

AUG 26 2008

DATE 8/27/08 BY [Signature]
Sonoma County
 Office of Education

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August 21, 2008

 The Honorable Robert S. Boyd
 Presiding Judge of the Superior Court
 County of Sonoma
 600 Administration Drive
 Santa Rosa California 95403

 RE: **Required Responses** (CA Penal Code 933c) to Grand Jury
 Final Report – published July 12, 2008

Dear Judge Boyd:

The Sonoma County Superintendent of Schools, as an elected state constitutional officer, has the responsibility, pursuant to Section 914.1 of the California Penal Code, to submit comments within 60 days to the presiding judge of the superior court regarding the Grand Jury Final Report of 2007-2008.

The Final Report reflected the hard work and professional dedication of the members of the County Civil Grand Jury. Additionally, the Report demonstrates the important role of the Grand Jury to provide valued public oversight to ensure the integrity of local governmental agencies. I would like to commend Mr. Dennis O'Reilly, Foreperson of the Grand Jury, on his ability to build the capacity of the diverse Jury team resulting in an investigative process that was thoughtful and respectful.

There are three separate Reports of the Grand Jury that require responses by the County Superintendent of Schools. The first Report, "Disaster Will Strike! Are Schools Ready?" resulted in required responses to Recommendations R3, R4 and R6. The second Report, Sonoma County Office of Education – Misuse of State Vocational Education Funds requires responses to Findings F1, F3, F4, F5, F7, F8, F9 and F10 along with Recommendations R1 to R7 inclusive. The final Report, "Sonoma County Office of Education: An Overview" requires a response by the County Superintendent to Recommendations R1 and R2 and the County Board President to Recommendation R3.

Attached please find responses and attachments for findings and recommendations to the three reports: "Disaster Will Strike! Are Schools Ready?"; "Sonoma County Office of Education: Misuse of State Vocational Funds"; and "Sonoma County Office of Education — An Overview."

Sincerely,

 Carl Wong, Ed.D.
 County Superintendent of Schools

“Misuse of State Vocational Educational Funds”

F1: Respondent disagrees partially with this finding. Regarding the statement that qualified programs were denied funding through Carl Perkins grants by SCOE, the only instance relating to this finding of which we are aware pertains to the teacher mentioned in the grand jury report who asked SCOE to fund Skills USA with \$2,500 of Perkins money. At that time, the Skills USA program was already fully funded for that budget year from non-SCOE non-Perkins sources. The teacher was told that his request would be considered during the next funding cycle. However, the Carl Perkins Act has been amended since 2006-2007 and SCOE is not receiving any Perkins funding for 2007-2008.

The issue regarding whether “programs and materials not allowed by the Carl Perkins Act were purchased with the grant money” is presently pending with the State Department of Education.

As discussed in the report by Loyal Carlon, copy attached, SCOE expended funds from the Perkins grant in 2006-2007 for the benefit of vocational programs at the Youth Camp and Adera Cal-Safe. As such, SCOE was an eligible recipient of these funds.

The Perkins Act in effect for that time period also provided at §2355(c) that Perkins funds may be used, among other things, to “provide programs for special populations” and for “support services.”

Section 2301 (23) of the Act defined “special populations” to include individuals with disabilities, individuals from economically disadvantaged families, including foster children, individuals preparing for non-traditional training and employment, single parents, and individuals with other barriers to educational achievement. The vast majority of SCOE students attending its court and community schools are within this definition of “special population.”

In the first paragraph of its four year local performance plan for 2000-2004 (which was extended for the 2006-2007 school year), SCOE advised the state that it was requesting Perkins funds “to address the educational and vocational needs of the special populations of at-risk students” with the programs offered by the County office.

The disputed expenditures benefited these special populations by, among other things, advising these students of possible career options and by assisting these students in finding appropriate career pathways. Therefore, these expenditures appear to fall within the permissible use of Perkins funds as provided in the Act.

However, in its letter dated March 28, 2008, the State Department of Education advised SCOE on page three at (4) that its attorney did not believe that these expenses were allowed under the Act. While the express language of the Perkins Act appears to support a contrary interpretation, SCOE does not believe it is productive to continue to spend time and energy contesting this expenditure of a relatively small sum of money, all of which was clearly spent for educational purposes that benefited SCOE students. Accordingly, SCOE has proposed a compromise resolution; however, we have not yet heard back from the state on this matter.

F2: No response is required.

F3: Respondent agrees with this finding.

F4: Respondent disagrees partially with this finding. SASI (referred to as SASix in the Grand Jury Report) is a program that tracks grades and credits for highly mobile students in order to maximize their ability to meet graduation requirements. This program was discussed on page 14 of SCOE's four year local performance plan for 2000-2004 (which was extended to the end of the 2007 school year) that was submitted to the state in connection with the request for Perkins funding. The \$4,000 referred to in the Grand Jury report represents money spent by SCOE to provide technical support for the SASix program, which was utilized to support not only the vocational programs at the Youth Camp and Adera, but also the programs benefiting the special populations attending SCOE court and community schools. As noted above, the Perkins Act states that funds may be provided to benefit special populations and to provide support services in connection with this funding.

F5: Respondent disagrees partially with this finding. We are not sure what the state administrator said in his testimony to the Grand Jury. In any event, the SASix expenditure was not for the purchase of software. Please see the response to F4 above.

F6: No response is required.

F7: Respondent disagrees partially with this finding. The teacher mentioned in the Grand Jury report asked SCOE to fund Skills USA with \$2,500 of Perkins money. At that time, the Skills USA program was already fully funded for that budget year from non-SCOE non-Perkins sources. The teacher was told that his request would be considered during the next funding cycle. As noted above, SCOE is not receiving any Perkins funding for 2007-2008.

F8: Respondent agrees with the underlying basis for this finding. We are not sure what the state administrator said in his testimony to the Grand Jury. We believe that Perkins funds may be used for Skills USA programs.

F9: Respondent disagrees with this finding. The Grand Jury report does not identify the name of the staff person mentioned in this finding. The reassignment of the SCOE teacher who had asked for Perkins funds for the Skills USA program (which was already fully funded from other non-SCOE non-Perkins sources) was the subject of a grievance, which asserted that the reassignment of the teacher was "punitive, disciplinary or retaliatory." A hearing on the grievance was held before an impartial arbitrator on January 23, 2008. At the hearing, sworn testimony was taken and many exhibits were submitted regarding the propriety of the reassignment. On May 14, 2008 the impartial arbitrator ruled that the grievance was without merit. In particular, the arbitrator stated: "Grievant's primary contention is that he was transferred because he reported an alleged misuse of Carl Perkins funds to the State of California. **This contention is not supported by the evidence.**" A copy of the impartial arbitrator's opinion (redacted) and award is attached hereto. A copy of the sworn testimony given at the arbitration will be made available upon request.

The Grand Jury report does not provide any information that contradicts the evidence presented at the hearing on the grievance. We are therefore surprised that the Grand Jury concludes by this

finding and recommendation R6 that the subject reassignment was punitive when an impartial arbitrator has ruled that it was not.

F10. Respondent disagrees partially with this finding. SCOE may be asked to repay a portion of the Perkins funding. SCOE has not been informed of any final determination by the state on this issue. Please see the response to F1 above.

Response to Recommendations

R1: We agree with this recommendation, which represents existing SCOE practice.

R2: We agree with this recommendation, which represents existing SCOE practice.

R3: We acknowledge that “targeted funds” should be used for the purposes intended.

R4: We agree with this recommendation, which represents existing SCOE policy. The independent auditors retained by SCOE select a sample of programs to audit each year. It is not feasible to audit every single program and expenditure.

R5: We agree with this recommendation at least where it is feasible to do so, which represents existing SCOE policy

R6: We agree with this recommendation, which represents existing SCOE policy. However, the reassignment that involved the “award-winning teacher” was the subject of a full evidentiary hearing before an impartial arbitrator. As noted above in response to F9, the impartial arbitrator concluded that the reassignment was not punitive.

R7: This recommendation requires further analysis. We agree that a key consideration regarding the assignment of personnel is whether the assignment will benefit the students affected. Other factors that may need to be considered include seniority, qualifications, credentials and the overall educational needs of the County office. The operative policy on this subject as to certificated personnel is the Collective Bargaining Agreement between SCOE and the teachers’ union. In particular, see section 16.6.1 of the Collective Bargaining Agreement on this issue, copy attached. The County office cannot unilaterally modify the Collective Bargaining Agreement and we do not believe at this time that it would be prudent to do so in the manner suggested since to focus on one issue -- albeit an important one -- to the exclusion of other potentially relevant issues could result in an unduly narrow approach to assignments. Further, this recommendation appears to be premised on the assumption that F9 is accurate. As noted above, we believe F9 is incorrect and that this erroneous factual finding has led the grand jury to make unwarranted assumptions and recommendations.