

Nevada County School Boards:
An Educational Opportunity

2022-2023 Nevada County Grand Jury

Report Date: May 16, 2023

Release Date: June 21, 2023

Summary

The 2022-2023 Nevada County Grand Jury investigated a citizen complaint regarding a Board of Trustees October 5, 2022, meeting of the Nevada Joint Union High School District. At this meeting, multiple Trustees spoke in favor of candidates running for open positions on the Nevada Joint Union High School District Board.

The campaigning actions of the Trustees may have violated Education Code 7054. This law is also specifically referenced in the Board Policy for Nevada Joint Union High School District (Board Policy 1160). Even if not directly identified as a board policy, all school boards are subject to the laws included in the California Education Code.

The October meeting was held less than two months after the Nevada Joint Union High School District Board received Legal and Parliamentary Board Training provided by the California School Board Association. This training included presentations on trustees' obligations relative to federal, state and local directives, board meeting procedures, and The Brown Act. The Jury found no evidence that training specific to political campaigning was included. Non-compliance with the California Education Code could lead to undermining the integrity and transparency of this institution.

The 2022-2023 Nevada County Grand Jury recommends actions be taken by the County Superintendent of Schools and school district boards to prevent future inappropriate campaign behavior.

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Background

The Nevada County Grand Jury (Jury) is mandated by the State of California to investigate and report on local governments, including school boards.

Responding to a citizen complaint regarding political campaigning by Trustees at the Nevada Joint Union High School District (NJUHSD) Board of Trustees (Board) meeting held October 5, 2022, the Jury found that political campaigning occurred. Political campaigning during a board meeting may violate State Education Code, and school Board policy. The Jury determined a report to the public would shed light on the events of October 5, 2022, and address opportunities to prevent future occurrences.

The following provides basic information about school districts in Western Nevada County (County), how they are organized, and a brief summary of their roles and responsibilities. The Discussion Section addresses the October 5 issue, and identifies lessons learned from that event.

Nevada County School Districts

The public K-12 education system in the County, not including Truckee schools,¹ is comprised of eight elementary school districts, one high school district and seven independent (non-district) charter schools. As of August 2022, almost 11,000 students attend one of 36 schools across the County.² Due to the rural nature of the County, school districts are small in comparison to urban districts. The smallest school district in the County (Clear Creek) consists of only one school; the largest (NJUHSD) supports five schools.

Each of the nine school districts is governed by a Board of Trustees, comprised of five members, elected by voters within those districts. These elected officials serve a four-year term, with elections staggered so that there are Board openings every two years. The independent Charter Schools in the County are overseen by individual governing boards/councils, comprised of parents and community members, and are therefore not elected public officials.

Each board is responsible for hiring a district superintendent. As the chief executive officer of the district, the Superintendent implements board decisions as well as manages the instructional and non-instructional operations of the schools. The Superintendent also supports board operations and decision making.

The Nevada County Office of Education (NCOE) and County Superintendent of Schools (NCSOS) provide support services to local school districts, such as special education, alternative education, independent study programs, and administrative services.

¹ The Tahoe-Truckee Unified School District is under the jurisdiction of the Placer County Office of Education.

² 2021-2022 Enrollment Summary – October 2021, Grades Tk-12

<https://nevco.org/wp-content/uploads/2023/03/Enrollment-Report-All-County-3-20-23.pdf>

School Board Roles and Responsibilities

The role of a school board is to be responsive to the values and priorities of its community and to provide leadership and citizen oversight to the district. In general, a school board is tasked to:

- Set the direction for the schools in the district
- Establish an efficient and effective organizational structure
- Provide support to the superintendent and staff
- Ensure accountability to the public for the performance of the district's schools
- Provide community leadership and advocacy on behalf of students

School Board Governance and Accountability

California School Boards are primarily governed by State laws contained in the California Education Code (Ed Code). The Ed Code is a collection of hundreds of state laws concerning public K-12 education in the state. School boards must also abide by the bylaws and policies of the individual school district they serve. In Nevada County, all school districts abide by similar, if not identical, sets of bylaws and policies. Ideally, this provides consistency within school districts across the County.

In 1953, in response to public concerns over undisclosed meetings held by local elected officials, the State Legislature passed the Ralph M. Brown Act (the Brown Act), California Government Code 54950 *et. seq.* This law guarantees the public's right to attend and participate in meetings of local legislative bodies, including school districts. Per this law, monthly meetings are to be held at a set time and place; agendas are to be published 72 hours prior to meetings, and the public is invited to attend meetings and make comments. Both agendas and meeting minutes are made accessible to the public.

Each school district in the County has a website where board meeting information, agendas and minutes are made available to the public. All district websites also publish Board Policies (BP) and Bylaws or Administrative Regulations (AR).

Approach

A District-produced video recording of the NJUHSD Board meeting of October 5, 2022, is available on the NJUHSD website. The Jury reviewed this video and validated the allegations contained in the complaint. In addition, the Jury interviewed the complainant and district personnel familiar with the incident. The Jury also reviewed relevant government codes and school board policies.

Discussion

In October 5, 2022, the NJUHSD Board held its monthly meeting. The normal start time of 6pm was changed to 3pm to accommodate a teacher-recognition ceremony later in the day, that may have affected public attendance. In the *Reports from Board Trustees* portion of the agenda, a majority of the five Trustees used their individual report times to speak in favor of two of the six candidates running for Board vacancies in the upcoming November election. Some spoke from prepared statements and others spoke extemporaneously. Because the Trustees' campaigning statements were presented during the Individual Reports section of the agenda, the campaign comments were not available to the public prior to the meeting.

The Board meeting was held on district grounds (at Nevada -Joint Union High School), and broadcast for live streaming. The agenda, minutes, and video recording of this meeting are all available on the NJUHSD website.

The Trustees' campaigning actions may have violated California Education Code (Ed Code) 7054, adopted by the State Legislature in 1977 and amended in 2011.

The code states:

(a) No school district or community college district funds, services, supplies, or equipment shall be used for the purpose of urging the support or defeat of any ballot measure or candidate, including, but not limited to, any candidate for election to the governing board of the district.

The code also states:

(c) A violation of this section shall be a misdemeanor or felony punishable by imprisonment in a county jail not exceeding one year or by a fine not exceeding one thousand dollars (\$1,000), or by both, or imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, or two or three years.³

This law is also specifically referenced in the Board Policy for NJUHSD (BP 1160) and other Nevada County school districts. All districts are subject to the laws and statutes included in the Ed Code.

The inappropriateness of the campaigning Trustees' actions was called into question by another Board member, as well as a member of the public in attendance. Despite several cautions to refrain from campaigning, the political comments continued until all Trustees had completed their reports. Subsequent to the meeting, an article describing and commenting on the events of that meeting was published by local media.⁴

The school district's legal counsel was not present at the meeting. This was not unusual as legal counsel's presence is rarely necessary. The public expects school board trustees to understand and comply with the law, policies, and codes that govern Board member behavior. The NJUHSD BP 1160 states that "(t)he Board and/or Superintendent shall provide an orientation to newly

³ https://california.public.law/codes/ca_educ_code_section_7054

⁴ <https://yubanet.com/regional/njuhsd-trustees-seeley-drew-and-hinman-flunk-ethics-101/>

elected or appointed Board members which includes comprehensive information regarding Board roles, policies and procedures...”

The October 5 meeting was held less than two months after the NJUHSD Board received Legal and Parliamentary Board Training provided by the California School Board Association (CSBA). This training included presentations on obligations of trustees relative to federal, state and local directives, board meeting procedures, and the Brown Act. The Jury found no evidence that training specific to restrictions on political campaigning was included.

None of the members of the NJUHSD Board who advocated for specific candidates are currently serving. Following the election of November 2022, a new Board was installed, and training specific to ethics was provided to all current NJUHSD trustees.

The fact that penalties may be incurred for violations of EC 7054 indicates the seriousness behind the law’s intent. School board trustees are not allowed to use district resources or facilities to promote any candidate for political office. Non-compliance with this law could lead to undermining the integrity and transparency of this institution.

Finding

- F1** The Jury finds that legal, ethical and Brown Act Training, required for all Board members across the County, should address laws regarding political campaigning.

Recommendations

The Nevada County Grand Jury recommends Nevada County Superintendent of Schools and the Trustees in all County school districts implement the following recommendations.

- R1** The Jury recommends that the Nevada County Superintendent of Schools provide campaign behavior training for Trustees across all school districts, including the Nevada County Board of Education, that supplements the legal and ethical training already required.
- R2** The Jury recommends that Trustees in all County school districts including the Nevada County Board of Education, provide evidence of completion of campaign behavior training for Trustees that is supplemental to the legal and ethical training, already required and that evidence is disclosed to the public on school district board meeting agendas/minutes.

Request for Responses

Pursuant to Penal Code section 933.05, responses are required from the following:

- Scott Lay, Nevada County Superintendent of Schools (Finding 1 and Recommendation 1) within 60 days
- All Western Nevada County District School Boards, including the Nevada County Board of Education (Finding 1 and R2) within 90 days

All responses are to be addressed to the Supervising Judge of the Grand Jury:

The Honorable Scott Thomsen
Supervising Judge of the Grand Jury
201 Church Street
Nevada City, California 95959

Glossary

AR	Administrative Regulation
Board	Nevada Joint Union High School District Board of Trustees
BP	Board Policy
County	Western Nevada County
CSBA	California School Board Association
Ed Code	California Education Code
Jury	2022-2023 Nevada County Grand Jury
NCOE	Nevada County Office of Education
NCSOS	Nevada County Superintendent of Schools
NJUHSD	Nevada Joint Union High School District
State	State of California