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August 6, 2009

The Honorable Ramona Garrett
Presiding Judge of the Superior Court
Solano Superior Court
600 Union Ave
Fairfield, CA 94533

RESPONSE TO 2008-2009 GRAND JURY REPORT

Dear Judge Garrett:

On behalf of the Solano Community College Governing Board, Solano Community College Special Trustee and the Solano Community College Superintendent/President, please accept this letter as the Solano Community College District's (SCCD) response of the "affected and responding agencies" to the Grant Jury's 2008-2009 Report.

The Governing Board, Special Trustee and Superintendent/President have each reviewed the Grand Jury Report and contributed to this response relative to the Report's Findings and Recommendations. In addition, the "affected and responding agencies" have noted some "errors of fact" within the Grand Jury Report. This response addresses those "errors of fact" as well.

Sincerely,

Jowel C. Laguerre, Ph.D.
Superintendent/President

TH:js
Enclosure

Z:Laguerre/SCC Letter Response Grand Jury 08 06 09

RESPONSE PROCEDURE TO GRAND JURY REPORTS

The governance of responses to Grand Jury Final Report is contained in Penal Code § 933 and § 933.05. Responses must be submitted within 60 or 90 days. Elected officials must respond within sixty (60) days. Governing bodies (for example: the Board of Supervisors) must respond within ninety (90) days. Please submit all responses in writing and digital format to the Presiding Judge, the Grand jury Foreperson and the CEO's office.

Report Title : 2008-2009 Grand Jury Report ***Report Date :*** August 5, 2009

Response by : Jowel C. Laguerre, Ph.D. Title : Superintendent/President

Findings

☒ I (we) agree with the findings numbered: 6

☒ I (we) disagree wholly or partially with the Findings numbered: 1,2,3,4,5 & 7

(attach a statement specifying any portions of the Findings that are disputed; include an explanation of the reasons therefore.)

Recommendations

☒ Recommendations numbered: one (1); two (2); three (3); four (4); five (5) have been implemented. (attach a summary describing the implemented actions.)

☐ Recommendations numbered: _____ have not yet been implemented, but will be implemented in the future. (attach a time frame for implementation)

☐ Recommendations numbered: _____ require further analysis. (attach 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 and/or director 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 (6) months from the date of publication of the Grand Jury Report)

☒ Recommendations numbered: six (6); seven (7) will not be implemented because they are not warranted and/or are not reasonable. (attach an explanation.)

Date: 8/6/09 Signed: _____

Total number of pages attached: 9

RESPONSE TO THE 2008-2009 GRAND JURY REPORT

In the Grand Jury Report, the Grand Jury identified seven (7) findings and seven (7) recommendations. Pursuant to Penal Code Section 933.05, the District is obligated to respond to the findings and recommendations of the Grand Jury. This reply represents the Solano Community College District's response.

It should be further noted that the "affected and responding agencies" noted "errors of fact" within the Grand Jury report. This response addresses those "errors of fact" as well.

FINDINGS AND RECOMMENDATIONS

Finding 1 – The EDMAC report and the Accreditation Board identified micro-management as a serious issue. This undermines many facets of the College Administration and has resulted in the replacing four Superintendent/Presidents within the last three years. It also results in poor morale among staff and students, as well as an inordinately large turnover of senior staff in the various departments, and a lack of management continuity.

SCCD's Response – *The respondents disagree wholly or partially with finding number one (1).*

The Education Management and Assistance Corporation (EdMAC) and Accrediting Commission for Community and Junior Colleges' report does not identify micromanagement as a serious issue. Neither report attributes micromanagement to the replacing of four superintendent/presidents within a three year period. There is also no link made between micromanagement and morale and the turnover/continuity of senior staff. EdMAC's report states concerns over comments made by individuals interviewed by EdMAC relative to micro management. The ACCJC's report comments on the Board's mission and how issues are brought to the Board, but it does not state that micro-management is a serious issue. Steps have been taken to address the concerns stated in both reports relative to Board behavior.

In October 2008, the Board commissioned the Education Management and Assistance Corporation (EdMAC) to conduct an Administrative Review/Fiscal Heath Analysis. The recommendations have been prioritized and incorporated in the District's recovery matrix. Since the last Accrediting Commission for Community and Junior Colleges (ACCJC) visit in November 2008, the College has moved quickly to address its leadership and governance issues. In January 2009, the Board passed a resolution to hire a Special Trustee to assist the District with accreditation issues and fiscal and administrative leadership.

The Board has continued to demonstrate leadership with the hiring of an Interim Superintendent/President in February 2009. The Interim Superintendent/President has been given the authority and expectation by the Board to run the day-to-day operations of

the College. Most recently, the Board has appointed a permanent Superintendent/President whom will begin his duties July 1, 2009.

Recently, the board has participated in a series of self-evaluative efforts. Most notable is the "How Do We Rate Checklist". In January 2009, during a Board retreat the Governing Board developed and approved a "Code of Conduct".

The above efforts by the Board reinforces their desire and practice to expect and allow administration, faculty and staff the latitude to operate within specified policies and procedures and for the Board not to be involved in daily administrative operations.

Recommendation 1 – In order to deal with these issues, the College Board of Trustees should allow staff latitude to operate within specified policies and procedures in order to avoid micro-management and involvement in daily administrative operations.

As noted above, the respondents disagree wholly or partially with finding number one (1). However, recommendation one (1) has been and will continue to be implemented. A summary regarding the implemented action is cited above under finding one (1).

Finding 2 - According to the EDMAC Report, the College Board of Trustees members may have violated the Brown Act. A lack of adherence to the Brown Act leads to an absence of transparency in the conduct of Board issues.

SCCD's Response – *The respondents disagree wholly or partially with finding number two (2).*

The Education Management and Assistance Corporation (EdMAC) report does not state that the Board may have violated the Brown Act. The EdMAC report states that during the EdMAC interview process, individuals made allegations of Brown Act violations. No Brown Act violations were identified within the EdMAC report.

Recommendation 2 - All Board meetings should be held in accordance with the Brown Act, which specifies that any violation must be reported to the District Attorney.

The respondents adhere to the Brown Act and will continue to hold meetings consistent with the Brown Act provisions..

Finding 3 - There has been an excessive turnover in the number of Vice-Presidents of the various departments in the College. In the past five years there have been fourteen persons heading the five departments. Many are filled on an interim basis and are independent contractors, not employees. EDMAC found the District does not effectively utilize employee evaluations at the executive level.

SCCD's Response – *The respondents disagree wholly or partially with finding number three (3).*

The District acknowledges that there has been an inordinate amount of turnover at the administrative level and within some departments.

However, the statement that, "In the past five years there have been fourteen persons heading the five departments", is not accurate. EdMAC's report states, "During the site visit there were fourteen (14) key openings and/or vacancies within the District...." The District agrees to the importance of employee evaluations and has taken steps to ensure that timely evaluations are performed at all levels. The District is moving forward relative to open positions and expects that vacant positions will be filled in a timely manner.

Recommendation 3 - Effective performance evaluations should be established at all levels to address this problem. Proper on-going staff evaluation will help to increase morale and performance, limiting the rapid turnover in executive level positions. This may obviate the need to hire interim Vice-Presidents on a contract basis.

The respondents embrace effective performance evaluations and will implement effective performance evaluations at all levels.

Finding 4 – Solano College has been operating under non-standard financial practices. In some cases, existing policies and procedures were not provided to employees. In other cases, there was an absence of effective controls over financial practices. The Governing Board does not appear to be following the fiscal control recommendations made by the EDMAC report.

These deficiencies have resulted in various difficulties, including possible loss of accreditation due to:

- Proper bid procedures not always being followed
- Time deadlines of financial reports not always being met
- Funds not always being paid from the proper accounts
- Improper contacts between a bidder and a member regarding a purchase
- Guidelines for following proper procedures not always being provided to department heads
- One purchase exceeding $72,400 being made without the required Board approval

SCCD's Response *– The respondents disagree wholly or partially with finding number four (4).*

The District is adhering to and the Board is following the recommendations of the EdMAC report. The Special Trustee has assisted the District in developing a "corrective action matrix". This matrix lists each of the ACCJC recommendations as well as the EdMAC recommendations. The "corrective action matrix" is reviewed and updated regularly at the Executive Cabinet level. Progress toward the recommendations is submitted to ACCJC in the District's "Show Cause" report. This report along with other

administrative reports to the Board and District constituents has been provided for information and input.

Recommendation 4 – The College Board should comply with the recommendations made in the December 17, 2008, EDMAC report. which deals with all of the above issues.

The respondents are implementing recommendation four (4). The newly developed "corrective action matrix" lists each EdMAC recommendation. This matrix is being updated regularly and reflects the status and progress of the recommendations.

Finding 5 - Disputes among Board Members representing different areas within the Solano County College System has been a long-standing problem on the Solano College Board.

SCCD's Response – *The respondents disagree wholly or partially with finding number five (5).*

The District takes great exception to this finding. Disputes among Board members have nothing to do with geography. Neither the EdMAC nor ACCJC report stated any findings relative to this Grand Jury concern. The respondents want to assure the Grand Jury members that no area of our community college district has priority over any other area. The Board is indeed working together in a collaborative manner in maintaining accreditation. Working together for the betterment of the College is the main thrust of the Board and recent Board meetings and strong leadership demonstrates that fact.

Recommendation 5 - No single area of our community college district should have priority over any other area. At a time when the Solano College Board is facing the serious problem of loss of accreditation, each Board Member should be expending every effort to "save" Solano College, not to "sink" it. Working together should be a main thrust of the College Board.

The respondents have been and will continue to work together to support and help secure Solano Community College's accreditation. This effort is a major goal of the Board. As referenced above, the respondents disagree wholly or partially with finding number five (5) and the inference made within recommendation five (5).

Finding 6 - The College has an unfunded Retiree's Health benefit of $13,507,213. In order to meet the unfunded balance, the College will have to provide an additional $770,111 annually.

SCCD's Response – *The respondents agree with finding number six (6).*

SCCD is fully aware of its retiree health benefit obligation. SCCD engaged Total Compensation Systems, Inc, (TCS) to analyze liabilities associated with its current Retiree Health Program as of March 1, 2008. TCS's report with its recommendations

allows SCCD to manage the costs and liabilities associated with its retiree health benefits. TCS's report and its recommendations will be carefully considered for implementation.

Recommendation 6 - Options for restoring the unfunded Retiree's Health benefit may include the following:

The Board could reduce existing health coverage
Employees could be required to pay a higher percentage of premiums
Budget priorities could be revisited to provide for an increase in the Retiree's Health Benefit

The respondents appreciate the recommendations stated in recommendation six (6), but cannot address the status of implementation. The specific steps suggested above are subject to negotiations with the SCCD's bargaining members and it would not be prudent to discuss potential steps as part of this response.

Finding 7 – The College has paid a San Diego law firm $619,000 for legal services covering the first eleven months of 2008. The 2008 budgeted amount for attorney fees is $250,000. The over-budget expenditure may be due to a variety of costs which a local firm would not incur.

***SCCD's Response** – The respondents disagree wholly or partially with finding number seven (7).*

The respondents disagree with the Grand Jury's finding relative to SCCD's legal services. There is no evidence that a local firm or a different firm would have been as cost effective or efficient as the District's current counsel. It appears that the Grand Jury has made an assumption based on insufficient information. There are justified and acknowledged reasons for the 2008 budgeted and expended amount paid to the District's counsel. The District continues to work with its legal counsel to refine and reduce legal expenses. The District does not necessarily believe that a local firm or a different firm would have been appreciably any lower in fees due to the unique requests and issues facing the District in 2008-2009. The District has reduced the line item budget for legal services for the 2009-10 fiscal year and is currently satisfied with its counsel and advice.

Recommendation 7 - The District should consider contracting with a local law firm to reduce expenses.

The respondents will not implement recommendation seven (7) as it is not warranted or reasonable at this time. As referenced above, the SCCD continues to work with its legal counsel to refine and reduce legal expenses.

Edit Errors and Errors of Fact

The respondents have identified a number of edit errors and errors of fact. The respondents have listed these concerns under each of the Grand Jury Sub-Titles.

REASONS FOR INVESTIGATION

There was no stated reason for the investigation under this title.

GRAND JURY ACTIONS

The third and fourth bullet under this sub-title appears to be stating the same action. The EdMAC report and the December 17, 2008 Administrative Review and Fiscal Health Analysis are one and the same report.

In the seventh bullet, the Grand Jury uses the term, "California Accreditation commission." The correct name is: Accrediting Commission for Community and Junior Colleges. Also in the eighth bullet, the Grand Jury uses the term "Accreditation." This term should read, "Accrediting." This is true throughout the report but the respondents will only make that note in this section.

BACKGROUND/SUMMARY

In the first paragraph on page one (1), the Grand Jury states that "Construction and renovation funding for all campuses is through the measure G construction bond in ***2004****." On November 5,* ***2002****, the registered voters of the County of Solano approved Measure G. The correct year is:* ***2002.*** *It should also be noted the Bond Measure authorized the issuance of $124.5 million in general obligation bonds that were issued in two series: Series A for $80 million and Series B for $44.5 million. The Series A bonds were refunded in 2005, generating a bond issuance premium of $8.4 million additional monies. These funds were deposited into the Bond project fund.*

In the second paragraph on page (1), the terms used for ACCJC are not correct. Also, ACCJC placed the college on ***Warning*** *not "probation".*

In the first paragraph on page (2), the Grand Jury states, "if issues relating to these matters are not resolved by December 31, 2009, Solano College could lose its accreditation and financial aid." It is true that the College's accreditation was in jeopardy in January 2009, but the College had until April 1, 2009 to submit its Show Cause Report and ultimately had an opportunity in June 2009 to defend its accreditation in front of the Commission.

On page two (2), under the statement: "In late September 2008 various problems were uncovered: The respondents believe there are errors of fact in both bullets under this statement. In the first bullet, the second sentence is not accurate.
It reads, "The June 30, 2008 year-end Financial Report could not be finalized because of an approximate $1,000.000 discrepancy." It would be more accurate to state, "The June 30, 2008 year-end Financial Report could not be finalized because of the process of conversion and making prior year corrections." The second bullet in this section is also not accurate. There was a transfer of funds from the Measure G Bond fund to the Clearing Account and ultimately the General Fund, but the transfer was not made to cover expenditures that should have been paid from the General Fund.

There are a number of inaccurate statements made on page 2, within the paragraph starting with, "Following resignation of the Superintendent/President ...." The new Interim Superintendent/President did not request an investigative report. The report requested was an "Administrative Review and Fiscal Health Analysis." The Governing Board vote was 4-2, not 5-2. The Interim Superintendent/President did not "suspend" the Financial Director. The Interim Superintendent/President placed the Vice President, of Administrative and Business Services on administrative paid leave. There are misleading statements attributed to the EdMAC report under each of the first four (4) bullets. Corrections to these statements are made within the body of this response. In item two (2), on page two (2), the Grand Jury refers to the Purchasing Agent and a Board Member. The EdMAC report does not refer to the Purchasing Agent in this context.

On page two (2),the last paragraph, needs clarification. Since the Grand Jury's interview on January 26, 2009, the SCCD has received more current information. . In a letter dated, February 3, 2009, ACCJC notified the SCCD that the College was required to submit a "Show Cause Report" by April 1, 2009. This report and findings were considered by the Commission at its meeting on June 10, 2009. On June 30, 2009, the College was informed by the Accrediting Commission for Community and Junior Colleges (ACCJC), that the Commission took action to accept the College's "Show Cause Report." The Commission also acted to remove "Show Cause" status and improve the College's status to "Probation."

On page three (3), the first bullet incorrectly addresses the unfunded obligation to the Retiree Health Benefit fund.

SCCD engaged Total Compensation System Inc. (TCS) to analyze its liabilities associated with its current Retiree Health Program as of March 1, 2008 (the valuation date). The TCS report indicates that SCCD had set aside $937,234 to fund retiree health benefits. This amount included the original (2005-06) Board allocation of $917,234 plus the earned interest. TCS's report reflects an unfunded actuarial accrued liability of $13,507,213. The current year costs to amortize the unfunded liability are $770,111. Based on covered payroll, payments would increase each year. Under the current payment structure, payments would continue for 30 years, after which time amortization

payments would end. At this point, colleges are not required to fund the liability, but are required to book it. However, it is a Board goal to start funding the liability.

On page three (3), the second bullet addresses legal fees. This issue is addressed in another section of this response.

On page three (3), the third paragraph starting with, "On January 7, 2009,....". The correct date is: January 5, 2009.

On page three (3), the fourth bullet addresses the Measure G Bond Fund. The Grand Jury states, "At the time of this report, these funds have not been transferred back to Measure G Bond Fund." On February 11, 2009, the District received word from its Bond Counsel that the bond expenditures were legal issues for purposes of technology related items. The ballot measure identified technology upgrades as a permitted project and as such, the reimbursement was approved and no transfer back to the Bond Fund is required.

The first paragraph, second sentence, on page three (3) under the last bullet references the recruitment of a CPA. This sentence incorrectly states that the Governing Board directed the Interim Superintendent/President to recruit a CPA to head the Financial Services Department at the College. This statement is not accurate. No one has been directed to recruit a CPA for that position. The new job bulletin for the position of Vice President of Administrative and Business Services states that, "A Certified Public Accountant's license is preferred."

The second to last paragraph on page three (3) starting with, "In December 2008,...." is not accurate. It should read, "On January 5, 2009, the Chairperson of the Board of Trustees met with the Interim Superintendent/President as directed by the Board in closed session on December 17, 2008. The following two sentences in that paragraph have no factual basis and are not accurate.

The first paragraph on page four (4) starting with, "On February 4, 2009, Solano College ....." is not correct. In a letter dated, February 3, 2009, ACCJC notified the SCCD that the College was required to submit a Show Cause Report by April 1, 2009. This report and findings were considered by the Commission at its meeting on June 10, 2009. On June 30, 2009, the College was informed by the Accrediting Commission for Community and Junior Colleges (ACCJC), that the Commission took action to accept the College's "Show Cause Report." The Commission also acted to remove "Show Cause" status and improve the College's status to "Probation."