in the mailroom and the faculty workroom and when possible, on the college website. On the months when Board meetings are held at the Centers, agendas are posted near the room where the meeting will be held. All this is in accordance with the Brown Act, which requires, in actuality, the posting of only one agenda. No changes need to be made. As indicated in the response to Finding 25 and Recommendation H above, the District intends to publicize Board meeting agendas more broadly by utilizing the web site in the future.

I. The Board correct the misrepresentation of the Brown Act on Board agendas so that the Board members can feel free to respond as specified by the Brown Act. (Finding 28)

Response (Mendocino-Lake Community College Board of Trustees): This recommendation will not be implemented because it is not warranted. This is currently a practice of the Board. The public can bring matters to the attention of the Board under Public Comments. Although they may not conduct extensive discussion, the trustees may ask questions for clarification and/or direct staff to take appropriate action or include the matter on the regular agenda for a subsequent meeting. We believe that Board members currently do feel free to respond to public comments at Board meetings. This procedure has been used for benefit of the public.

J. The Board include as a Policy, that each Board member be given a copy of the Brown Act. (Govt. Code §54952.7). (Findings 27-29)

Response (Mendocino-Lake Community College Board of Trustees): This recommendation will not be implemented because it is not warranted. Although not written in a specific Policy, it has been and will continue to be the practice to provide new Trustees with a copy of the Brown Act when they begin their first term in office.

K. The Board read the Brown Act, participate in a Brown Act workshop, and follow its regulations. (Findings 27-29)

Response (Mendocino-Lake Community College Board of Trustees): This recommendation will not be implemented because it is not warranted. Board members routinely participate in Brown Act workshops. Grand Jury members

were given copies of the registration forms which showed Trustee participation in Brown Act workshops. See response to #27.

Response Required

Mendocino-Lake Community College Board of Trustees