

# **SAN DIEGO UNIFIED SCHOOL DISTRICT**

## ***INTRODUCTION***

The San Diego Unified School District (The District) is the second largest district in the state and the eighth largest district in the United States, serving 135,000 students. There are 221 schools within The District, including magnet schools and charter schools. The District budget for 2009/2010 is approximately 2.2 billion dollars. There are approximately 8.5 million dollars in Associated Student Body (ASB) Funds raised by the students and held in trust by The District.

The 2009/2010 San Diego County Grand Jury received and investigated complaints concerning the improper administration of the ASB funds of the School of Creative and Performing Arts (The School), a District magnet school serving 1,500 students with a budget of approximately 8.2 million dollars.

The investigation of these complaints led to an expanded investigation resulting in the discovery of similar and related administrative issues at other schools within The District. The essence, for The School and other schools within The District, involves the mismanagement and misuse of ASB funds and the failure to implement District mandated internal financial controls for ASB funds.

This investigation in turn led to discovery of misuse, misappropriation and commingling of District General Funds, over-payments of salary, bonuses and overtime, under-reporting of vacation time, and inaccurate expense and accounts payable treatment. More irregularities came to light through the District Ethics and Compliance Employee Hotline (the Hotline) operated by the District Internal Auditor and staffed by one investigator.

The fact that the District Internal Auditor (the District Auditor) is not authorized to conduct annual audits of charter schools and the unavailability of the Hotline to charter school employees, students, and teachers led to an investigation of charter school oversight.

In addition, the Grand Jury received and investigated complaints that The School and other District schools are charging student fees in violation of the California constitutional mandate for a free public school. The fact that most student fees have been declared unlawful led to consideration of alternative means of replacing the student fees.

## ***INVESTIGATION***

The Grand Jury reviewed a variety of constitutional, statutory, regulatory, and secondary authority, including the:

- California Constitution,
- Education Code,
- Code of Regulations provisions,
- California Supreme Court decisions,
- California Attorney General Opinions,

- District Administrative Procedures,
- FCMAT ASB<sup>1</sup> Manual, and
- Policies and Opinions of District General Counsel.

The Grand Jury also obtained and considered numerous sources of information, including:

- The past two annual Audit Reports of the Independent Auditors for The District,
- Twenty-four audit reports of the District Office of Audits and Investigations (the District Auditor),
- The testimony of more than twenty-five District, professional, auditing and lay witnesses and
- Reports, analyses, news reports, District and school websites and other sources of information, including reports and information concerning the revocation and non-renewal of charters of eight charter schools over the past several years.

### ***Fact—Set One***

#### **Use of ASB Funds for Curricular and Administrative Purposes**

**Fact:** In 2006/2007, the Associated Student Body at The School of Creative and Performing Arts (The School) had on deposit in a savings account the sum of \$65,568 in ASB reserve funds.

**Fact:** ASB funds are to be used to finance noncurricular activities beyond those provided by the District.<sup>2</sup>

**Fact:** The School withdrew the entire balance from the ASB savings account and deposited the funds into The School general funds account.

**Fact:** The funds were used for curricular and other administrative non-ASB purposes, including purchase of equipment and supplies intended primarily for instructional use.

**Fact:** District Audits in May 2008, March 2009 and October 2009, recommended that the School repay the funds to the ASB.

**Fact:** Although The School denied that the \$65,568 were ASB funds, The School did repay \$13,000 on May 19, 2009 after recommendations in District Audit reports; and promised to repay \$9,000 on October 31, 2009 and the balance in two additional payments.

**Fact:** However, The School had repaid no further amounts as of February 16, 2010.

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<sup>1</sup> Administration of Student Body Funds and Associated Student Body Accounting Manual & Desk Reference, Fiscal Crisis & Management Assistance Team, 2005.

<sup>2</sup> SDUSD Administrative Procedure 2225.c.5.b.(i).

**Fact:** District Audits and the Grand Jury have confirmed through examination of the books and records of The School and the ASB, as well as interviews that the \$65,568 were in fact ASB funds.

### **Use of ASB Funds for Benefit of Faculty**

**Fact:** In 2008, The School withdrew and used ASB funds for a staff Christmas party, staff mugs, polo shirts, and other unauthorized expenditures of ASB funds as found in the March 24, 2009 District Audit report.

**Fact:** The ASB was reimbursed for the Christmas party after a complaint was lodged and an internal audit begun.

### **Internal Control Procedures for ASB Funds**

**Fact:** The May 5, 2008 District Audit report concluded that there is need for immediate attention and reforms of internal control procedures regarding ASB funds.

**Fact:** The March 24, 2009 District Audit report again concluded that there is a need for immediate attention and reforms and that the site administration must implement good internal controls.

**Fact:** Interviews have confirmed that there is a failure of basic internal controls, such as segregation of financial duties, i.e. the duties of bookkeeper and bank signatories.

**Fact:** The District Office of Audits and Investigations has published a guide for school administrators, 10 Things You Should Know: guidelines for Payroll, Purchase Card, and Associated Student Body, including a chapter on “The Importance of Having Good Cash Handling Controls”.

**Fact:** School personnel are not following the 10 Things You Should Know publication.

## ***FINDINGS***

***Finding 01:*** The School used ASB funds for curricular and administrative purposes, and for the benefit of faculty, which is contrary to District Procedures.<sup>3</sup>

***Finding 02:*** The School has disregarded and failed to apply required internal controls.

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<sup>3</sup> District Administrative Procedures 2225, 2227, 2245, 2247, 2250, and 2375 regarding Administration of Student Body Funds and Associated Student Body Accounting Manual & Desk Reference, published by Fiscal Crisis & Management Assistance Team, 2005 (FCMAT ASB Manual), 10 Things You Should Know (ASB) Office of Audits and Investigations. District Procedure Number 2225, effective January 29, 2002, provides, in relevant part: that student body funds are to be used to finance non-curricular activities beyond those provided by The District, that under no conditions shall student body money be expended for the benefit of faculty, and that student body funds in secondary schools may not be used to purchase instructional supplies and equipment for instructional use.

***Finding 03:*** School personnel are not following the 10 Things You Should Know publication.

### ***RECOMMENDATIONS***

**The 2009/2010 San Diego County Grand Jury recommends that the San Diego Unified School District Board of Education and the District Superintendent:**

- 10-81: Direct the School of Creative and Performing Arts (The School) to return forthwith any remaining balance of the \$65,568 belonging to The School ASB fund.**
- 10-82: Require that The School administrative personnel be informed and trained that ASB funds are not to be used for non-ASB purposes, such as curricular, instructional, or other administrative purposes or for the benefit of faculty.**
- 10-83: Require that The School financial personnel be informed and trained that ABS funds must be administered in accordance with internal control procedures as set forth in 10 Things You Should Know, FCMAT Associated Student Body Accounting Manual & Desk Reference, Fiscal Crisis Management & Assistance Team 2005 and the applicable district procedures.**

### ***Facts—Set Two***

**Use of ASB Funds for Curricular, Instructional, Administrative Purposes and for the Benefit of Faculty (The District)**

**Fact:** District Audits of a sampling of District schools over twenty months from March 1, 2008 to October 23, 2009 found that at least \$107,882 in ASB funds at various district schools were used for the purchase of equipment or supplies for instructional use and for the benefit of faculty.

**Fact:** District Audits of a sampling of the ASB accounts at twenty-four District schools resulted in discovery of unauthorized withdrawals of ASB funds at:

- Hoover High School, \$34,954;
- Longfellow Elementary (K-8) School, \$16,169;
- McKinley Elementary School, \$10,972;
- Mission Bay High School, \$35,372;
- Washington Elementary School, \$10,205.

### **Internal Control Procedures for ASB Funds**

**Fact:** The FY2009 Audit Report by Independent Certified Public Accountants reported that there was \$8,449,733 in fiduciary ASB funds. With regard to these funds, the Independent District Audit Report found internal control deficiencies, the most common of which are:

- Lack of segregation of duties,

- Budgets and revenue potentials not used,
- Lack of adequate backup on cash receipts,
- Expenditures lacking proper approval or invoice,
- Student council minutes missing or inadequate,
- Student funds used for school office expenses,
- Paid invoices are not stamped as being “paid”.

**Fact:** These same internal control deficiencies were listed the year before in the FY2008 Audit Report by Independent Certified Public Accountants.

**Fact:** The District Office of Audits and Investigations has published Key Guidelines for Sound Business Practices and has recommended the use of FCMAT ASB Manual, both dealing with these internal control issues.

### ***FINDINGS***

***Finding 04:*** Approximately seventy-five percent of district schools, audited by the District Auditor, misused ASB funds for curricular and administrative purposes and for benefit of faculty, in violation of District Procedure 2225 regarding ASB funds.

***Finding 05:*** Various district schools have disregarded internal control procedures required by The District and set forth in the FCMAT ASB Manual.

***Finding 06:*** The Certified Public Accountant serving as District Independent Auditor repeatedly found common internal control deficiencies in the handling of ASB funds at various district schools.

### ***RECOMMENDATIONS***

**The 2009/2010 San Diego County Grand Jury recommends that the San Diego Unified School District Board of Education and the District Superintendent:**

**10-84: Require that all principals, assistant principals, school financial clerk and ASB advisors be informed and trained that ASB funds are not to be used for non-ASB purposes, such as curricular, instructional, or other administrative purposes or for the benefit of faculty.**

**10-85: Require that all principals, assistant principals, school financial clerk and ASB advisors be informed and trained that ASB funds must be administered in accord with internal control procedures as set forth in the FCMAT Associated Student Body Accounting Manual & Desk Reference, and the applicable district procedures.**

***Fact—Set Three***

**The District General Fund Misuse, Commingling and Overpayment**

**Fact:** The District Auditor, by sampling various district accounts, identified at least \$4,160,034 in recoverable district funds over 20 months from March 1, 2008 to October 23, 2009, including for example:

- Vacation time, \$38,000;
- Illness, Personal Business, Personal Necessity absences not posted, \$49,000;
- Salary Overpayments for Leave of Absence, \$456,208;
- Principal’s sick leave accrual overstated, \$67,422;
- Unspent Held Funds due District in Accounts Payable, more than \$1,700,000;
- Expenses posted to default Cost Center and not reconciled to proper expense accounts thus overstating total expense and understating the budgeted expenses charged to the proper expense accounts, \$2,590,934;
- Un-booked Revenue from Catering invoices, \$128,581;
- Trace Program Annual Daily Attendance (ADA) revenue recovery.

**Fact:** The staff of the District Auditor consists of seven auditors and investigators, one of whom is dedicated to the fraud hotline, with a total departmental budget of approximately \$914,486.

**Fact:** The District Auditor’s department has no clerical workers.

**Fact:** The internal auditing budget amounts to approximately one-third of the recoverable funds (annualized) discovered by the internal auditor.

***FINDINGS***

***Finding 07:*** The District Auditor, with a staff of only seven auditors and investigators (one dedicated to the Hotline), identified at least 4.1 million dollars in recoverable district funds over a period of twenty months, thus saving The District approximately three times the annualized cost of the staff of the District Auditor.

***RECOMMENDATIONS***

**The 2009/2010 San Diego County Grand Jury recommends that the San Diego Unified School District Board of Education and the District Superintendent:**

**10-86: Significantly increase the auditing and investigating staff of the District Auditor in order to increase the savings realized by thorough auditing of district revenues and expenses.**

***Fact—Set Four***  
**The Ethics and Compliance Employee Hotline**

**Fact:** In 2006, The District adopted an Ethics Code and established the Ethics and Compliance Employee Hotline (the Hotline) under the Office of Audits and Investigations (the District Auditor).

**Fact:** The Hotline is staffed by one internal investigator from the Office of the District Auditor, who reports to the District Legal Counsel, under the Superintendent.

**Fact:** During the period September 2006 through December 2009, a total of 420 calls or reports were received by the Hotline; 313 of these cases have been resolved; and 107 remain under investigation.

**Fact:** Forty percent of the resolved cases have resulted in corrective or disciplinary action, including the discipline of eleven district employees and the termination of fifteen district employees.

**Fact:** Cases investigated by the Office of Audits and Investigations, for example, have involved accusations against employees, including District principals, of:

- Embezzlement of tens of thousands of dollars;
- Solicitation of minor prostitutes;
- Improper hiring of an employee's relatives;
- Falsification of payroll records to show and collect pay for time not worked by the employee or others;
- Misuse and mismanagement of ASB funds;
- Falsification of student enrollment/attendance records; and
- Conflicts of Interest.

***FINDINGS***

***Finding 08:*** The Hotline, established contemporaneously with the District Ethics Code, is an essential enforcement arm for the guidelines set forth in the District Ethics Code.<sup>4</sup>

***Finding 09:*** The combined effect of the audits and investigations undertaken by the District Auditor and the Hotline are necessary to combat waste, abuse and corruption and to maintain the efficiency, transparency and reputation of the District.

***Finding 10:*** The Hotline has contributed an invaluable service for the District, but an additional Hotline investigator is needed to deal with the backlog.

***Finding 11:*** The reports from the Hotline indicate that there are some district employees at all levels who have engaged in unethical, and sometimes illegal, activities.

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<sup>4</sup> The District Ethics Code is composed of 10 principles, dealing for example with conflicts of interest, nepotism in hiring, waste, fraud, abuse and corruption, and abuse of authority [www.sandi.net/depts/ethics/](http://www.sandi.net/depts/ethics/).

## ***RECOMMENDATIONS***

*District principals, teachers, and staff should be positive role models for our children. The nature and extent of the misconduct exposed in the reports of the District Auditor and the District Hotline, underscore the necessity that these deterrent systems remain in place and even be expanded.*

### **The 2009/2010 San Diego County Grand Jury recommends that the San Diego Unified School District Board of Education and the District Superintendent:**

**10-87: Add another investigator to deal with the backlog Hotline cases.**

**10-88: Adopt an appropriate Zero Tolerance of Fraud, Waste, Abuse, and Conflict of Interest Policy for administrators, teachers and staff.**

### ***Fact—Set Five***

#### **Charter School Oversight**

**Fact:** About 14,250 District students are enrolled in thirty-seven charter schools for which The District is the chartering authority. The legislature, in the Charter Schools Act of 1992, has authorized and provided governance of taxpayer-funded charter schools to provide alternative learning opportunities.<sup>5</sup>

**Fact:** The charters of at least eight charter schools comprising about twenty-two percent of existing District charter schools have been revoked or denied renewal. The reasons for revocation or non-renewal, set forth in numerous notices to remedy, audits, and reports by and for the District charter school office include:

- Unauthorized/unaccounted expenditures including such as self-dealing transactions, withdrawals without documentation, cash withdrawals for personal use, and payments to IRS for personal taxes, involving amounts reaching into the six figure range;
- Unpaid debts to the School District;
- Failure to pay employees;
- Failure to make required contributions to employee retirement systems;
- Failure to follow Generally Accepted Accounting Principals (GAAP);
- Operating at a significant deficit;
- Failure to conduct public meetings to discuss and approve financial and personnel matters;
- Poor ranking in state-wide and similar-school Academic Performance Index;
- Failure to provide properly credentialed teachers;
- Failure to provide sufficient textbooks; and
- Failure to conduct and document required background checks and medical screening of employees.

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<sup>5</sup> California Education Code §47600 and following.



**Fact:** The Education Code requires that each charter school prepare and submit interim and annual reports to its chartering authority which the chartering authority shall use to assess the fiscal condition of the charter school.<sup>6</sup>

**Fact:** The charter school must promptly respond to all reasonable inquiries, including, but not limited to, inquiries regarding its financial records, from its chartering authority, the District.<sup>7</sup>

**Fact:** The Education Code both empowers and directs The District, with respect to each charter school under its authority to visit each charter school *at least annually* and to monitor the fiscal condition of each charter school.<sup>8</sup>

**Fact:** The charter of a charter school may be revoked by the chartering authority if the authority finds that the charter school committed a material violation of any of the conditions, standards, or procedures set forth in the charter, failed to meet or pursue any of the pupil outcomes identified in the charter, failed to meet generally accepted accounting principles, engaged in fiscal mismanagement, or violated any provision of law.<sup>9</sup>

**Fact:** The District and the Principals Advisory Group for San Diego Charter Schools have negotiated a Charter School Accountability System (the System), a draft of which is dated February 13, 2008. Although the System has apparently not yet been formally adopted, it incorporates applicable Education Code provisions and specifies governance process with which a charter school must comply, including for example:

- Minimum Academic Performance Index levels, *i.e.* generally the 4<sup>th</sup> decile or greater;
- Financial stability, *e.g.* positive cash flows, operating revenues greater than operating expenses, assets greater than liabilities, reserve fund balances of the greater of three percent of expenses or \$50,000, cash sufficient to satisfy current liabilities, adequate accounting systems, internal control procedures, loans and debts properly accounted and paid timely, and stable student enrollment;
- Effective governance, including compliance with the Brown Act, adherence to reasonable written conflict of interest policies, clearly written Board minutes;
- Effective management, including written employee policies, adequate insurance, parent access and adherence to a written student discipline problem.

**Fact:** The Education Code requires that The District visit each charter school at least annually, but the System appears to limit The District to a one-day site visit consisting of about six hours onsite.

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<sup>6</sup> California Education Code §47604.33

<sup>7</sup> California Education Code §47604.3

<sup>8</sup> California Education Code §47604.32.

<sup>9</sup> California Education Code §47607(c).

**Fact:** The District Internal Auditor is not currently authorized by the System to audit District charter schools; and the District Ethics and Compliance Hotline is either not available to charter school employees, students and teachers, or they are not made aware of the Hotline.

### ***FINDINGS***

***Finding 11:*** The Education Code and the System require careful review of API, financial, governance and management issues.

***Finding 12:*** An annual six hour site visit once per year is insufficient oversight for District charter schools.

***Finding 13:*** The District is empowered and directed to exercise oversight in order to assure the efficient and effective academic, financial, governance and management performance of District charter schools.

### ***RECOMMENDATIONS***

**The 2009/2010 San Diego County Grand Jury recommends that the San Diego Unified School District Board of Education and the District Superintendent:**

**10-89: Direct the District Manager of Charter School to exercise more thorough oversight of charter schools.**

**10-90: Authorize and direct the District Internal Auditor to conduct annual audits of the books and records of charter schools.**

**10-91: Require that each charter school post and publicize the District Ethics Code.**

**10-92: Require that each charter school post and publicize the availability of the District Ethics and Compliance Hotline to charter school employees, students and teachers.**

### ***Fact—Set Six***

#### **Assessment of Student Fees**

**Fact:** The 2009/2010 catalog for The School of Creative and Performing Arts musical program requires that students enrolled in classes' for-credit provide their own instruments and performance apparel, with the exception of large percussion and other large instruments. Depending upon the course, students "will be required to purchase choir apparel," "will be required to participate in fundraising" and "must provide their own instrument and text [music publications]" for brass, woodwinds, and small strings.

**Fact:** The 2010/2011 catalog, dealing with instruments, requires only that "Students are encouraged to provide their own instrument and text. However, there is limited supply for loan." And rather than the purchase of choir outfits, "Students are encouraged to wear appropriate attire for performances." The School is to be commended for mitigating

the 2009/2010 policy, but the catalog does not indicate when the change in policy is effective; and the revised policy nevertheless requires that those for whom no instruments for loan are available must either purchase or otherwise provide their instrument or forego the class.

### ***FINDINGS***

***Finding 14:*** The 2009/2010 catalog requirement that students of The School purchase choir outfits and provide their own instrument and text for brass, woodwinds, and small strings is in violation of California law<sup>10</sup> and the guidelines issued by District Counsel.

***Finding 15:*** To the extent that the 2010/2011 policy implicitly requires that students of The School for whom no instruments for loan are available must purchase or otherwise provide their own instrument and text for brass, woodwinds, and small strings or forego the class, the policy is unlawful.<sup>11</sup>

### ***RECOMMENDATIONS***

**The 2009/2010 San Diego County Grand Jury recommends that the San Diego Unified School District Board of Education and the District Superintendent:**

**10-93: Direct The School of Creative and Performing Arts administration to cease requiring that students for whom there are no musical instruments for loan, must purchase or otherwise provide their own instrument and text for brass, woodwinds, and small strings or forego the class.**

**10-94: Direct The School of Creative and Performing Arts administration to provide instruments for all who wish to take an instrumental music class and are eligible to do so.**

### ***Fact—Set Seven***

#### **Assessment of Student Fees**

**Fact:** The legality of assessment of student fees has recently become the subject of complaints and media coverage in San Diego.

**Fact:** Student fees are charged in almost all district schools.

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<sup>10</sup> Although there are a number of specific exceptions to the rule, most requirements that students pay fees or purchase uniforms, equipment or instruments are not authorized under California constitutional, case, statutory and regulatory law. The California Constitution, Article IX, Section 5 mandates a “system of common schools...a free school”. “A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law.” California Code of Regulations, Section 350. The California Supreme Court has ruled that even “the imposition of fees as a precondition for participation in educational programs offered by public high schools on a noncredit basis violates the free school guarantee of the California Constitution and the prohibition against school fees contained in Title 5, section 350 of the California Administrative Code.” Hartzell v. Connell (1984) 35 C3d 899.

<sup>11</sup> *Ibid.*

**Fact:** The fees are assessed for a broad range of services, materials, supplies, equipment and uniforms including:

- \$1,833 for the cheerleading program at Madison High School,
- \$1,120 for the cheerleading program at Mira Mesa High School,
- \$100 for the Swimming Program at Serra High School,
- \$180 for the Water Polo Program at Mission Bay High School,
- \$400 for the Wrestling Program at Scripps Ranch High School,
- 4250 for the marching band at Clairemont High School.

**Fact:** The California Supreme Court has held “that all educational activities curricular or extracurricular...fall within the free school guarantee...that a child’s public education is too important to be left to the budgetary circumstances and decisions of individual families...Nor may a student’s participation be conditioned upon application for a special waiver”...in that “The stigma that results from recording some students as needy was recognized early in the struggle for free schools.”<sup>12</sup> Dealing with the budgetary concerns faced by school districts, the Court stated “This court recognizes that, due to legal limitations on taxation and spending...school districts do indeed operate under difficult financial constraints. However, financial hardship is no defense to a violation of the free school guarantee.”<sup>13</sup>

## ***FINDINGS***

***Finding 16:*** The assessment of student fees for activities, including mandated purchases of services, materials, supplies, equipment, or uniforms associated with the activity, is prohibited, except as expressly allowed by law.<sup>14</sup>

## ***RECOMMENDATIONS***

**The 2009/2010 San Diego County Grand Jury recommends that the San Diego Unified School District Board of Education and the District Superintendent:**

**10-95: Clarify the circumstances in which student fees may or may not be assessed for equipment, instruments, or materials, required to be furnished by the student.**

**10-96: Publish a guide for schools setting forth criteria and examples regarding the assessment of student fees and the furnishing of equipment, instruments, or materials.**

**10-97: Require that school personnel be regularly informed and trained concerning the circumstances in which student fees may or may not be assessed for Equipment, instruments, or materials required to be furnished by students.**

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<sup>12</sup> Hartzell v. Connell (1984) 35 C3d 899.

<sup>13</sup> *Ibid.*

<sup>14</sup> Guidelines for District Staff and Parents Regarding Student Fees, Donations and Fundraising, District Counsel, November 2009.

## ***Fact—Set Eight***

### **Replacement of Student Fees by Donations**

**Fact:** As an alternative to student fees, The District is resorting to “donations”, which it deems to be permissible “as long as the parents understand that no donation is required and the parents are free to donate or not to donate.”<sup>15</sup>

**Fact:** District Legal Counsel has weighed in on the subject, concluding that “districts, schools, programs and classes can accept donations of funds and property as long as it is truly voluntary and in no way a prerequisite to participation in the program or activity.”<sup>16</sup>

## ***FINDINGS***

*The solicitation of donations for specific activities does not adequately address the situation of a child or family who is understandably too proud to admit to his peers that his family cannot donate. Such a child, faced with the “stigma” cited by the Supreme Court, will most likely decide that he or she did not wish to play the violin or participate in water polo, rather than applying for a waive or hardship scholarship or fail to make the solicited participatory donation. And if the District persists in assessing student fees for specific activities, and camouflaging the fees as “donations”, it is likely that The District may be forced to litigate the issue, with exposure to substantial settlements and/or judgments. The District could, of course, fund the activities at issue and resolve the matter, although that is an unlikely course of action under current economic and budgetary circumstance in which the 2009/2010 budget has already been reduced by about \$125 million.<sup>17</sup> A better solution must be found.*

**Finding 17:** The shortfall resulting from those who cannot or will not donate must be filled. Otherwise, many activities may well be reduced or even canceled.

## ***RECOMMENDATIONS***

**The 2009/2010 San Diego County Grand Jury recommends that the San Diego Unified School District Board of Education and the District Superintendent:**

**10-98: Amend Administrative Procedure 9325 *re* Activities by Foundations, Booster clubs, and other Non-District Organizations to enable the replacement of student fees by non-profit organizations, foundations, Associations, and/or booster clubs, *for example*, by adding Administrative Procedure 9325.C.3.k as follows:**

***“k. Replacement of Impermissible Student Fees by Donations to Non-Profit Organizations, Foundations Associations, and/or Booster Clubs (i.e. Non-Profit Organizations) May be Accomplished in the Following Manner: The costs of materials, supplies, equipment or uniforms and other goods and services that are***

<sup>15</sup> FCMAT ASB Manual, Opinion of General Counsel, Sonoma County School District, October 16, 2001.

<sup>16</sup> Guidelines for District Staff and Parents Regarding Student Fees, Donations and Fundraising, District Counsel, November 2009.

<sup>17</sup> San Diego Unified School District 2009/2010 Budget Book & District Profile.

*required for curricular and/or extra-curricular activities of a District school but are neither funded by the District nor lawfully assessed as student fees, may be raised by donations to Non-Profit Organizations and disbursed to The School for those purposes pursuant to Administrative Procedure 9325.D.'Implementation' provided that the funds are allocated and used as follows:*

*(1) Donors may specify that the donated funds be used for specified purposes (e.g. football program, cheerleading program or woodwinds program) and 60% of the donation must then be allocated and used for the specified purpose, and the balance of the donation must be allocated and used as funds not donated for specified purposes.*

*(2) Funds not donated for specified purposes must be allocated and used as directed by the Donations Committee composed of representative parties such as the Principal of The School, the Physical Education Director of The School, the President of the Student Body, the President of the Parents Advisory Board and the duly appointed representative of each Non-Profit Organization that has contributed funds not donated for specified purposes.*

*(3) The Principal of the School shall notice and chair a meeting of the Donations Committee, for the purpose of establishing the allocations, quarterly in the first week of September, December, March and June, or more often, as called by the Principal."*

## **REQUIREMENTS AND INSTRUCTIONS**

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
  - (1) The respondent agrees with the finding
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
  - (1) The recommendation has been implemented, with a summary regarding the implemented action.
  - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<b><u>Responding Agency</u></b>	<b><u>Recommendations</u></b>	<b><u>Date</u></b>
<b>San Diego Unified School District Board of Education</b>	<b>10-81 through 10-98</b>	<b>8/31/10</b>
<b>San Diego Unified School District Superintendent</b>	<b>10-81 through 10-98</b>	<b>8/31/10</b>