

# COUNTY SCHOOL BOARD OF TRUSTEE ELECTIONS

## REASON FOR INVESTIGATION

A citizen complaint was received concerning the November 5, 1996, election for County Board of Education. The complainant alleged that the winning candidate for Trustee Area II, Gary Larsen, was ineligible due to his employment as a teacher in Nevada Joint Union High School District. If true, this is a violation of state Education Code Section 1006.

## PROCEDURE FOLLOWED

The Civil Grand Jury interviewed county Superintendent of Schools Dr. Terence McAteer, County Clerk Bruce Bolinger and the complainant. The Grand Jury reviewed the 1996 candidate handbook, which is provided by the Elections Division staff to all candidates upon filing for public office. A review was made of the declaration of candidacy of the winning candidate, Gary Larsen, all correspondence to and from County Clerk Bolinger, District Attorney Michael Ferguson and the complainant concerning the winning candidate's filing statements and subsequent resignation. The complainant's initial correspondence and final correspondence involving this issue covered a period of June 1, 1997, through July 29, 1997. The correspondence includes an unsigned letter from a "concerned citizen" to County Clerk Bolinger dated June 1, 1997.

## FINDINGS

1. The Grand Jury found that Larsen stated in filing for election that he was a teacher in Nevada County. This would have by law precluded him from running for office as trustee of the County Board of Education in light of the state Education Code Section 1006, as described in the Nevada County Candidate's Handbook, page 44.
2. The statement of the (Section 1006) law was included in the Election Candidate Handbook given to all candidates by the county clerk's election staff. Further, a copy of all candidates' filings and statements of employment was made available to the public prior to the election.
3. The election process requires that the candidates and public exercise due diligence in bringing concerns of ineligibility to the election officials' attention prior to the election. The Grand Jury found no one challenged candidate Larsen's eligibility for filing in the months prior to the election, and the complainant did not bring the question of ineligibility to the attention of proper authorities until six months after the election.
4. The Grand Jury was unable to determine who raised the first questions about eligibility. It appears to have occurred on or about June 1, 1997, in a letter to Bolinger from a "concerned citizen."
5. The Grand Jury found that Larsen submitted his resignation for personal reasons. However, the resignation occurred after the complaint from a "concerned citizen" was made known to McAteer. McAteer was advised by school counsel the election of Larsen was not valid as he was a teacher at Bear River High School at time of filing. McAteer then communicated "the problem" to Larsen.

6. The volume of paperwork associated with candidates' filings prior to an election can make it difficult, if not impossible, for the county clerk's election staff to review all materials associated with the candidates' eligibility.
7. The County Clerk's Office had already provided instructions as a result of this controversy to staff (concerning candidates for school trustee elections) to exercise extra care in reviewing candidate submittals beyond that required by California law (prior to the Grand Jury's investigation).
8. Trustees to the Nevada County Board of Education are elected from selected geographical districts in which they must reside. Adjustments were made to these district lines when the number of trustees was reduced from seven to five using district population as the criteria. The proposal to reduce the number of trustees was discussed in public meetings in 1994. The proposal was identified as "Measure A" on the November 1996 ballot and was passed by a majority of the voters.
9. The Grand Jury found the relationship between the county Board of Education and the county superintendent's office had been politicized during the down sizing of the county board from seven to five members. The Grand Jury believes steps were taken to eliminate certain members of the board who were antagonists of McAteer. Prior to the down sizing the three members of the board who consistently opposed McAteer were in the trustee areas that were redrawn. During the investigation it was revealed by McAteer that the County Board of Education was "ripe with strife." The Grand Jury believes the redesign of the trustee area boundaries to reduce the size of the board was an effort to eliminate the "strife." This would not and, in fact, did not affect the fairness of the ballot measure itself.
10. The Grand Jury found that County Superintendent of Schools McAteer was previously a teacher at Bear River High School and personally knew Larsen. McAteer supported the election of Larsen as a trustee to the county Board of Education.
11. The vacancy that resulted from the Larsen resignation was filled by the remaining members of the Board of Education, who made the appointment as set forth by Education Code Sections 5326 and 5328.

## CONCLUSIONS

1. The Grand Jury found the winning candidate's filing was not valid based on the state Education Code Section 1006.
2. Each candidate is responsible for understanding and using the election system as defined by state law. Candidates should not expect someone else to look after their interests.
3. The Grand Jury applauds Bolinger for issuing additional instructions to his staff. This action should assist in preventing similar issues in future elections for school district trustee.

4. The candidates for the opening in the county Board of Education were not aware of and apparently did not read the information available in the state Education Code Section 1006 describing ineligibility due to employment as a teacher of the county school system.
5. The reduction in the number of Board of Education members from seven to five was designed to eliminate divergent opinion.
6. The preparation and the pre-election discussion of the Board of Education reduction (ballot Measure A) was fairly and accurately presented to the voters.

### **RECOMMENDATIONS**

1. The Grand Jury recommends that the Nevada County Board of Education notify the public of all board openings to be filled by elections or appointments. Such notification should specifically include minimum qualifications that are consistent with state education and elections codes. This would be a good practice for all school districts in the county.

### **REQUIRED RESPONSES**

County Superintendent of Schools  
Due August 30, 1998

County Board of Education  
Due September 30, 1998