



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Item Number: TBD

Proposed Response to Grand Jury Report: San Diego Unified School District School Board Elections - Time for a Change

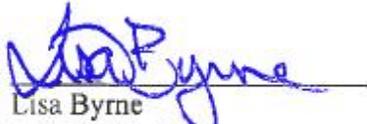
On May 9, 2017 the San Diego County Grand Jury filed a report, directed to the San Diego City Council, entitled “San Diego Unified School District School Board Elections - Time for a Change.” This report discusses specific elements of the School Board elections, including term limits, runoff elections, and district-wide vs. sub-district contests.

The Grand Jury Report includes six findings and three recommendations which are directed to the City Council. Responses to the findings and recommendations are included in the proposed City Council response to the Grand Jury – see Attachment 1.

Per the Grand Jury report, the Council is required to provide comments to the Presiding Judge of the San Diego Superior Court on the applicable findings and recommendations within 90 days. However, the Council President’s office requested and received an extension for the response to November 3, 2017.

In responding to each Grand Jury finding, the City is required to either (1) agree with the finding or (2) disagree wholly or partially with the finding. Responses to Grand Jury recommendations must indicate that the recommendation (1) has been implemented; (2) has not yet been implemented, but will be in the future; (3) requires further analysis; or (4) will not be implemented because it is not warranted or is not reasonable. Explanations for responses are requested when applicable.

Our office prepared the attached proposed Council response for Rules Committee review. We request the Committee provide feedback and forward its approved proposed response to the full City Council.


Lisa Byrne
Fiscal & Policy Analyst


APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachments:

1. Proposed City Council Response to San Diego County Grand Jury Report titled “San Diego Unified School District School Board Elections - Time for a Change”
2. San Diego County Grand Jury Report titled “San Diego Unified School District School Board Elections - Time for a Change”

**Proposed City Council Response to
San Diego County Grand Jury Report Titled
“San Diego Unified School District School Board Elections - Time for a Change”**

Pursuant to California Penal Code section 933(c), the San Diego City Council provides the following responses for the findings and recommendations to the City Council that are included in the above referenced Grand Jury Report:

FINDINGS 01 THROUGH 06

Below are the City Council’s responses to Findings 01 through 06:

Finding 01: *The San Diego Unified School District election process does not always result in board members who reflect the diversity of the district’s population.*

Response: The City Council agrees with the Grand Jury’s finding.

Finding 02: *Because of the high cost of competing in two election campaigns, support and financial backing is often required from special-interest groups.*

Response: The City Council partially disagrees with the Grand Jury’s finding.

Although costs spent on election campaigns can be high, financial backing from special-interest groups or others is not required. Groups that wish to support candidates can do so in compliance with elections laws.

Finding 03: *Term limits enable more citizens to take part in school governance.*

Response: The City Council partially disagrees with the Grand Jury’s finding.

Because name recognition can be helpful to incumbent candidates, term limits could allow more people to become board members. However, there are other ways to be involved in school governance besides being a board member.

Finding 04: *By instituting sub-district elections and term limits, a large part of the elections process will be returned to the people.*

Response: The City Council disagrees with the Grand Jury’s finding.

The current procedures for selecting board members, as part of an elections process, is fundamentally instituted in the people. Implementing the Grand Jury’s recommended changes to the elections process may not mean that the citizenry as a whole would have an enhanced role. However, limiting district electors to voting only in their sub-district races would strengthen the voting influence of those sub-districts.

Finding 05: *Term limits broaden the pool of people involved in the schools boards.*

Response: The City Council partially disagrees with the Grand Jury’s finding.

See response to Finding 03.

**Proposed City Council Response to
San Diego County Grand Jury Report Titled
“San Diego Unified School District School Board Elections - Time for a Change”**

Finding 06: *School board positions were not intended to be a long-term career position.*

Response: **The City Council partially disagrees with the Grand Jury’s finding.**

School board positions are intended to be a means for providing leadership through a democratic process, including citizen input and varied viewpoints, and are not commonly viewed as long-term career positions. However, Charter section 66 (and its seven amendments since 1931) has never included term limits for San Diego Unified School District board members.

RECOMMENDATIONS 17-28 THROUGH 17-30

Below are the City Council’s responses to Recommendations 17-28 through 17-30:

Recommendation 17-28: *Consider placing a measure on a future ballot to allow the voters to decide whether to amend the San Diego City Charter to change the election process for the San Diego Unified School District School Board Elections, allowing only citizens in their sub-districts to elect representation directly from their sub-district.*

Response: **The recommendation has been implemented.**

The Council recently considered a similar proposal in March 2017 and decided not to take any action to implement the item. This issue could be considered as part of the normal ballot measure process at a later date.

Recommendation 17-29: *Consider placing a measure on a future ballot to allow the voters to decide whether to amend the San Diego City Charter to allow a San Diego Unified School District board candidate who receives a majority of the votes in their sub-district during the primary election be considered elected.*

Response: **The recommendation will not be implemented because it is not warranted.**

In the November 2016 general election, voters approved the opposite approach for the City of San Diego races for Mayor, Councilmembers, and City Attorney. With the approval of Measure K, a runoff for each race will now be required for the two candidates receiving the most votes in the primary. Previously, runoff elections were not required if a candidate in a given race received a majority vote in the primary.

Recommendation 17-30: *Consider placing a measure on a future ballot to allow the voters to decide whether to amend the San Diego City Charter to limit the number of terms San Diego Unified School District School Board Trustees can serve.*

Response: **The recommendation has been implemented.**

See response to Recommendation 17-28.

SAN DIEGO UNIFIED SCHOOL DISTRICT SCHOOL BOARD ELECTIONS TIME FOR A CHANGE

SUMMARY

The 2016/2017 San Diego County Grand Jury (Grand Jury), in response to several citizen complaints, investigated the election process of the San Diego Unified School District (SDUSD) School Board Trustees. While studying the election process, the Grand Jury also identified a peculiar relationship between the school board and the City of San Diego. The City of San Diego has no control over the San Diego Unified School District, yet since 1939 the School District's election rules are controlled by provisions of the San Diego City Charter. As a result of the existing election process, some problems have emerged.

The diversity within the SDUSD student population has not always been reflected among school board trustees. Clearly, the sub-district primary election reflects the will of that sub-district's voters. However, when the top two candidates from the sub-district are forced to compete in an at-large citywide general election, the sub-district's winning candidate from the primary election may lose in the runoff. Furthermore, the citywide election can become an enormous financial burden for the candidate. In heavily contested school board elections, financial backing is usually needed from unions, business groups, or other special-interest organizations. The Grand Jury believes that sub-district elections alone would assure that specific concerns of each region are represented. Therefore, the Grand Jury recommends that all SDUSD school board trustee candidates be elected only from within their home sub-district.

Once elected, SDUSD board members serve a four-year term with no limit to the number of times they can be re-elected. Term limits have been adopted for many other elected positions in San Diego County but not in the SDUSD. In the past, some SDUSD board positions have been held by the same individual for more than 16 years. The Grand Jury believes that a long, uninterrupted service by a single member of the school board does not effectively serve the district's students and recommends that the San Diego City Charter be amended to include term limits for the SDUSD Board of Trustees.

INTRODUCTION

The Grand Jury studied the election process for the School Board of Trustees of the San Diego Unified School District. The jury's analysis included a review of current practices and procedures that govern election of the trustees to the school board.

PROCEDURE

The Grand Jury collected and reviewed information from the following sources:

- Other large school districts' election practices and procedures in the State of California.
- Sections of the California State Education Code relating to the election of School Board Trustees.
- Sections of the San Diego City Charter that pertain to the School Board Trustee elections.
- Filing forms used by the San Diego County Clerk's Office for the School Board Trustee position.
- Published articles on term limits and board elections.
- San Diego City Attorney's office.

The following were interviewed:

- Personnel from the San Diego Unified School District.
- Members of the San Diego City Council
- Community members.

DISCUSSION

School board roles

The Grand Jury believes that, essentially, school boards must first and foremost look out for the students of their district. Education should not be a line item but the main objective before the board. When making decisions about school programs, school boards should incorporate their community's view of what students should know and be able to do. Board members should be accessible to the public and accountable for the performance of their schools. Board members are the watchdog for their communities, ensuring that students get the best education for the tax dollars spent.¹

Election

There is a movement toward school board elections that allow the demographics of sub-districts or regions to be fairly represented. Recently, minority residents in other cities have felt that they were not equally represented. Under the California Voting Rights Act, they have successfully sued their local school districts for conducting at-large citywide school board elections in addition to primary elections. They claimed their voting strength was diluted by at-large elections. Subsequently, to avoid facing potential legal action, many districts have switched to trustee elections in which only voters residing in a specific geographic area within that school district can cast votes for candidates who must also reside in that specific geographic area.

The San Marcos Unified School District is in the process of switching from at-large to sub-district or region elections in response to a lawsuit filed challenging its election

¹ <http://www.centerforpubliceducation.org/You-May-Also-Be-Interested-In-landing-page-level/Audience-The-Public-YMABI/The-Role-of-School-Boards> (accessed 1/10/17)

process. The lawsuit argued that the current election system was a disadvantage to Latino voters and candidates in violation of the California Voting Rights Act. Beginning in 2018, San Marcos will elect school board members only from within the specific area they represent. The Grand Jury urges the San Diego Unified School District to move accordingly, or citizens could initiate a lawsuit.

Currently, SDUSD is divided into five sub-districts with school board candidates running first in the sub-district where they reside. Regardless of whether a candidate gets more than 50 percent of the votes in the sub-district primary, the two top vote-getters must run again in the November citywide general election. Currently, citizens who cast their votes in the primary may see their vote superseded in the general election.

Election costs for a candidate can run anywhere from \$500² to more than \$350,000.³ Some candidates can be overwhelmed by the costs and energy required of two separate elections. Also, candidates must appeal to more than 300,000 registered voters in the second, citywide campaign, a far greater number than in their sub-district. Name recognition can add a tremendous advantage. For instance, a study has shown school board incumbents have an 80 percent edge for reelection.⁴

Furthermore, school board elections can be heavily influenced by unions and other special-interest groups. While this may be unavoidable, the Grand Jury believes that by instituting sub-district elections and term limits, a large part of the election process will be returned to the people. The Grand Jury also believes that school board members should be elected directly by their sub-district.

The Grand Jury believes that the change to a sub-district election could influence other changes. For example, the number and boundaries of sub-districts might need to be adjusted to ensure a fairer representation based on demographics of each district population. There also may be a need to increase the number of sub-districts to reflect higher student populations in some areas of the city.

San Diego voters previously elected City Councilmembers in the same way that SDUSD currently does; councilmembers were elected citywide. In 1988, voters approved amending the City Charter so that only people who live in a particular district elect a council member to represent that district. The SDUSD election change would mirror the City Council election process. Changes to the SDUSD election process require a change to the City Charter. A Charter Review Commission proposes a revision to the charter, and the governing body must then vote to place such a measure on the ballot. Any change then goes before the voters.

² [https://ballotpedia.org/San_Diego_Unified_School_District_elections_\(2016\)](https://ballotpedia.org/San_Diego_Unified_School_District_elections_(2016)) (accessed 11/21/16)

³ <http://www.voiceofsandiego.org/topics/education/teachers-unions-maintain-grip-on-county> (accessed 11/9/16)

⁴ https://ballotpedia.org/Analysis_of_incumbency_advantage_in_the_2014_school_board_elections (accessed 10/27/16)

As a comparison, the Grand Jury examined the method of election of the four largest unified school districts in the State of California. The districts listed in order of size are as follows: Los Angeles Unified, San Diego Unified, Long Beach Unified, and Fresno Unified. Three of these districts, Los Angeles, Long Beach, and Fresno, all elect school board members only by regions or sub-districts.

Term limits

Term limits are far from a new idea, having roots in ancient Greece and Rome. Members of the first United States Congress, under the Articles of Confederation, were subject to term limits. In general, surveys show 67 percent or more of voters approve of term limits nationwide.^{5 6 7 8} Term limits have been approved almost everywhere they have been on the ballot. Concerned citizens see term limits as a positive structural reform.

The Grand Jury believes that term limits lead to healthier school boards because they provide periodic injections of new energy, ideas, and leadership. Voters in the Sweetwater Union High School District, the largest secondary school district in California, passed a ballot Measure CC for term limits for school board trustees in the 2016 November election. The measure passed with 84.98 percent approval.⁹

In 1992, the City of San Diego voters approved term limits for City Councilmembers and the Mayor. In 2010, county voters approved term limits for members of the San Diego County Board of Supervisors. The Grand Jury found that one benefit of term limits is greater participation or involvement of the community. The importance of term limits for school board members cannot be stressed enough; it keeps the most current interests of students in mind, allows parents and educators innovative input, and makes the system open to more people from a variety of professions and backgrounds.

The Grand Jury believes that limiting one person's service will create positive change, guarantee new voices, and allow new perspectives to be considered by the board. There is a perception among some that being in office for decades allow some board members to grow complacent and out of touch. Being a school board member is powerful. Even a little power can lead to abuse or simply give the perception of abuse. Either is dangerous.

Also, the Grand Jury believes that the position of a school board trustee is not intended to be a career. It is a service, an opportunity to participate in our public school system and to

⁵ Amanda Manton, "Term Limits in the United States," *ESSAI*: Vol. 12, Article 25, 2014.

⁶ <http://lasvegassun.com/news/2008/jul/29/school-board-feel-effects-double-dose-term-limits/> (accessed 11-1-16).

⁷ <http://www.smartvoter.org/2007/03/06/ca/la/meas/LAUSD-L/> (accessed 11-1-16).

⁸ http://www.theadvocate.com/baton_rouge/news/education/article_b0b4962d-6e2e-5ad0-8a2b-2548cbe354d3.html (accessed 11-1-16).

⁹ Election results from San Diego County Elections Office, http://www.sdvote.com/content/rov/electioninfo/transform.htm?paramVol1=local_meas_3.xml (accessed 3-7-16).

contribute to the democratic processes of our public schools. It is a guardianship monitoring our resources in the best possible way, to educate young people and make sure that every student has the opportunity for a good future.

On March 3, 2017, four members of the San Diego City Council announced plans for reforms to the SDUSD trustees' election process. The four members proposed a ballot measure to amend the City Charter to bring uniformity to the SDUSD trustee and City Council election process and to impose term limits. Unfortunately, the plan was defeated. The Grand Jury encourages the San Diego City Council to reconsider an amendment to the City Charter for the benefit of San Diego's students.

FACTS AND FINDINGS

- Fact:*** The San Diego Unified School District election process is regulated by the 1939 San Diego City Charter.
- Fact:*** The San Diego Unified School District is divided into five sub-districts.
- Fact:*** The top two candidates who win a local sub-district school board primary election must then also compete in a citywide general election, even if one of them receives more than 50 percent of the sub-district votes.
- Fact:*** Some school districts have been forced to amend their election process by lawsuits claiming unfair representation according to the demographics candidates represent.
- Finding 01:*** The San Diego Unified School District election process does not always result in board members who reflect the diversity of the district's population.
- Fact:*** The cost to run two campaigns, one in the sub-district primary election and one in the citywide general election, can be prohibitive for candidates.
- Finding 02:*** Because of the high cost of competing in two election campaigns, support and financial backing is often required from special-interest groups.
- Fact:*** Incumbents enjoy an 80 percent chance of reelection by name recognition alone.
- Fact:*** There are no term limits for San Diego Unified School District board trustees.
- Fact:*** The San Diego City Councilmembers, Mayor, and County Board of Supervisors have term limits.

- Fact:** In general, surveys show term limits are favored by 67 percent of voters nationwide.
- Fact:** The Sweetwater Union School District voted in the November 2016 election to have term limits for its school board members.
- Fact:** Limiting the terms that one member can serve on the board invites new community members and new ideas.
- Finding 03:** Term limits enable more citizens to take part in school governance.
- Finding 04:** By instituting sub-district elections and term limits, a large part of the elections process will be returned to the people.
- Finding 05:** Term limits broaden the pool of people involved in the schools boards.
- Finding 06:** School board positions were not intended to be a long-term career position.

The 2016/2017 San Diego County Grand Jury recommends that the San Diego City Council:

- 17-28:** Consider placing a measure on a future ballot to allow the voters to decide whether to amend the San Diego City Charter to change the election process for the San Diego Unified School District School Board Elections, allowing only citizens in their sub-districts to elect representation directly from their sub-district.
- 17-29:** Consider placing a measure on a future ballot to allow the voters to decide whether to amend the San Diego City Charter to allow a San Diego Unified School District board candidate who receives a majority of the votes in their sub-district during the primary election be considered elected.
- 17-30:** Consider placing a measure on a future ballot to allow the voters to decide whether to amend the San Diego City Charter to limit the number of terms San Diego Unified School District School Board Trustees can serve.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the

Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
San Diego City Council	17-28 through 17-30	8/7/17