



July 30, 2019

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SUPERIOR COURT OF CA
COUNTY OF MONO

Honorable Mark Magit
Presiding Judge
Superior Court-County of Mono County
100 Thompsons Way
Mailing Address: PO Box 1037
Mammoth Lakes, CA 93546

**Re: Response to the 2018-2019 Mono County Civil Grand Jury Report on
Charter School Administration**

Dear Hon. Mark Magit,

The Superintendent of the Mono County Office of Education (“MCOE Superintendent”) and the MCOE Board of Trustees (“MCOE Board”) (collectively, MCOE) acknowledge receipt of the findings and recommendations of the Mono County Civil Grand Jury (the “Grand Jury”) in the Grand Jury’s report on the administration of the charter school that is chartered by MCOE. MCOE’s response is presented pursuant to and in compliance with Penal Code sections 933(c) and 933.05.

To begin, MCOE would like to address the issue of the MCOE Board’s statutory oversight responsibilities over MCOE and its elected Superintendent. County superintendents of schools are established under Section 3, Article IX of the California Constitution and are considered county officers (much like a sheriff, district attorney, or clerk). Gov. Code § 24000. County boards of education are established by Education Code section 1000. The interaction between the county board and the county superintendent is entirely distinct from the relationship of a school district governing board and its employed superintendent. In the case of MCOE, to a very great extent, the MCOE Superintendent *is* and acts as the Mono County Office of Education.

Education Code Section 1040 **requires** the county board of education to do only the following:

- (1) Adopt rules and regulations not inconsistent with the laws of this state, for their own government.
- (2) Keep a record of their proceedings.

(3) Approve the annual budget of the county superintendent of schools before its submission to the county board of supervisors.¹

(4) Approve the annual county school service fund budget of the county superintendent of schools before its submission to the Superintendent of Public Instruction.

(5) Review the report of the annual audit provided for the county superintendent of schools under Education Code Section 41020. The review of the report shall be a scheduled agenda item at a regularly scheduled public meeting.

Subject to certain legal and statutory limitations, county boards of education are also required to “fix the salary of the county superintendent of schools.” Cal. Const. art. IX, § 3.1(b).

On the other hand, a county superintendent’s duties are expansive. Education Code section 1240 lists 15 duties and responsibilities that each county superintendent must perform, including superintend the schools of his or her county, maintain fiscal oversight of each school district in his or her county, and carry out all personnel functions for MCOE.² In addition, the county superintendent is required to prepare a budget. The budget is adopted by the following process:

1. The county superintendent of schools submits a proposed budget to the county board of education in the form prescribed by the Superintendent of Public Instruction. Ed. Code §§ 1621, 14050.
2. On or before July 1 of each year, the board holds a public hearing on the proposed budget. The hearing must be held prior to adoption of the budget by the board and no sooner than three days after the proposed budget is made available for public inspection. Ed. Code § 1620.
3. On or before July 1, the county board is directed to adopt and approve an annual budget and file the budget with the Superintendent of Public Instruction. Ed. Code §§ 1040, 1622(a). If the county board neglects or refuses to make a county office of education budget, the state will not appropriate any state or federal money to that county office for the fiscal year and appropriate county officials will be notified not to approve warrants issued by the county office of education. Ed. Code § 42120.

¹ Only fiscally non-independent counties must submit the annual budget to the county board of supervisors.

² The county superintendent is the employer charged with the responsibility of managing the personnel of the county office of education. See 72 Ops. Cal. Atty. Gen. 25, March 9, 1989.

4. On or before September 8, the county board is required to revise the budget to reflect changes made necessary by revised projections of income and expenditures and to file that budget with the Superintendent of Public Instruction, the county board of supervisors, and the county auditor. The same notice provisions applicable to the July 1 adoption apply and the Superintendent of Public Instruction must approve the revisions. Ed. Code § 1622(c) and (d).

The county board is permitted (but not required) to review the county superintendent of school's annual itemized estimate of anticipated revenue and expenditures before it is filed with the county auditor and make any revisions, reductions, or additions it considers advisable and proper. Ed. Code §1042(b). This itemized estimate is a separate document from the budget.

Next, the budget is submitted to the Superintendent of Public Instruction for examination and determination of compliance. Ed. Code § 1622. From that point, administration of the budget is the responsibility of the county superintendent. In many counties, the superintendent presents major changes in expenditures, major shifts in spending priorities, and expenditures for new programs, to the county board for approval. However, the county superintendent has the statutory authority to spend within major budget categories without further Board review or approval.

MCOE provides the information above to illustrate the separate and distinct roles and duties of the MCOE Superintendent and the MCOE Board. This information will provide the requisite framework for many of MCOE's responses to the Grand Jury's report.

Below are MCOE's responses to the Grand Jury's report:

FINDINGS

F1. The Committee finds MCOE BOT has abdicated their oversight and budget responsibilities to the MCOE Staff.

Response: Wholly disagree. The MCOE Board has not abdicated any of its responsibilities. The MCOE Board has always met and continues to carry out its statutory responsibilities in evaluating and approving the MCOE budget, as well as its other limited oversight responsibilities.

F2. The Committee finds MCOE staff also views the MCOE BOT only as an advisory body although as per Finding 1 and the California Education Code, the Board is not merely an

advisory body, they are a policy board that must be fully engaged in the oversight and approval of the MCOE budget.

Response: Partially disagree. MCOE agrees that the MCOE Board is not an “advisory body.” Even so, MCOE does not understand the Grand Jury’s comment that the MCOE Board is a “policy board.” The MCOE Board’s duties and responsibilities are statutory, with the primary responsibility being the review and approval of the MCOE budget. This budget approval process is outlined above and followed by MCOE and the MCOE Board. The policy duties of the MCOE Board are prescribed and limited by statute as: adopting “rules and regulations not inconsistent with the laws of this state, for their own government.” This means that the MCOE Board is responsible for adopting policies for its own governance; that is, in effect, only Board bylaws. The MCOE Board is not statutorily required to adopt policies for the MCOE Superintendent and MCOE.

F3. The Committee finds a lack of continuing education for the MCOE BOT. Interviewees said they were not aware of available Continuing Education with relevant courses from CSBA (California School Board Association) and had not received any special training.

Response: Wholly disagree. CSBA was in Mono County in February 2019 to train MCOE Board members on issues related to board governance. MCOE Board members have also attended the California County Boards of Education conference for the past several years.

F4. The MCOE staff’s written policy and procedures manual needs an update.

Response: Agree, and this update is in progress with the assistance of Fiscal Crisis and Management Assistance Team (“FCMAT”).

F5. The Committee finds the MCOE BOT has a general lack of oversight regarding the budget and contracts with charter schools. There is also a lack of transparency and accountability by MCOE staff concerning the income from the charter school and the related expenses to administer those contracts.

Response: Wholly disagree. The MCOE Board has no statutory duty or right to conduct oversight of the charter school, other than the Board’s approval of the charter itself, and of the Memorandum of Understanding between the charter school and MCOE. The MCOE Superintendent has provided the MCOE Board with information on the income generated from the charter schools as a line item in the budget.

F6. The Committee finds that while MCOE Staff indicates funds received (profit) from that contract are invested into Mono County students, they could not produce existing documents that

quantify the funds. Such documents were prepared for the first time only upon request by the Committee. They also could not demonstrate how the involvement in charter schools improves student achievement in Mono County.

Response: Partially disagree. MCOE agrees that the charter school income and expense document was specially prepared for the Grand Jury. Yet this document *clearly* showed which programs/services in Mono County were benefitted because of the funds from the charter school. Please see **Attachment A** for the FY 17/18 Revenue and Expenditures for the Urban Corps Charter School. Further, County Offices of Education do not create profit and loss statements (which are applicable to private businesses, not government entities); they instead use the State accounting framework for county offices.

F7. The budget for the charter agreement is currently represented as a single line item in the overall MCOE Budget with no detail of how expenditures are allocated. No profit/loss schedule exists to account for revenue versus actual expenses, staff time, or any related administrative costs.

Response: Partially disagree. The Grand Jury is correct in its statement that charter school income is represented under “other state revenue” in the MCOE budget. This accounting method is proper under the standards for public school accounting. MCOE explained to the Grand Jury more than once that there are no “profit/loss schedules” in public school accounting practices.

RECOMMENDATIONS

R1A. MCOE BOT must implement the duties and responsibilities of the Board of Trustees as a whole and as individuals, shall embrace its oversight as detailed in the State of California statutes. The MCOE BOT must begin following the Bylaws for the Governing Board which defines its policy-making role. Timeline: Immediate.

Response: Recommendation implemented. The MCOE Board is consistent in following its oversight duties under California law.

R1B. It is recommended that the MCOE BOT review the current budget at the next scheduled meeting and review budget updates on a quarterly basis, beginning with the fiscal year 2019-20. Timeline: By Sept. 30, 2019.

Response: Recommendation implemented. The MCOE Board follows the fiscal implementation/oversight timeline, as required by California law (and explained in detail above). In June, the MCOE Board approves the budget for coming fiscal year. In September, the MCOE Board reviews the unaudited actuals of the current year budget. In December, the MCOE Board

approves the First Interim Budget. In March, the MCOE Board approves the Second Interim Budget.

R2. The Committee recommends that MCOE staff review the California Education Code and implement process and procedures to interact with the MCOE BOT as a policy board and that the MCOE BOT becomes fully engaged in the management oversight of the district MCOE budget. Timeline: By October 1, 2019.

Response: Recommendation implemented as to MCOE’s review of the Education Code. Recommendation requires further analysis on implementing “process (sic) and procedures to interact with the MCOE BOT as a policy board and that the MCOE BOT becomes fully engaged in the management oversight of the district (sic) MCOE budget.” MCOE does not agree that the MCOE Board is a “policy board” or that the MCOE Board has “management oversight” of the MCOE Budget under California law, and will not implement this recommendation to that extent that it purports to recommend that the MCOE Board and the MCOE Superintendent act outside of the statutory framework.

R3. The Committee recommends that MCOE BOT adopt a policy for Continuing Education classes as defined by California School Board Association Professional Governance Standards for The Individual Trustee and The Board Guidelines Recommended Guidelines For Successful Governing, as a priority for each board member. In addition, set a required minimum standard for MCOE BOT in order to maintain the proper skills required to carry out their governing duties. Timeline: Scheduling of Continuing Education classes to be completed no later than December 1, 2019.

Response: Recommendation requires further analysis. MCOE needs to evaluate whether it is appropriate to require a minimum standard of continuing education for MCOE Board members. Even so, MCOE fully supports—and has already implemented—continuing education opportunities for MCOE Board members.

R4. The Committee recommends staff generate a complete and full update and revision of the MCOE Policy and Procedures Manual to 2019 standards for approval by the MCOE BOT. Timeline: By December 31, 2019.

Response: Recommendation has not yet been implemented. Following the review of all MCOE policies and procedures by the FCMAT team last year, MCOE has begun a systematic review and update of all policies and procedures. MCOE expects that the completion of the policies and procedures update will be completed by January 31, 2020. However, MCOE disagree that it is the right or duty of the MCOE Board to approve all MCOE policies and procedures; this is within the purview of the MCOE Superintendent.

R5. The Committee recommends expenses administered for oversight and administration for the Charter School be defined with separate profit/loss sheet available to the public. Timeline: Beginning with the current 2018-19 fiscal year.

Response: Recommendation requires further analysis. As noted above, county offices of education do not use or create “profit and loss” statements. However, the MCOE Superintendent will further study whether to implement the spirit of this recommendation, which is to demonstrate that the chartering of a charter school by MCOE benefits Mono County students.

R6. The Committee recommends the MCOE BOT and MCOE staff work together to develop a statement of purpose concerning charter schools and the benefits to Mono County. Timeline: By December 1, 2019.

Response: Recommendation not yet implemented, but will be completed by December 2019.

R7. The Committee recommends the MCOE staff set forth a detailed budget for the charter school, using General Accounting Principles (GAP), to include revenue, forecasted expenses, staff time, and/or any related administrative costs. The budget to be approved by MCOE BOT. Timeline: By December 31, 2019.

Response: Recommendation requires further analysis. As discussed above, public school accounting is not done in the manner set forth in the recommendation. MCOE is not willing to create “a profit and loss statement” as recommended by the Grand Jury because such a statement is not required for school accounting, and would itself require the unnecessary expenditure of funds to create. Overall, however, as MCOE made clear to the Grand Jury, the charter school does generate more revenue to MCOE than MCOE expends on its oversight of and support for the charter, and MCOE will study the best method to inform the public of this continuing truth.

MCOE appreciates the opportunity to respond to the findings and recommendations of the Grand Jury. If you have any questions about this response, please contact Superintendent Stacey Adler at sadler@monocoe.org or (760) 934-0031.

Sincerely,


Superintendent Stacey Adler


MCOE Board President Dave Titus