



SAN DIEGO COMMUNITY COLLEGE DISTRICT

3375 Camino del Rio South
San Diego, California 92108-3883
619-388-6500

CITY COLLEGE | MESA COLLEGE | MIRAMAR COLLEGE | CONTINUING EDUCATION

Board of Trustees: *Marty Block, J.D., Rich Grosch, Bill Schwandt, Maria Nieto Senour, Ph.D.,
Peter Zschiesche*

Chancellor: *Constance M. Carroll, Ph.D.*

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SAN DIEGO
COUNTY GRAND JURY

August 1, 2008

Honorable Kenneth K. So
Presiding Judge
Superior Court of California
County of San Diego
220 West Broadway
San Diego, California 92101

Re: San Diego Community College District Response to Grand Jury Report

Dear Judge So:

Pursuant to California Penal Code Section 933.05, the San Diego Community College District Board of Trustees and its District leadership have provided the enclosed response to the findings and recommendations of the Grand Jury Report, "Ethics 101: Course Requirement for Community Colleges," which was issued on May 27, 2008.

The governing board and its staff thoroughly reviewed this report in light of the policies, procedures, and practices of the San Diego Community College District. The response was well researched and thoughtfully prepared. The response was discussed at the July 31, 2008, public meeting of the Board of Trustees at which it was unanimously approved for submission.

Respectfully submitted on behalf of the Board of Trustees,

A handwritten signature in black ink, appearing to read "Constance M. Carroll".

Constance M. Carroll, Ph.D.
Chancellor



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August 1, 2008

**Response from the San Diego Community College District
to the Findings and Recommendations in the Report of the
2007-2008 San Diego County Grand Jury (May 27, 2008)
“Ethics 101: Course Requirement for Community Colleges”**

Submitted to:

The Presiding Judge of the Superior Court

On May 27, 2008, the San Diego County Grand Jury issued a report, “Ethics 101: Course Requirement for Community Colleges.” As one of the five (5) community college districts in San Diego County, the San Diego Community College District has been requested to provide comments on the report on or before August 26, 2008.

The Board of Trustees and the administrative and governance leadership of the district have thoroughly reviewed this report. We are always impressed by and respectful of the efforts of members of the community who serve on panels that review governmental and other organizations in order to improve services to the public and the civic life of the community. The 2007-2008 San Diego County Grand Jury has obviously spent long hours, great effort and thoughtful consideration in its study of the County’s community college organizations. We applaud that effort and hope that this response from the San Diego Community College District will be both informative and useful.

This response includes four sections:

- I. Overview of the San Diego Community College District
- II. General Observations Regarding the Report
- III. Response to Findings
- IV. Response to Recommendations
- V. Exhibits

I. Overview of the San Diego Community College District

The San Diego Community College District (SDCCD) is the second largest community college district in California and ranks sixth in size among the nation's 1,250 community colleges. The district is composed of three comprehensive community colleges: San Diego City College, San Diego Mesa College and San Diego Miramar College, which collectively enroll approximately 50,000 students each semester. The district also includes San Diego Continuing Education, which enrolls 50,000 students at six campuses and over 200 smaller sites throughout the City of San Diego. Externally, the district provides instruction and vocational training at over 30 military bases in the United States, enrolling 45,000 service personnel. Thus, over 145,000 individuals rely upon the SDCCD for education during any given semester.

The mission of the San Diego Community College District is comprehensive and diverse. It includes instructional courses and programs in the following categories that lead to various ends:

- Associate in Arts, Associate in Science degrees
- Vocational Certificates of Achievement
- General Education
- Transfer Studies for University Transfer
- Upgrading of Skills for Employment
- High School Diploma (in conjunction with the San Diego Unified School District)
- GED
- Basic Skills and Remedial Education
- English As A Second Language (ESL)

The district's three colleges are fully accredited (with no sanctions or conditions) by the Western Association of Schools and Colleges (WASC) Accrediting Commission for Community and Junior Colleges, which is the regional accrediting body that has reciprocity with all other regions and which qualifies the institution for all federal and state financial awards. The district's Continuing Education division, which offers noncredit education, is fully accredited by the WASC Accrediting Commission for Schools. The SDCCD has the highest possible standing with its accreditors.

The district is governed by a five-member Board of Trustees that serves as the district's governing board. Board members are elected in a combination of primary and general election processes to ensure their representation of specific district areas and their overall Citywide responsibility to the entire area served by the SDCCD, the boundaries of which are roughly coterminous with the boundaries of the City of San Diego. Board member terms are four years in length, with elections occurring in even-numbered years. Four members of the Board have served two terms and one member has served four terms. A Student Trustee position also is part of the Board of Trustees, which is shared on a rotational basis by the Presidents of the Associated Students organizations of each of the district's colleges. The Student Trustee has an advisory vote.

The Chancellor of the district serves as its Chief Executive Officer and is appointed by the Board of Trustees, following a legally-prescribed and extensive search process. The present Chancellor has completed four years of service in this role prior to which she served for eleven years as President of one of the colleges in the district. The four College/Continuing Education Presidents report to the Chancellor, as do five Vice Chancellors who manage specialized

functions within the district (Business Services & Finance, Human Resources, Instructional Services, Student Services, and Facilities Services). The institutions of the district are supported by a full cadre of staff that includes faculty, administrators, and classified staff.

The administration of the district and its institutions is complemented by a robust system of participatory governance that ensures broad consultation among stakeholders. In addition, citizens and community members provide perspective and advice through their service on the Trustee Advisory Council, the Propositions S & N Citizens' Oversight Committee, the Corporate Council, Program Advisory Committees throughout the district, and the College Foundations' Boards of Directors.

II. General Observations Regarding the Report

The Grand Jury Report expresses and identifies a range of good practices and standards that are commendable for any organization to model. However, the report provides commentary and suggestions that are either difficult to understand or based upon inadequate information in four ways.

First, at the beginning of the report, the Grand Jury expresses concerns about specific issues within three community college districts: MiraCosta Community College District, Grossmont-Cuyamaca Community College District, and Southwestern Community College District. From that point on, the report describes situations witnessed by Grand Jury members or drawn from investigative materials; presents observations and findings; and makes recommendations. Unfortunately, however, no distinctions are made among the community college districts, making it impossible to know which district and which specific situations are being addressed. This "broad brush" approach undermines the report's utility and relevance to particular organizations and situations.

Second, the report exhibits a misunderstanding or lack of knowledge of the current oversight of community college districts. The report's primary recommendation in this regard, as explained in the narrative on page 10, is the creation of "a body at the county level to investigate ethics violations" alleged to have occurred in the community colleges, based upon the assumption that the Board of Governors of the California Community Colleges, through its Chancellor's Office, and the Western Association of Schools and Colleges (WASC) "do not have investigative authority, and have no power to impose fines or other penalties for ethical violations."

The fact is that both agencies require ethical policies and practices on the part of community college districts and both have enormous power in enforcing ethical conduct on the part of community college districts. Financial penalties have been assessed against districts by the State Chancellor's Office and WASC has sanctioned institutions for failure to comply with ethical standards to the point of removing accreditation from and ending the independent operation of such colleges. The dissolution of Compton College as an independent entity, as well as the termination of the Compton Community College District, is a well known example.

Third, the Grand Jury Report often references or calls for action to be taken locally when the specific matters are either better addressed at the state level, through the Education Code and other statutes affecting community colleges, or through the regional accrediting body.

Fourth, the suggestion that there be a consolidation of the five local community college boards "with the ability to impose punitive damages . . ." appears to be both contrary to public policy as well as contrary to law. The board of trustees of each community college district is elected by

residents of each district and should be responsible to its constituency. The integration of the five local community college boards through consolidation would be contrary to that goal and, in certain instances, would result in inherent conflicts of interest. The creation of a single governing board to govern all of San Diego's community colleges would add another layer of bureaucracy, would limit local control and creativity, and would take away political prerogative. In addition, Government Code section 818 provides that punitive damages against a public entity are specifically prohibited by law.

These concerns and observations regarding the report are reflected in the San Diego Community College District's comments on the findings and recommendations made by the 2007-2008 Grand Jury, as provided below.

Responses to Findings of the Grand Jury

Not all Board members take the time to review and comprehend all supporting documentation provided on agenda items and these members' vote is sometimes merely a rubber stamp of staff recommendations.

The San Diego Community College District does not concur with this finding as it pertains to this district. The SDCCD Board of Trustees goes to great lengths to ensure that all Board members thoroughly review and consider items that appear on Board agendas and that careful consideration is given before votes are cast, especially in the financial arena. Board members are actively engaged in discussion of Board meeting agenda items, having received extensive documentation on each item in advance of the Board meeting. Board members frequently question the Chancellor and executive managers on items, often asking for formal presentations on a variety of issues that come before the Board.

The Board of Trustees is especially involved in the district's budget accountability and control. The Board of Trustees holds retreats at least twice a year in which the district's budget is a major discussion. The Board also holds study sessions on matters with budgetary implications several times a year. The Board's Finance and Audit Committee meets regularly with the Vice Chancellor of Business Services and with the Chancellor. The Board is regularly briefed about budget discussions that take place in the Chancellor's Cabinet and in the District Budget Development Committee. In short, the Board is well prepared and exceptionally well versed in District financial matters. The Grand Jury's criticism that Board votes in some districts are based solely on the recommendation of the CEO does not apply to the San Diego Community College District.

A limit of three four-year terms for Trustees of the Local Community Colleges would be consistent with limits for State legislators, would provide continuity of leadership and also allow newly elected members to acquire the knowledge the position requires.

The San Diego Community College District does not concur with the finding or recommendation to impose term limits for the position of trustee. While Education Code section 72103 provides a vehicle for allowing a governing board of a community college district to adopt or the residents of a community college district to propose to limit or repeal a limit on the number of terms a member of the governing board may serve (subject to the electors of the community college district approving such proposal by a majority of votes), the San Diego Community College District does not believe that term limits would serve the democratic principles of the electorate

which permit voters to choose their elected representative without constraints. The governance of the San Diego Community College District has benefited from the perspectives of both long-term and shorter-term board members.

The imposition of limits on campaign contributions or restrictions on who may contribute to candidates for Trustee would reduce the perception that elections could be influenced by firms doing business with the District.

The San Diego Community College District does not concur with the finding to restrict contributions from vendors to candidates in Board of Trustees campaigns. The SDCCD actively transacts business with over 7,500 vendors and agencies. In a twelve-month cycle, the district publicly advertised to all, and directly invited 275 vendors to bid on the large contracts for the supply of goods, services, and/or equipment. The State of California statutes require that these processes be open and competitive, and the district works diligently to ensure that they are. In addition to the goal of acquiring the necessary and correct products in a timely fashion, and ensuring that they are competitively priced, the district also encourages and involves any qualified and interested minority-owned, woman-owned, and disabled veteran-owned businesses. The district's process is founded on the two concepts of inclusion and competitiveness, consistent with California law. Anything that requires the district to screen out interested vendors is contrary to the very principles of open and competitive sourcing.

To suggest that an owner/operator of a business, and all related employees, should be precluded from participating in the support of candidates only because he/she may do business with the district, arbitrarily denies participation in the public election process. Aside from the inherent difficulty of monitoring all owners, investors, and employees of said companies, and whether money or effort was contributed, it seems that distinguishing such is tantamount to exclusionary discrimination. Furthermore, since candidates must file a campaign disclosure statement with the Registrar of Voters, and that public record remains available to any interested party, any allegations of inappropriate accounting would be investigated by the District Attorney and/or the Fair Political Practices Commission.

Student Trustees play a valuable role in bringing student concerns to the attention of their governing boards.

The San Diego Community College District agrees that the Student Trustee is a valuable role, but does not concur that the discussion in the report regarding rude behavior exhibited to a Student Trustee by a member of an unidentified governing board pertains in any way to the SDCCD. Student Trustees are valued members of the Board of the San Diego Community College District. In March 2008, Student Trustee Brittany Forester praised student inclusion within the district's budgetary and policy processes, "The students appreciate being included in this process and we are grateful that our classes and needs are being protected." She added, "We have confidence in how things are being handled in our district." In May 2008, Student Trustee Clemente Valdez said the following regarding his active participation in Board deliberations, "I appreciate the support of the Board in putting students first. . . and caring about them." In short, the elected members of the Board view students as an integral part of district and Board fiscal and instructional policy making. The Grand Jury's description of "rude behavior" toward a Student Trustee by a governing board member is obviously an anecdote from another community college district, not the SDCCD. Grand Jury criticism regarding the conduct of elected Board members toward student trustees does not apply to the San Diego Community College District.

There is no local entity to enforce the existing codes of ethics and to apply penalties for violations.

The San Diego Community College District does not agree that there is inadequate enforcement of ethical conduct by members of a community college governing board or members of the district administrative leadership team. It is important to emphasize that community college districts are not part of local or municipal governance. They are governed and subject to oversight of their codes of ethics by two primary agencies. The first is the California Community Colleges Board of Governors and Chancellor's Office, which has legal oversight for all 72 community college districts in the state. The second is the Western Association of Schools and Colleges (WASC) Accrediting Commission for Community and Junior Colleges, which has regional authority for all community colleges in California, Hawaii, and the Western Pacific. These agencies have full authority for enforcement of these codes and also have the authority to exact penalties for violations.

A number of federal agencies, especially the Office of Civil Rights and The Equal Employment Opportunity Commission, and several state agencies, such as the Department of Fair Employment and Housing, are agencies which, in certain instances, provide enforcement and some oversight with respect to ethical violations. The Office of Civil Rights is also specifically authorized to impose penalties in the face of certain violations. The University of California and the California State University operate in a similar manner, which is appropriate to institutions of higher education.

Board of Trustees members and upper level administrators within the local community college districts are ill prepared to fill out annual financial disclosure statements. Some staff members did not know that real property in the district, other than personal residence, must be listed on the Form 700.

The San Diego Community College District does not concur that the finding regarding poor preparation for filing financial disclosure statements pertains to the SDCCD. This observation by the Grand Jury evidently pertains to another community college district. In the San Diego Community College District, Form 700 (Statement of Economic Interests) is well understood and the SDCCD has a history of 100% compliance in having this form filed by governing board members, by the Chancellor, and by district staff members who are required to do so. This Grand Jury criticism does not apply to the San Diego Community College District.

There is no local entity to monitor randomly the Forms 700 for community college personnel, to respond to complaints of non-disclosure and to refer violators to the Fair Political Practices Commission.

The San Diego Community College District does not concur that there is inadequate monitoring of local filing of the Form 700 submission as pertains to the SDCCD. The (California State) Fair Political Practices Commission (FPPC) maintains the Form 700s for community college districts. This agency has the responsibility for monitoring this requirement and for alerting districts when the information is incomplete or lacking. In addition, to ensure local accountability, this same form is also filed for all Board members and relevant district administrators with the Clerk of the San Diego County Board of Supervisors (for Conflict of Interest Filings).

A local Educational Ethics Committee is needed to establish and enforce a uniform code of ethics for officials of the five local community colleges as well as to monitor compliance with the Brown Act.

The San Diego Community College District Board of Trustees and District leadership do not agree with the finding that a local Educational Ethics Committee should be established. As stated above, the code of ethics is monitored and enforced by the appropriate state and regional agencies based upon appropriate legal and procedural requirements. Brown Act compliance is easily monitored through a reading of published Board agendas, including the closed session agendas on which it is not permissible to include items not specified by the Brown Act.

Items that are placed in the lost and found are not properly inventoried in all districts. Board policies do not provide for proper disposition for items that are not claimed by the owner.

The San Diego Community College District does not agree that lost and found items are improperly inventoried or disposed of under the policies and procedures of the SDCCD. The identity of the community college district in which this concern is based is not revealed in the Grand Jury Report. However, this is not a problem in the SDCCD where policies and practices for lost and found property ensure proper disposition.

In some districts, college vehicles and other assets that are no longer needed are not always made available for public auction. Sole source bidding or directed sales to college staff is inappropriate.

The San Diego Community College District does not concur that the disposal of surplus property is handled improperly in the SDCCD. In the San Diego Community College District, there are regular surplus property auctions. Sole source bidding and/or directed sales to college staff are contrary to Board Policy and District Procedure, and are not permitted under any circumstances. The San Diego Community College District regularly aggregates its surplus personal property, and when sufficient to justify an auction (three to four times a year), the district schedules a live public auction conducted by an outside professional auctioneer. The district has always precluded participation by any district employees, and registration to participate allows the opportunity to screen the eligibility of bidders. The lengthy list of auction items is first shared within the district to make sure items are no longer of value to any of the instructional programs or service departments. After an opportunity to draw equipment off of the list for reassignment to another program, the final surplus list is given to the auctioneer and is publicly advertised. The majority of sales are to businesses that specialize in the resale of used equipment and furniture.

Surplus vehicles are taken to a surplus yard in Otay Mesa, which is operated by the auctioneer. There the auctioneer aggregates the surplus vehicles of several public agencies, which then permits a large auction event. Commercial buyers from all over Southern California are encouraged to participate. A live auction is then conducted, and within days, the auction firm remits a check to the district for proceeds less costs. Again, district employees are not eligible to participate, and by the use of a well known and established auction house, all district employees are removed from possible buyer lists.

At some colleges attorneys are being paid for services that do not require legal expertise, such as acting as parliamentarian at open sessions of governing board meetings and attending interviews of prospective candidates for cabinet level positions.

The San Diego Community College District does not concur with the finding that legal counsel is improperly used and believes that this finding does not pertain to the SDCCD. The San Diego

Community College District does not utilize the services of attorneys for non-legal functions. Attorneys do not attend public meetings of the Board of Trustees and only attend closed sessions when required to address a legal matter. Attorneys do not attend interviews of prospective candidates for any level positions. These Grand Jury concerns pertain to other community college districts and do not apply to the San Diego Community College District.

A cost/benefit analysis of an employed legal staff for basic legal services versus a wholly contracted legal counsel would be a useful tool in identifying and controlling a district's legal expenditures.

The San Diego Community College District does not concur with a finding or recommendation to mandate the employment of in-house legal counsel or any other type of counsel. Community college districts must address a variety of increasingly specialized legal needs, which affect the cost/benefit of in-house and contract legal staff. As a very large and complex district, with needs for specialization in employment law, facilities and bond counsel, and a variety of other areas, the SDCCD considers it unrealistic to assume that only in-house counsel can meet the full spectrum of legal needs. Although the San Diego Community College District does employ in-house legal counsel to track and ensure that all contracted and specialized legal services are cost-effective, the SDCCD disagrees with the suggestion that this practice should be mandated.

At least one district has sworn peace officers who do not meet California Peace Officer Standards and Training (POST) requirements.

The San Diego Community College district does not concur with this finding and believes that it does not pertain to the SDCCD. The San Diego Community College District has sworn peace officers, all of whom meet the California Peace Officer Standards and Training (POST) requirements. This concern pertains to a district that is unidentified in the Grand Jury Report and does not apply to the San Diego Community College District.

Responses to Recommendations of the Grand Jury

The preceding narrative and comments regarding the Findings of the Grand Jury provide more detailed context for the San Diego Community College District's responses to the Report of the Grand Jury. Responses to the recommendations follow below.

08-91: Endorse and support the County Educational Ethics Committee for community college districts, as proposed above in this report.

This recommendation will not be implemented because it is not warranted. The SDCCD believes that existing oversight and procedures are sufficient. It is important to emphasize that community college districts are not a part of local or municipal governance. They are governed and subject to oversight of their codes of ethics primarily by two agencies. The first is the California Community Colleges Board of Governors and Chancellor's Office, which has legal oversight for all 72 community college districts in the state. The second is the Western Association of Schools and Colleges (WASC) Accrediting Commission for Community and Junior Colleges, which has regional authority for all community colleges in California, Hawaii, and the Western Pacific. These agencies have full authority for enforcement of these codes and also have the authority to exact penalties for violations.

Also, two federal agencies, the Office of Civil Rights and The Equal Employment Opportunity Commission, and one additional state agency, the Department of Fair Employment and Housing, are agencies which, in certain instances, provide enforcement and some oversight with respect to ethical violations. The Office of Civil Rights is specifically authorized to impose penalties in the face of certain violations. The University of California and the California State University operate in a similar manner, which is appropriate to institutions of higher education.

08-92: Formulate a ballot proposal, for approval by voters of the district, to limit terms of Trustees.

This recommendation will not be implemented because it is not warranted. While Education Code section 72103 provides a vehicle for allowing a governing board of a community college district to adopt a limitation on the number of terms a member of the Governing Board may serve, there has been no showing of need for the governing board of the San Diego Community College District to propose a limitation on the number of terms for which a member may stand for election. The Governing Board does not believe that term limits would serve the democratic principles of the electorate which permit voters to choose their elected representative without constraints. The governance of the San Diego Community College District has benefited from the perspectives of both long-term and shorter-term board members.

Education Code section 72103 also empowers the electorate to impose limits on the number of terms a member of the governing board may serve should a majority of the electors vote to do so at an election called for that purpose.

08-93: Adopt a Governing Board policy that would limit campaign contributions to a candidate for Trustee, whether to a candidate or to a Political Action Committees (PAC) on behalf of that candidate.

This recommendation will not be implemented because it is not warranted. The San Diego Community College District enrolls over 100,000 students each year, actively transacts business with over 7,500 vendors and agencies, and is the 13th largest employer in San Diego County. Many local residents are interested in supporting candidates for the District's governing board.

Required candidate filings and Form 700 filing by governing board members provide for transparency in identifying the source of financial benefits to governing board members. Allegations of inappropriate accounting or other conduct would be investigated by the District Attorney and/or the Fair Political Practices Commission.

08-94: Adopt a Governing Board Policy that would limit the total amount of campaign contributions a candidate for Trustee could receive to a reasonable amount to be determined by the governing board.

This recommendation will not be implemented because it is not warranted. The San Diego Community College District's governing board will not pursue efforts to restrict the ability of a candidate for board election to garner support for election. In declining to impose restrictions, the District is remaining consistent with the existing policy of other California community college districts.

08-95: Adopt a Governing Board Policy that would set standards for staff members from soliciting campaign contributions. The Policy should include a provision prohibiting staff members from soliciting campaign contributions for Governing Board candidates from contractors and other firms doing business with the District.

This recommendation will not be implemented because it is not warranted. The SDCCD does not believe that individuals should be constrained in their exercise of political expression granted under the Constitution of the United States and the Constitution of the State of California.

08-96: Adopt a Governing Board Policy that provides disclosure standards for Trustees. The policy should include a requirement that a Trustee disclose the fact that a bidder on a contract donated to his or her campaign.

This recommendation will not be implemented because it is not warranted. All information regarding campaign contributions is already provided in campaign disclosure statements that are filed with the Registrar of Voters.

08-97: Adopt a Governing Board Policy that would set standards for buy-outs of administrator contracts. The Policy should include a provision limiting administrator contract buyouts to amounts specified in their contracts. No salary or benefits should exceed the 18-month period specified in the State Education Code. No damages or special payments should be granted.

This recommendation will not be implemented because it is not warranted. The California Education Code limits administrator contract buy-outs to a maximum of 18 months. It is within the province of the Court, in approving settlement agreements, to determine what amounts are consistent with law and public policy.

08-98: Endorse a policy to expand the public Governing Board meeting agendas according to the spirit of the Brown Act. For items concerning awards of contracts, approving bids and hiring consultants, the agenda should include amounts of bid and award, scope of work, time period, name and address of contract, and college contact.

This recommendation will not be implemented because it is not warranted. The Brown Act is specific in its requirements and changes in practice should be grounded in the Brown Act not based upon loose interpretation.

08-99: Adopt a district policy that the campus police chief reports directly to the Chancellor or President/Superintendent or an appropriate Vice Chancellor or Vice President.

This recommendation will not be implemented because it is not warranted. The SDCCD currently has this organizational structure in place but believes the recommendation is unwarranted because it would micromanage the internal operations of a community college district.

08-100: Review the qualifications of all sworn campus police officers for compliance with requirements of the California Commission on Peace Officer Standards and Training. (POST)

This recommendation will not be implemented because it is not warranted. The SDCCD already monitors college police officer compliance with POST standards; thus, rendering the recommendation unnecessary.

08-101: Adopt a Governing Board policy for all real property purchases that specifies the data to be listed on the public agenda when the purchase is voted on. This data should include the current assessed valuation and information on amounts of all sales in the last two years for comparison with the amount of the current purchase price.

This recommendation will not be implemented because it is not warranted. The SDCCD meets the existing requirements of the Brown Act and other legal requirements pertaining to the purchase of land.

08-102: Undertake a cost/benefit analysis on the feasibility of employing a Counsel for the District as opposed to contracting for all legal services.

This recommendation will not be implemented because it is not warranted. The recommendation would micromanage the internal operations of a community college district. The SDCCD already employs in-house legal counsel as well as outside legal counsel in various legal specialties. This structure is appropriate for a large and complex community college district that has an annual budget of approximately \$800 million. The recommendation is not appropriate for an organization of this scope and scale.

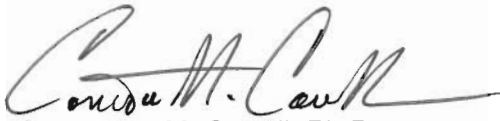
08-103: Direct District Human Resources officers to adopt procedures to avoid the appearance of nepotism and inappropriate supervisory relationships in the hiring process. These procedures should include the identification and screening of applicants who are close friends and relatives of elected Governing Board members and staff.

This recommendation will not be implemented because it is not warranted. The SDCCD already has and implements nepotism policies and practices and does not support the micromanagement of existing procedures through new requirements.

08-104: Adopt Governing Board Policies regarding the disposition of surplus property. Said Policies should include a requirement that any college surplus property donated to non-profit organizations or sold by means of public auctions and prohibit purchase by college staff/employees or relatives.

This recommendation will not be implemented because it is not warranted. The SDCCD's existing policy and legal requirements mandate this practice. The recommendation is unnecessary.

This response has been respectfully submitted on behalf of the San Diego Community College District Board of Trustees and District Leadership by:

A handwritten signature in black ink, appearing to read "Constance M. Carroll". The signature is fluid and cursive, with the first name "Constance" being the most prominent.

Constance M. Carroll, Ph.D.
Chancellor

V. Exhibits

- A. SDCCD Board Policy 2715 – Code of Ethics/Standards of Practice
- B. Community College League of California 2007 Trustee Handbook
Chapter 14 – “Ethics and Laws”



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Board of Trustees Policy

BP 2715 CODE OF ETHICS/STANDARDS OF PRACTICE

The Board maintains high standards of ethical conduct for its members.

The mission of the San Diego Community College District is to provide accessible, high quality learning experiences to meet the educational needs of a diverse community. The district is governed by a five-member, locally elected board of trustees. Trustees understand and support the mission and philosophy of community colleges in general and the San Diego Community College District in particular. Trustees are elected to represent the public's interest in the governance of the District and have broad authority to do so under the state's education codes. As the public's representatives, Trustees must practice the highest ethical standards in performing their sworn duties. The activities and deliberations of the board will be conducted following these tenets:

ACTING AS A WHOLE

Board members recognize that legal and effective functioning is by the board as a whole. District matters are not governed by individual actions of board members. When acting as board members, trustees speak and act on behalf of the district, not as individuals. Trustees use care not to misrepresent their individual opinions or actions as those of the board. Although trustees abide by board direction, they retain the right to seek changes in decisions through ethical and constructive channels.

In dealing with the public, individual trustees should always clarify whether they speak as a member of the board or as a private citizen.

MANAGING CONFLICTS OF INTEREST

Board members avoid any conflict of interest or the appearance of impropriety that could result because of their position. They do not intentionally use their board memberships for personal gain or personal prestige.

They inform the entire board or the board president when a matter under consideration might involve or appear to involve such a conflict.

MONITORING COMPENSATION AND EXPENSE ACCOUNTS

Board members ensure that all district funds are spent appropriately and legally, including those that relate to their own expenses. They ensure that their expenses are authorized, reasonable and directly related to their trusteeships.

HANDLING SPECIAL INTEREST GROUPS

Board members render all decisions regarding the issues at hand based on the available facts and their independent judgments and refuse to surrender that judgment to individuals or special interest groups. At the same time, district employees, their representatives, students and their governing officers are encouraged to express their views to board members.

Board members are aware that they are responsible to all citizens of the district, and not solely to those who elected them. The authority delegated to trustees by the voters must be exercised with as much care and concern for the least influential as for the most influential member of the community. All members of the public are encouraged to express their views to board members.

USING APPROPRIATE CHANNELS

Board members promote a healthy working relationship with the chancellor and his or her staff by:

- a. supporting a cohesive and responsive administration and maintaining a climate of "no surprises".
- b. supporting district personnel in the appropriate performance of their duties and ensuring that they have the requisite responsibility and necessary authority to perform effectively.
- c. sharing all concerns, complaints and recommendations, as appropriate, with other board members and the chancellor.

MAINTAINING APPROPRIATE CONDUCT AT BOARD MEETINGS

Board members observe appropriate conduct at board meetings to facilitate decision-making that reflects the best interests of the college and community. Trustees meet only in public sessions unless authorized by law to meet in closed session, maintain confidentiality of privileged information and ensure an atmosphere of openness and collegiality in which controversial issues can be presented fairly.

Trustees conduct themselves with dignity and professionalism and treat every individual who interacts with the board with respect.

EXERCISING AUTHORITY AS TRUSTEES

Board members respect their elected position as trustees and in no way misuse their authority. Trustees keep informed about educational programs and fiscal and legal responsibilities. They commit the necessary time and energy to discharge their duties. They strive to promote the highest quality educational opportunities to all members of the community while ensuring fiscal stability, institutional integrity and operational efficiency.

HANDLING OF ADMINISTRATIVE MATTERS

Board members focus board action on policy determination, planning, overall approval and evaluation and maintaining fiscal stability of the district and delegate appropriate authority to the chancellor as the district's chief executive officer. District employees, students and citizens are encouraged to freely express their views to board members. Trustees refrain from involving themselves in matters they have placed under the authority of the chancellor, except as needed for their proper oversight responsibilities.

BEHAVIOR CONTRARY TO THE CODE OF ETHICS

Behavior that is perceived to be contrary to the Code of Ethics will be brought to the attention of the President of the Board of Trustees. The Board President will discuss the matter with the Board member in question and may establish a review process if that is warranted, which may include officers of the District in the review. The Board President will take appropriate action. If the Board President's behavior is alleged to be contrary to the Code of Ethics, the Board Executive Vice President will address the matter.

Accreditation Standard IV.B.1.a, e, & h

Adopted: 12/14/2006

SDCCD - former policy 1006

The following information is Chapter 14 of the 2007 *Trustee Handbook*, published by the Community College League of California.

Ethics and Laws

Trustees and governing boards have the responsibility to be both ethical and legal. Ethics are standards of right and wrong, good and bad. Ethics address what one ought to do to fulfill one's moral duty. Being legal means complying with the laws and regulations that apply to college boards and elected officials.

Ethics refers to moral responsibilities and may go beyond legal considerations. Being ethical and legal involves more than understanding what the right thing is to do; it means that one must perform in ethical and legal ways – one must actively “walk the talk.” First, one determines what is right or wrong, good or bad. Then, one does what is right, good, and legal.

Many professions and groups have developed a set of rules of conduct for specific situations. These rules of conduct or standards of practice are based on ethical values.

Ethical Values

The ethical values described below are from the Josephson Institute, and are called the “Six Pillars of Character”(see www.josephsoninstitute.org). The pillars are trustworthiness, respect, responsibility, fairness, caring and citizenship.

Trustworthiness. When we are trustworthy, people believe in us. Being trustworthy requires honesty, integrity, reliability and loyalty.

Being honest means we are sincere, truthful, straightforward, and avoid deception. It does not mean violating confidentiality, being uncivil, or making promises that one might not be able to keep.

Integrity refers to “wholeness.” A person who has integrity is consistent in decision-making and behavior, and bases his or her behavior on a core set of ethics or values.

Reliability means we keep our promises. If we commit to a task, we follow through. Ethical trustees spend the hours each week that are required to perform the job well.

Loyalty means protecting and promoting the interests of people, a group or organization. As a trustee, the primary loyalty is to the college and the public good—loyalty to friends and single interest groups is subordinate.

Respect. The second “pillar of character” is respect. It includes civility, courtesy, decency, autonomy, and tolerance.

Civility and courtesy are particularly important when engaging in discussions with others with whom we disagree. Autonomy means that we do not try to live others' lives for them. Tolerance means we accept others' perspectives and judge others only on their core ethical values.

Responsibility. Responsibility means being willing to make decisions and choices and to be accountable for those. Responsible people do not shift the blame to others.

Responsibility means doing the best one can, and being diligent, careful, prepared, and informed. It means persevering, following through, and finishing tasks that one has promised to do.

Responsibility also involves self-restraint, prudence, and recognizing the importance to set a good example. Responsible trustees recognize that there are some limits on being able to say whatever one wants to, because people look to them as representatives of the college.

Fairness. The fourth pillar, fairness, involves equality, impartiality, openness and using due process. People say that “life is unfair,” and it can be very difficult to define what’s fair in a way that all would agree. Exhibiting fairness involves using open and impartial processes for gathering and evaluating information, so that even those who disagree with a decision can understand how it was made. It means seeking equity and avoiding favoritism or prejudice.

Caring. Caring means that we are genuinely concerned about the welfare of others. As public officials, we care about the common good and welfare of the community. Public education is a benevolent act and expresses caring for the public well being.

Trustees are often asked to care about many different people—community members, students, faculty, and others. Benevolence as a trustee involves seeking the well being of the entire community. Challenges arise when decisions must be made for the benefit of the public welfare that may not meet the needs of specific groups. Caring trustees understand those challenges, and realized that their role requires focusing on the public good.

Because we care about other people, we care about being ethical, about being respectful, responsible, and trustworthy. Being unethical is easier if we do not care about others.

Citizenship. The final “pillar” is citizenship, which involves how we behave as part of a community. Ethical citizens obey laws, contribute to the community through service and leadership, and protect the environment. Citizenship is concerned with the future health and welfare of society. Trusteeship is an expression of civic leadership, and the ethics of trusteeship reflect good citizenship practices.

Codes of Ethics

Trusteeship brings with it certain responsibilities and expectations. Some of these are related to what is ethical and appropriate behavior for public officials. The public expects its leaders and representatives to uphold high standards in the performance of their duties. The Western Association’s Accrediting Commission for Junior and Community Colleges, require boards of trustees to have a code of ethics.

Four questions to ask yourself

To help determine ethical behavior, ask:

- Am I doing to others what I would want done to me?
- Would I mind seeing what I am doing on the front page of a newspaper?
- Am I comfortable with members of my family knowing what I am doing?
- Do I want to encourage employees and students to do this?

Codes of ethics (or “standards of practice” as they are sometimes called) define specific expectations for board members. It is important for boards to clarify for themselves, the college, and the community, what behavior they think is appropriate. It is not enough to assume that because something is legal, that it is ethical, or that everyone knows how they are supposed to act as board members the minute they are elected or appointed to the position. Codes of ethics put in writing what the “oughts” are of trusteeship. They usually address board roles and responsibilities, and trustee conduct.

Board Roles

Represent common good. Trusteeship is an expression of civic leadership and citizenship. Governing boards derive their authority from and are accountable to the community as a whole. As public officials, trustees fulfill the core value of responsibility to society by acting on behalf of the entire community. They express the value of benevolence by seeking well being of the entire community. They represent the interests of the community in their board decisions.

Student success. The college's purpose is to educate students and produce people who contribute to society. Boards should expect their members to uphold the welfare and success of students as a primary concern. They should expect themselves to focus on mission and goals of the college in their meetings.

Board as a unit. One of the most basic tenets of effective trusteeship is the recognition that governing authority rests with the entire board, not with any individual trustee. As individuals, trustees have no authority to direct staff, determine programs and procedures, or represent the college, and ethical trustees do not try to do so.

The board's voice is expressed through the policies and actions it takes in its official meetings. Once the board has decided a policy or position, a trustee must be prepared to support it publicly. It is unethical to try to use authority independently from the board, to speak out against, or to try to sabotage a board decision.

Making decisions. Making ethical decisions means applying core values in decision-making. Making good decisions also means seeking and considering all available facts and perspectives. It means studying and asking questions to clarify board agenda materials. Being ethical and responsible to the public means not making any promises about how one will vote prior to discussions at open meetings.

Special interests. Single and special interest groups play an important part in representing various segments of our diverse society, such as political parties, racial and ethnic groups, employee associations, religious groups, neighborhood associations, taxpayer groups. While all of these interests are important, trustees must remember that the first and foremost obligation of every trustee is to represent the general interests of the college's service area. Ethical behavior involves being aware of a wide variety of public and community needs, and integrating them into the interests of the whole.

Policy-making. Board responsibilities include establishing policies that direct the operations of the college and assuring that the college performs according to policies. Ethical trustees engage wisely in policy making and respect the delegation of authority to the chief executive to administer the college. Problems occur when boards and trustees become involved in the day-to-day operations and try to second guess or direct staff activities. Although often well intentioned, these acts are disrespectful of the college and chief executive.

Trustee Conduct

Civility, decorum, and consideration for others. Remaining courteous and open-minded and treating others with honesty, decency, and respect are characteristic of ethical trustees. Ethical trustees practice responsible self-restraint and set a good example for others by communicating thoughtfully and representing the college well in their interactions with others. They avoid bitter arguments and use courteous, non-inflammatory language at board meetings. Consideration for others means speaking well of others in public. Criticizing or belittling other trustees, college staff, or community members hurts the reputation of the entire board.

Board/CEO relationship. Respect, reliability, trustworthiness and justice are all key values in the board/CEO relationship. Specific ethical concepts include committing to thoughtful, thorough CEO search processes; fair and attractive contracts; “no surprises,” and clear differentiation of roles, delegation and direction.

Open communication. All board members, as well as the CEO, are responsible for maintaining an open, cooperative environment and promoting a free exchange of information at the board meetings. Trustee deliberations are characterized by fairness, and open and impartial processes for gathering and evaluating information. Trustees are honest and straightforward in civil and respectful ways.

Communicating with staff and students. The board and CEO should discuss and reach agreement on protocols for trustee contact with other college administrators, faculty, and classified staff members. Ethical trustees support the authority of the CEO position and respect established lines of communication.

Student and employee complaints to trustees should be referred directly through appropriate channels or to the chief executive officer. Every community college has, or should have procedures that provide for fair treatment of students or employees

Communicating with community members and media. A code of ethics may include statements about protocols for communicating with community members and media personnel. The protocols usually state that individual trustees do not speak for the board unless specifically delegated to do so, and refer and/or follow up with community members through appropriate channels. These protocols ensure reliability of information, and respect the board as a unit and the roles of those designated as spokespeople for the college.

Function as a team member. Being a good board member requires the ability to function as part of a team. Board members differ in personality, motivation, knowledge, attitude, experience, background, community stature, and capability. Differing points of view help develop alternatives, stimulate the imagination, and lead to creative solutions. Being open to and respectful of other members' viewpoints are skills that are necessary to each consensus.

Trustees often bring specialized knowledge to the board by virtue of their backgrounds and professions. However, trustees are not on the board to be "experts" in their fields – they are there to represent broad community interests and do not play other roles while acting as a trustee.

Maintaining confidentiality. While most of what the board does is public, an important aspect of trustee ethics is maintaining confidentiality about issues discussed in closed session. Violating confidentiality occurs when individuals share closed session information, such as informing the union of the collective bargaining positions, leaking information to the media, or discussing private personnel information.

Commitment. There is a great deal to learn about the role of trustees and the governing board, the colleges, and educational issues and trends. This learning requires much time, effort, and thought. It is irresponsible to take on the trustee role without devoting time and attention to learning and performing the responsibilities.

Compensation and expenses. Trustees should accurately account for their expenses and follow local protocols and laws about receiving compensation of any kind. There should be appropriate reimbursement criteria and procedures, which define fair reimbursement for trustee expenses. Ethical trustees always ask themselves if their expenses are authorized, legitimate, direct, and reasonable.

Developing and Using Codes of Ethics

Developing a code of ethics engages all trustees and the CEO in discussions of ethical values. One format for these discussions is a board retreat or workshop, which may be facilitated by an outside consultant to allow all present to fully participate in discussions.

First, those involved define and explore what they think is ethical behavior. The concepts presented in this chapter and other resources may be used as the basis for discussion. Then, working together, they agree on what the expectations are for board members and the CEO. The code of ethics or standards of practice is then adopted by the board at a public meeting and included in board policy.

There are models for board codes of ethics; the model code adopted by ACCT is at the end of this chapter. However, much of the benefit of a code derives from the discussion that goes into developing one that fits the board. Therefore, effective boards engage in discussions about ethical practices for themselves, instead of simply adopting a sample statement.

Codes of ethics are useful tools to orient new trustees to their responsibilities. They are used as references when there are questions about specific situations or behaviors. The policies and practices in a code are excellent criteria for board self-evaluations. Periodically reviewing the code helps keep it current, useful, and relevant to the board.

Unethical Conduct

Living by ethical standards is not always easy. And, boards face ethical dilemmas, when honoring one ethical value may mean violating another. In addition, it is often difficult to uphold ethical values when they conflict with self-interest, the desire to promote single interests or a personal agenda, and the difficulty of fully respecting those with whom one disagrees.

Ethical dilemmas occur one ethical course of action may mean that another value is violated. Making a decision to do what is right for the college may result in significant personal cost to trustees, to other persons, or to a group of constituents. In other cases, making a decision that honors one ethical set of values may be at odds with another. For instance, supporting a regional or state initiative that benefits community colleges as a whole may mean that a local need might not be met as fully.

Resolving ethical dilemmas requires board members to engage in often very difficult discussions to determine which ethical values are most important in a specific situation. The criteria for decision-making include which uphold the public good and what is best for the community and college as a whole.

Unethical trustee behavior often occurs when personal interests override trustee responsibilities; examples include independently pursuing pet projects, breaking confidentiality, or not devoting time to the role. These activities hurt the college. Unethical trustee behavior can lead to loss of public support for the entire institutional. It has caused problems in the reaccreditation process. Community members and legislators lose faith in the college, and may be more reluctant to support funding for the institution. Trustees who act unethically fail to fulfill their fiduciary responsibility to protect the value of the college.

Dealing with Ethical Violations

Accreditation Standard IVB.1.h. states that boards must have a policy that addresses violations of the Code of Ethics. The statement should address steps to address potential or actual violations

of ethics laws (open meetings, conflict of interest and use of public resources), as well as the board's own expectations for behavior.

It is generally the board chair's responsibility to address possible ethical violations. He or she will talk with those who suspect the problem and the person who may have committed one. The reasons and motivations for the behavior and of those who have identified the behavior as unethical should be explored. Early steps may include seeking legal advice, particularly for violations of ethics laws.

An ad hoc committee of the board may be appointed to review the matter, talk with the trustee, and make a recommendation to the full board for action, if any. A board workshop or retreat may be held to discuss the code of ethics. Adopting a resolution at a board meeting to censure the behavior may be called for, if it is necessary to make a public statement that unethical behavior is not tolerated.

Additional information on addressing ethical violations, as well as sample policy statements is available in the *Board Focus, Upholding Board Ethics*, available from the League.

Legal Responsibilities

There are many laws and regulations that affect what the board does and how it conducts itself. The statutes that designate board responsibilities are covered in chapter 7, and other chapters refer to many relevant laws and regulations. Two major sets of laws that affect trustees directly are covered below: conflicts of interest and open and public meetings.

Conflicts of Interest

California has two sets of laws governing conflicts of interest of public officers and employees. The first, most restrictive statutes, are in Government Code sections 1090, *et seq.* The second is found in the Political Reform Act, at Government Code sections 81000, *et seq.* The basic intent of both sets of statutes is to avoid even the appearance of impropriety.

It is important that all public officers and employees be aware of these laws and their implications, which include criminal prosecutions and bars from holding further public office. The statutes address personal interests that may be affected by the trustee's exercise of his or her official duties, including personal investments and businesses, and the employment of trustees and family members as college employees.

In addition to the laws, trustees should be aware of activities that create the perception of favoritism or personal gain. Examples of potential problem areas are preferential treatment of other trustees or college staff, selectively sharing information with only certain people, or informally steering business to or seeking to have friends hired.

Public perceptions that board members are furthering their own interests rather than those of the district harm the college. Being sensitive to situations for potential conflicts, and seeking legal advice when necessary will help avoid problems.

Further information on conflict of interest laws is published in *Local Official's Guide to Ethics Laws*, available from the League (provided to new trustees with this handbook).

Open and Public Meetings

State law requires that public boards do their work in public. Public service requires that issues affecting the public are shared and debated openly. Doing so promotes trustworthiness and reliability.

The Brown Act created the primary set of statutes (Government Code 54950-54961) that governs community the legislative bodies of local agencies. Community college governing boards, academic senates, and associated student governing bodies are among the groups to whom the Act applies.

The laws cover board meetings and agendas, public participation, and limits on how boards may meet. They provide for holding executive or closed sessions on a number of matters, including personnel, contract negotiations, and lawsuits. Closed sessions protect the rights of personnel and the college, and it is unlawful to reveal information discussed in these sessions.

Details on Brown Act provisions are covered in *Open and Public III*, available from the League (provided to new trustees with this handbook).

Use of Public Resources

Both the law and ethical considerations prohibit the use of public resources for personal benefit and political activity. Therefore, boards usually have clear policies on and trustees adhere to travel budgets and expense reimbursement provisions, and the prohibition on using college equipment, e-mail networks, supplies, and other resources for personal reasons.

Legal references include Education Code 7054, 7056, 72423; Government Code 8314, and Penal Code 424.

Other Areas

There are many other complex laws and regulations that affect the district and board responsibilities. Key areas include: elections and campaigns, lawsuits, auxiliary organizations, fiscal management, confidentiality of records, bonds, construction, and personnel. Boards and CEOs should seek legal advice when they have questions.

Legal Advice

Most districts rely on county counsel or retain a law firm or attorney to be available to answer questions; some districts have an attorney on staff. A college's attorney is there to advise the district. He or she is a resource that provides valuable information, but is not the decision-maker. Trustees who have legal questions should work through the CEO and/or board chair in seeking an answer.

When boards seek legal advice, they should:

- Plan ahead: give attorneys sufficient lead time to provide advice on a question.
- Ask about legal implications prior to making certain decisions: it is easier to prevent problems than solve them.
- Be open about all of the facts of a situation, both good and bad.
- Accept and expect realistic assessments of the legal position, including options and the risk involved in various alternatives.
- Understand that legal advice to public institutions is usually conservative, in order to protect the public trust.

- Get legal advice in writing to avoid misunderstandings.
- Avoid entering into adversarial situations, if possible: look for long-term solutions to problems.

Summary

Ethical public service is based on a desire to do good for the community. Codes of ethics define in more detail for trustees and board members how public service is best expressed. Ethical behavior by trustees enhances the value of the college and sets a high standard for the rest of the college. Ethical leadership by trustees makes it more likely that the college will fulfill its mission to the community.

In addition to being ethical, boards must ensure that trustees and the college adhere to laws and regulations. Two major legal concerns for trustees are conflicts of interest and open and public meetings. Legal advice may be necessary from time to time in order to ensure compliance with a myriad of laws and regulations.