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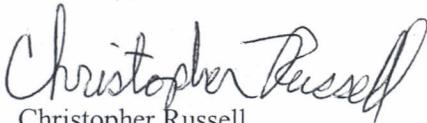
September 17, 2012

Janet Hilde
Superior Court Judge
Plumas County, California
Quincy, CA 95971

Dear Judge Hilde,

On behalf of the Governing Board of the Plumas Unified School District, I am submitting their response to the Plumas County Grand Jury Report issued in July 2012.

Sincerely,


Christopher Russell
Governing Board President

RECEIVED

SEP 17 2012

Theresa Hutton Clerk

Board of Trustees				
Sonja Anderson, Clerk	Bret Cook	Betty Moura	Christopher Russell, President	Robert Tuerck
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Dear Judge Hilde,

As the Acting Superintendent of the Plumas County Office of Education, I am submitting the response from the Governing Board to the Plumas County Grand Jury Report issued in July 2012.

Sincerely,

Yvonne Bales
Deputy Superintendent, Business Services
Plumas County Office of Education

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**PLUMAS UNIFIED SCHOOL DISTRICT GOVERNING BOARD and PLUMAS
COUNTY OFFICE OF EDUCATION GOVERNING BOARD
RESPONSE TO THE 2012
PLUMAS COUNTY GRAND JURY REPORT**

The governing boards (hereinafter the “Board”) of the Plumas County Office of Education (“PCOE”) and the Plumas Unified School District (“PUSD”) would like to begin by thanking the members of the Plumas County Grand Jury for their service to the public and their care and concern for the students of PUSD. We appreciate the opportunity to respond to the Grand Jury Report issued in July of 2012. The Grand Jury report addressed two primary areas of concern: (1) student safety and (2) PUSD’s hiring practices with respect to the Superintendent position. This collective response addresses each of the areas identified in the 2012 Grand Jury report, as well as some additional matters that are raised in the Grand Jury’s report.

GRAND JURY FINDINGS REGARDING STUDENT SAFETY

Finding F1. The HMR Architects report does not address the issue of toxic and hazardous substances, hazardous air emissions, and facilities that produce hazardous materials within a quarter mile of a school.

Finding F2. The HMR architectural study makes no reference to the co-generation plant located at the Sierra Pacific Industries site.

Finding F3. The Grand Jury found that no study was done regarding the safety hazards of either the Pioneer or Quincy Elementary Schools campuses.

Finding F4. The Grand Jury found no evidence that any specific safety study had been done regarding the co-generation plant.

Finding F10. The Grand Jury found that the DAC/7-11 Committees took on huge tasks and did an incredible job.

In the 2012 report, the Grand Jury stated that it was “appalled regarding the Board’s ignorance regarding student safety.” Contrary to the Grand Jury’s statement, the Board believes that a “safe, nurturing environment is necessary for learning.” Board Policy (BP) 100(a). In furtherance of that philosophy, the Board routinely takes actions to safeguard our students and has implemented a wide spectrum of policies governing student safety, and the safety of our students was a primary concern in the recent decisions on school closure and consolidation. Yet, the Grand Jury report implies that the Board did not consider student safety and ignored pertinent provisions of law in

making the recent decisions regarding school closure and consolidation.¹ Specifically, the Grand Jury cited to 5 California Code of Regulations 1401 O(e), Education Code section 17213(b), and Public Resources Code section 21151.8(2A). These provisions, however, are inapplicable to the school closure and consolidation process. Education Code Section 17213(b) applies specifically to the “acquisition” of a “proposed school site.” Likewise, 5 CCR 14010 articulates “standards for school site selection” that are mandated by Ed. Code 17211 for the “acquisition” of real property for a school site or for an addition to a new school site. Similarly, Public Resource Code section 21151.8(a) applies to the “purchase of a school site” or the construction of a *new* school. The studies referenced in these code sections (e.g. environmental impact reports, traffic studies, sound level studies) are simply not required when identifying which sites will continue in operation, particularly when the sites in question have long been in operation and are well-known to the district.

Nevertheless, the Grand Jury report insinuates that because the Board did not follow these provisions, the Board did not consider the safety issues addressed by those provisions. This is simply untrue. In fact, the Board considered all aspects of student safety including traffic, noise hazardous materials and commercial operations in proximity to both Pioneer and Quincy Elementary Schools (the Grand Jury’s comments and findings are specifically aimed at the decision between Pioneer and Quincy Elementary Schools). The Board considered several studies, including an architectural report that, as the Grand Jury report notes, identified and addressed a number of safety concerns regarding ADA compliance and other issues. Additional concerns were raised by members of the public in correspondence with Board members, personal conversations with Board members, and public comment in multiple Board meetings that were all considered by the Board prior to any action to close or consolidate schools.

Furthermore, the very safety considerations that the Grand Jury report raised were also addressed in the Quincy 7/11 Committee Final Report (at pages 23-28), which was considered by the Board. The Quincy 7/11 Committee correctly (in the opinion of the Board) noted that while the guidelines for site acquisition are not strictly applicable, they can offer guidance in the selection between two existing sites. After a vigorous discussion, the Quincy 7/11 Committee concluded:

¹ PUSD/PCOE believes it is important to note that while a grand jury may investigate and report upon the manner in which a school district performs its duties and functions, (see, 78 Op.Atty.Gen. 290, Sept. 13, 1995), the grand jury is authorized to investigate the operational procedures of the district, but not the substantive policy concerns of the district. 64 Op.Atty.Gen. 900, 12-29-81. Accordingly, such policy matters as the selection of school sites or the purchase and improvement of school property (Ed. Code, § 39001 et seq.) would constitute substantive concerns falling exclusively within the discretion of the school board and hence would not be procedural matters subject to grand jury oversight. 78 Ops. Cal. Atty. Gen. 290, 1995 WL 543458 (Cal.A.G.). The same may be said of school district “reorganizations,” which could include such matters as the annexation of territory or the transfer of territory of the district to another district. (Ed. Code, § 35501 et seq.). 78 Ops. Cal. Atty. Gen. 290, 1995 WL 543458 (Cal.A.G.).

When considering potential environmental hazards such as air quality, proximity to hazardous materials, noise, traffic hazards, legal parking and access issues, the Committee determined that the Quincy Elementary School environment is more conducive to student safety.

The Quincy 7/11 Committee did not stop there. Safety was addressed in the Transportation, Neighborhoods, Community Survey, and Public Input sections of the report. Safety issues were also heavily weighted in the committee's overall recommendation to consolidate Quincy elementary services onto the existing Quincy Elementary School campus. The other 7/11 Committee reports also addressed safety issues as they pertained to their particular sites (e.g. bus transportation over winter roads in the Indian Valley and Chester reports).

The Grand Jury found that the 7/11 committees took on huge tasks and did an incredible job raising focused questions and concerns, and further noted that the fact finding done by the 7/11 committees was accurate. The Board completely agrees with the Grand Jury's assessment of the 7/11 Committees and their findings, and noted as much at the time the decisions regarding school closure and consolidation were made. The quality reports produced by the 7/11 committees were of immeasurable help to the Board in making its final decisions on school closure and consolidations. The Board is therefore confused as to why the Grand Jury would fault the Board for not considering student safety when student safety was so prominently addressed in the highly praised 7/11 Committee reports.

The Grand Jury erroneously claimed that the Board "maintains that the HMR report satisfies the identification of potential safety concerns." The Board never made such a finding. In fact, Board members were openly critical of the former superintendent for the timing of the HMR report and its presentation to the Board because the 7/11 Committees had only just begun to meet. The Board was similarly critical of the District Office's report that was presented before the 7/11 Committees had an opportunity to perform their duties. Regardless of the timing, the HMR report, the 7/11 Committee reports, the District Office report, public comment, pertinent code sections, and the safety of our students were all considered as part of the closure/consolidation process.

The Grand Jury further faults the Board for not conducting additional safety studies during the closure and consolidation process. The Grand Jury does not, however, appear to take into consideration the additional time and expense to the District for such reports. The cost of the preparing formal reports (e.g., an Environmental Impact Report) for each potential site affected by closure/consolidation would have been hugely cost prohibitive, and necessarily would have delayed any decision on closures or consolidation for several months. While cost considerations obviously do not outweigh concerns regarding student safety, the prudence of ordering expensive studies in a time of fiscal crisis where a clear recommendation favors a site that raises no major safety issues is questionable.

Finally, the 2012 Grand Jury report concludes that student safety went unaddressed in the

PUSD response to the 2010-2011 report, and that the Board response was not timely submitted. To the contrary, the Board specifically addressed the student safety issue raised in the 2010-2011 report, and did so in a timely manner. The 2011 Grand Jury report addressed the adequacy of safety policies as a result of specific incidents that took place throughout the school year. The 2011 Grand Jury report noted that PUSD had taken steps to address these issues, including policy reform, and ultimately concluded that “School officials have acted in a responsible manner to improve school safety.” In response to this finding, both the PCOE and PUSD responses noted that PCOE and PUSD would continue to work together in developing crisis response planning, safety training, and in coordinating with the Plumas County Sheriff’s Office on safety matters. The responses went on to explain that PUSD personnel had undergone Incident Command Team training in an effort to be prepared for possible future incidents. Therefore, the Board respectfully disagrees with the 2012 Grand Jury report finding that student safety was unaddressed by the Board in 2011. The Board further disagrees with the 2012 Grand Jury report finding that the 2011 responses were late filed. In contrast to the Grand Jury’s statement that the Board failed to respond to the Grand Jury report until December, the PCOE response to the Grand Jury report was submitted on August 25, 2011, and the PUSD response was sent on September 14, 2011.

In summary, while the Board does not necessarily disagree with Formal Findings F1, F2 or F4 of the 2012 Grand Jury Report, the Board rejects the notion that student safety was not addressed or taken into consideration by the Board. While no environmental impact study or negative declaration was undertaken, the code sections that would require such studies are not specifically applicable to the closure and consolidation process, and thus are not required. Further, the Board disagrees with Finding F3 as both the HMR and the 7/11 Committee reports constitutes studies that covered many aspects of student safety. The 7/11 Reports, the architectural report, and the public comments and discussions were all taken into consideration by the Board before any decisions were made regarding the consolidation and closure or school sites within the District. Thus, notwithstanding the fact that the Grand Jury brought the aforementioned code sections to the attention of the Board, the Board respectfully disagrees with any finding or insinuation that the Board lacks concern for the safety of PUSD students. Finally, the Board wholeheartedly agrees with Finding F10 regarding the hard work and dedication of the 7/11 Committees.

GRAND JURY FINDINGS REGARDING HIRING PRACTICES

Finding F5. The PUSD/PCOE entered into an agreement with the California School Boards Association (CSBA) to recruit candidates for the position of Superintendent. The recruiting agreement cost the district over \$14,000.

Finding F6. The Grand Jury found no evidence that a pre-employment background investigation was completed by the CSBA.

Finding F7. There was a failure by the PUSD/PCOE to verify the background information of the Superintendent, and no information regarding a background investigation was on file at the district offices.

Finding F8. The Grand Jury found no policy in place requiring the vetting of information and holding of permanent records by the PUSD/PCOE.

Finding F9. The Grand Jury found no existing policies for hiring a Superintendent.

Although it is not entirely clear from the language used in the 2012 Grand Jury report, the Grand Jury appears to be raising concerns about the hiring of the former superintendent. Most of the current Board members do not have personal knowledge of that hiring, as only one current Board member was involved in that process. The Board does not dispute Finding F5. The Board disagrees with finding F6 to the extent that it implies that no pre-employment background check was performed. It is this Board's understanding that the CSBA conducted a pre-employment background investigation as a standard part of a professional employment search. The fact that the Grand Jury was unable to find evidence of such a search does not mean that such a search was not conducted, especially in light of the fact that the Grand Jury does not indicate whether it contacted CSBA to inquire about their hiring practices. This leads directly to Finding F7, which also implies that PUSD failed to conduct a background investigation on the former superintendent, and/or that records of such an investigation were not maintained. In short, the finding echoes the serious concerns that were raised over the past year by many members of the community regarding information somehow missed in the selection of the past superintendent. Unfortunately, this Board cannot fully respond to Finding F7, as significant information that would shed light on the former superintendent search and hiring process, and would thus be responsive to this finding, is confidential and not subject to public disclosure. While the Board recognizes the concern as completely valid, the Board simply cannot legally respond due to confidentiality.² Given that the Grand Jury is not empowered to obtain personnel records absent cause to believe an official is guilty of criminal activities or other misconduct in office, of which there is no finding or allegation, the District should not be faulted for properly maintaining confidentiality.

As to Findings F8 and F9, in which the Grand Jury found that the Board had "no policy in place requiring the vetting of information and holding of permanent records by the PUSD/PCOE" and "no existing policies for hiring a Superintendent," the Board must again respectfully disagree.

² See, *Board of Trustees of Calaveras Unified School Dist. v. Leach* (App. 3 Dist. 1968) 65 Cal.Rptr. 588, 258 Cal.App.2d 281 (Grand jury was not entitled to inspect personnel records of school district with respect to certain employees thereof when there was not pending before grand jury the investigation of any public offense or of willful or corrupt misconduct in office of any public officer).

PUSD/PCOE Board Policy 2120, which was in existence at the time of the 2012 Grand Jury report's publication, specifically addresses the selection of a new superintendent and mandates verification of qualifications through reference checks. The policy also provides for further verification through a potential board member visit to the candidate's current district. Additionally, Board Policies 4112.5 and 4312.5 govern criminal background checks, and Board Policies 3580 and 4112.6 govern retention of the documents referenced in these findings.

The Board recognizes the importance of a thorough background check in the hiring of all personnel and especially the superintendent. The criticisms in the Grand Jury Report are not new information to the Board as these concerns have been raised repeatedly by the public to individual Board members and in public comment to the Board. While unable to respond in full due to confidentiality restrictions, the Board emphasizes that it has taken the Grand Jury's criticism seriously and has thoroughly considered the Grand Jury's findings during the current search for a new superintendent.

In summary, as set forth above, the District has several policies in place for the hiring of a superintendent. Coincidentally, that policy is again scheduled for review and update at the September 12, 2012 regular Board meeting as part of the Board's ongoing process to continually update Board Policies and Administrative Regulations as warranted by new developments in the law.

ADDITIONAL MATTERS

The Board would also like to respond to commentary contained in the 2012 Grand Jury report, although not specifically part of any findings. Specifically, the Grand Jury's comments regarding a lack of cooperation from the District are unwarranted. The Grand Jury report notes that subpoenas were required to compel some Board members and district personnel to appear before the Grand Jury, implying that the District and/or these individuals were not cooperative with the Grand Jury. Entirely to the contrary, there are numerous legitimate and legal reasons why someone might prefer to invoke the procedural step of issuing a subpoena before appearing the Grand Jury. First and foremost, a formal subpoena explains the nature and purpose of the proceeding. It notes whether the Grand Jury inquest is civil or criminal, and allows individuals to be released from their employment to appear before the Grand Jury without penalty or loss of pay at work. Additionally, as a volunteer Board with meetings held during the work week, board members often use both personal time and work time to serve on the Board. Board members who must miss work to attend Board functions can risk the good will of their employers by virtue of the time they must take off to serve as a board member. Therefore, it may be vital to either a District employee or Board member to have a subpoena issued for their participation in a Grand Jury inquest during regular work hours. Thus, to imply any wrongdoing because the Grand Jury had to go through the proper procedure of issuing subpoenas is unfair and unprofessional.

Further, the Board was surprised to read the amount of specific detail revealed in the Grand

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Jury Report regarding comments given by specific people called to testify before the Grand Jury. Penal Code § 929 specifically prohibits the Grand Jury's release of information that *may* lead to the identity of any person providing information to the Grand Jury. Without highlighting the specific comments contained in the report, PUSD is concerned that the Grand Jury report infringes on the prohibitions outlined in Penal Code § 929, and respectfully asks that the Grand Jury exercise caution and prudence in any future investigations with respect to the release of information that may lead to the identification of individuals who appeared before the Grand Jury.

CONCLUSION

The governing boards of PUSD and PCOE understand and appreciate the Plumas County Grand Jury's interest in the well being of our students and district, and appreciate their service to the County. While the Board may disagree with specific findings of the Grand Jury's report, PUSD and PCOE will strive to use this critique as a tool for continuing to improve the services we provide and to further enhance a safe and healthy atmosphere for our students and staff.