



**Peralta Community
College District**

OFFICE OF THE CHANCELLOR

September 21, 2021

Honorable Tara Desautels
Presiding Judge, Alameda County Superior Court
Rene C. Davidson Courthouse, Dept. 1
1225 Fallon Street, 2nd Floor
Oakland, CA 94612

Re: Response to 2020-21 Civil Grand Jury Report

Dear Presiding Judge Desautels:

We are in receipt of the Alameda County Civil Grand Jury's Report for 2020-21, as it relates to the Peralta Community College District (the "District"). The Report makes nine findings and nine recommendations. Please find enclosed our response to those findings and recommendations.

We would like to thank the Civil Grand Jury for its effort and constructive criticism of, and recommendations for, the District. We recognize that conducting a balanced investigation is a difficult task, especially without formal input from Peralta prior to the publishing of its report, and interviewing only a select number of witnesses. However, even with those challenges, the Civil Grand Jury outlines areas of improvement for the District to address.

The Civil Grand Jury's report focused on three items: Peralta's Board of Trustees' interference with the Chancellor's hiring authority; a lack of civility amongst Trustees; and alleged Brown Act violations. Fortunately, the Board and District have already begun working on these issues. The Board expressed an interest in revising the District's policies on hiring and these policy changes are currently under review and will move through the District's consultative process with stakeholders.

The Board has also been working diligently on issues of interpersonal relationships and civility. The Board is working with Chancellor Emeritus Dr. Helen Benjamin in a series of workshops that have resulted in a new policy commitment to civility and leadership. The Board's work with Dr. Benjamin will continue throughout the next academic year. In my few months serving as Chancellor, I have already viewed a great improvement in this area and an earnest effort by the Board to improve and to set an example of exemplary leadership.

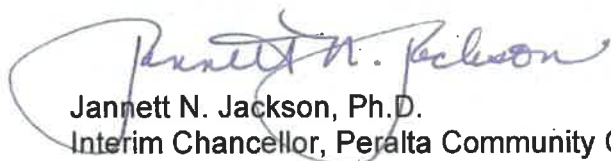
Lastly, the Civil Grand Jury's comments regarding potential Brown Act violations serve as a reminder that the Board must ensure that the District governs with integrity and operates in a transparent manner.

In short, this report from the Civil Grand Jury will help guide the District's direction for improvement and reaffirm the steps we have already taken as part of our own assessment. We remain focused on addressing challenges and shortcomings as we continue on a path for the betterment of the District and the education of our students.

While I have only served as Interim Chancellor for a short period of time, Peralta is a school district I have known and worked in for almost 10 years as a Vice President and President. I am encouraged by the sincere and dedicated effort I see in the Board and the District as a whole, to improve and provide the best to our students and community.

I am confident that we will continue to improve our District moving forward through the Grand Jury's recommendations and other means. Please do not hesitate to contact me if you have any questions or concerns. I look forward with sitting down with the Civil Grand Jury's Education Committee in the coming months to share with them all of the District's sincere and dedicated efforts towards improving and providing the best educational experience to our students and community.

Sincerely,

A handwritten signature in blue ink that reads "Jannett N. Jackson". The signature is written in a cursive style with a large initial "J".

Jannett N. Jackson, Ph.D.

Interim Chancellor, Peralta Community College District

Peralta Community College District's Response to 2020-21 Civil Grand Jury Report

The Alameda County Civil Grand Jury listed nine findings and nine recommendations in its 2020-21 Report (the "Report"). This document represents Peralta Community College District's (the "District") response to the Report, pursuant to California Penal Code Section 933.05.

The District appreciates the Civil Grand Jury's Report and the fact that the Grand Jury found no complaint with the District's achievements on its core mission of providing education and job training and the District's meeting of goals from the California Community Colleges (CCC) Chancellor's Office. The District is dedicated to improving every aspect of its core mission including the manner in which the Board of Trustees provides supervision and oversight and thus welcomes the Grand Jury's examination, Report, and constructive criticism.

The District has never been more student-focused than at the present time. While the District has had certain financial and governance issues over the years, the focus on our students has always remained. The Board of Trustees may be criticized for its conduct and actions, but our students may not be similarly assaulted. The Report made unsubstantiated and unsupported comments regarding our student population. Our students do not "lose out" and the District continues to provide a first-rate education as noted in our Accrediting Commission for Community and Junior College (ACCJC) reports that focus on our students and colleges.

The Report adopted a narrative advanced by one or more recent chancellors who left the District and its students. In that vein, the Report focused on three areas related to the District: the District's Board of Trustees' interference with chancellors' hiring authority; a lack of civility amongst Trustees; and alleged Brown Act violations. The District views the Report as a positive tool for continued improvement. The District will continue to make numerous policy and administrative decisions to improve transparency, accountability, and effective leadership at the governance and administrative level. The District and specifically, the Board of Trustees, remain steadfast in their commitment to the District's student body and will continue to diligently pursue what is in the best interests of our students, employees, and the community the District serves.

Finding 21-1:

Interference in the chancellor's recommended appointments of management employees by Peralta trustees between 2018 and 2020 irreparably damaged the chancellor/board governance relationship.

The District's Response:

Disagree Partially. Between 2018 and 2020, individual trustees did not interfere with chancellors' recommendation of candidates for hire in management positions within the District. Contrary to Finding 21-1, from 2018 to 2020, chancellors were able to, and did, recommend candidates for hire by the District. Some of those candidates were not hired after discussion by the Board of Trustees. Some individual trustees view their role as to approve any potential employee for hire presented by a chancellor, while other individual trustees believe that they have the duty and obligation to consider all available information and vote according to their beliefs. In an external June 2019 financial assessment report, it was noted that individual trustees' actions in questioning a chancellor's recommended candidates or potential hires likely created some strain in the relationship between those individual trustees and the chancellor. The District acknowledges that the issue of process and power around hiring did create tension with a prior chancellor and some senior executives. However, the District is not in agreement with the characterization that said actions "irreparably damaged the chancellor/board governance relationship".

Finding 21-2:

Individual board member interference in the formal hiring process of management employees between 2018 and 2020 by performing informal vetting and challenging the formal recruitment/vetting process and chancellor recommendations, irreparably harmed the chancellor/board governance relationship.

The District's Response:

Disagree Wholly. Refusing to "rubber stamp" a chancellor's recommended candidates or potential hires likely created some strain in the relationship between those individual trustees and chancellors. The District is not in agreement with the characterization that said actions "irreparably damaged the chancellor/board governance relationship".

Finding 21-3:

Holding closed session discussions to reevaluate the formal recruitment/vetting process and chancellor recommendations of management employees between 2018 and 2020 compromised the fair and independent hiring process.

The District's Response:

Disagree Wholly. The Board of Trustees do not bring recommendations on personnel matters to meetings held in closed session; that is the purview of the chancellor. However, it is widely-held that decisions regarding personnel should be held in closed session so as to protect the employment candidate. Any discussions held in closed session from 2018 to 2020 involving personnel matters served to protect the candidates being considered for employment. The Brown Act specifically

authorizes closed session proceedings “to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee.” The purpose of this exception, commonly referred to as the “personnel exception”, is to avoid undue publicity or embarrassment for an employee or applicant for employment and to allow full and candid discussion by a legislative body. In the District’s case, holding closed session discussions regarding employment candidates protected fair and independent hiring.

Finding 21-4:

Peralta Board Policy 7110 which gives the Peralta Board of Trustees the power to approve the management employees was interpreted by the board between 2018 and 2020 in a manner that conflicts with Board Policy 2430 Delegation of Authority to the Chancellor and the portion of Board Policy 7110 that delegates the authority for human resources to the chancellor.

The District’s Response:

Disagree Partially. The District recognizes the intent and spirit behind Finding 21-4, but disagrees partially. The District’s Board Policy 7110 (Delegation of Authority for Human Resources) provides in pertinent part that the Board “delegates authority to the Chancellor to authorize employment, fix job responsibilities, oversee collective bargaining, and approve personnel actions except ... [t]he Board of Trustees will approve the appointment of management employees.” Because Board Policy 7110 specifically states that the Board of Trustees will approve the appointment of management employees, Board Policy 7110 does not directly conflict with Board Policy 2430 (Delegation of Authority to the Chancellor). However, what is unclear is the manner in which Trustees may “approve the appointment of management employees”. The issue with these Board Policies is not that they are in conflict, but rather that Board Policy 7110 should provide more clarity into the management employee hiring process. It must be made clear that a chancellor, derives authority from the Board of Trustees, and authorizes employment, fixes job responsibilities, and performs other personnel actions, subject to confirmation by the Board. It should also be noted that this policy was revised in October 2012, and is not a recent action by the current Board of Trustees.

Finding 21-5:

Individual board members’ incivility and harsh treatment of other trustees and administrators between 2018 and 2020 damaged staff morale and compromised the authority of the chancellor and other administrators.

The District's Response:

Disagree Partially. Individual board members' incivility and treatment of other trustees and administrators between 2018 and 2020 certainly did not enhance staff morale. Many factors, including the incivility experienced by individual trustees, chancellors, and staff, and the lack of a positive relationship between chancellors and the Board of Trustees, hindered the ability of chancellors and of other administrators to work effectively.

Finding 21-6:

The 2018-2020 Peralta Board of Trustees failed to recognize that disrespectful and demeaning comments directed at staff were interpreted as racially insensitive which consequently damaged district morale and board/administrator relationships.

The District's Response:

Agree. Many, if not all, individual trustees serving during the 2018 through 2020 time period failed to recognize that comments from one or more trustees directed at staff members were interpreted by staff members as racially insensitive, assuming, *arguendo*, that staff members did in fact interpret board comments as racially insensitive. If a staff member interpreted board comments as racially insensitive, the District agrees that such an interpretation could be damaging to morale and board/administrator relationships. The Board of Trustees believes that it should be more aware of the effect of its statements and the way those statements are conveyed. The Community College League of California will provide additional CEO/Board training and a climate survey will also be conducted during the Fall 2021 semester to further educate and improve the Board of Trustees in these areas.

Finding 21-7:

Board leadership between 2018-2020 consistently failed to intervene consistent with board policies in situations where board members and staff were treated in an uncivil and harsh manner by other board members and the public.

The District's Response:

Disagree Partially. The spirit of Finding 21-7 is well taken and the Board of Trustees must work to ensure that public meetings are a safe space where board members, staff, and the public feel comfortable to make statements without fear of retribution. Uncivil and harsh treatment should be interrupted and stopped. The District's Board Policy 2350 states in pertinent part that speakers at board meetings (which would include board members, staff members, and the general public) "may not use profanity, obscenity and other offensive language or threaten violence directed towards any person or property." While there may have been limited instances in which board members were uncivil with each other and staff member(s) was/were reprimanded during a board meeting, board leadership determined that this conduct

did not violate Board Policy 2350 in that the actions did not rise to the level of language including profanity, obscenity and other offensive language or threatening violence directed towards any person or property. The Board must reaffirm its commitment to eliminating inappropriate conduct and believes that by reading the Board's Statement of Cooperation at each Board meeting in 2021, this type of behavior has not been displayed.

Finding 21-8:

During the late-night hours of July 18, 2020, a majority of the Peralta Board of Trustees secretly met with academic leaders to discuss district business, excluding the public and three trustees who would have disagreed with the purpose of the meeting. The gathering violated the sanctity of participatory governance in California as described in the Brown Act.

The District's Response:

Disagree Partially. On July 16, 2020, a former chancellor issued a public resignation letter. District leaders and stakeholders sprang into action to protect any damage that the resignation letter may have been intended to cause. Some district leaders were concerned that the letter was intended to influence the CCC Chancellor's Office to act. Meetings were scheduled to discuss content of the July 16, 2020 resignation letter, the impact of the letter, and to strategize next steps. The first of such meetings took place during the "late-night hours of July 18, 2020". At that time, District stakeholders met and three individual trustees participated in the meeting. Zoom records confirm that only three trustees participated. Three trustees do not equate to a majority of the Board of Trustees. The District disagrees with the characterization that it was a "secret" meeting. It was a meeting; the meeting did not violate the Brown Act, nor did the meeting violate "the sanctity of participatory governance in California as described in the Brown Act". However, the District understands the spirit of Finding 21-8 and must avoid situations where meetings may be viewed by others as in violation of the Brown Act in order to bolster public confidence.

Finding 21-9:

On the morning of July 19, 2020, a majority of the Peralta Academic Senate met secretly to discuss district business with other academic leaders and one Peralta trustee without proper notice and public access. The gathering violated the sanctity of participatory governance in California as described in the Brown Act.

The District's Response:

Disagree Partially. On July 16, 2020, a former chancellor issued a public resignation letter. District leaders and stakeholders sprang into action to protect any damage that the resignation letter may have been intended to cause. Some district leaders

were concerned that the letter was intended to influence the CCC Chancellor's Office to act against the District. Meetings were scheduled to discuss content of the July 16, 2020 public resignation letter, the impact of the letter, and to strategize next steps. On July 19, 2020, five members of the District's Academic Senate along with other non-senate faculty and students met to discuss these matters. Five Academic Senate members do not equate to a majority of the Academic Senate; for that to occur seven members would need to be present. The District disagrees with the characterization that it was a "secret" meeting. It was a meeting; the meeting did not violate the Brown Act, nor did the meeting violate "the sanctity of participatory governance in California as described in the Brown Act". However, the District understands the spirit of Finding 21-8 and must avoid situations where meetings may be viewed by others as in violation of the Brown Act in order to bolster public confidence.

Recommendation 21-1:

The Peralta Board of Trustees must participate in an annual training that examines the relationship between the board and chancellor and governance best practices.

The District's Response:

The recommendation has been implemented. The first of these sessions was held on July 20, 2021, and will become part of the ongoing goal setting and assessment of the chancellor.

Recommendation 21-2:

The Peralta Board of Trustees must amend the portion of Board Policy 7110, which gives the board of trustees the power to approve appointment of management employees to ensure it does not conflict with Board Policy 2430, Delegation of Authority of Chancellor, and the portion of Board Policy 7110 that delegates the authority for human resources to the chancellor.

The District's Response:

The recommendation has been implemented. A revised policy was developed and adopted at the September 14, 2021 meeting of the Board of Trustees.

Recommendation 21-3:

The Peralta Board of Trustees must adopt a staff and executive staff hiring policy consistent with ACCJC best practices and recommendations.

The District's Response:

The recommendation has not yet been implemented, but will be implemented in the future. The Board of Trustees plans on examining the hiring process of management

employees and intends on creating a new process with the input of the chancellor and other key stakeholders. The new process involves the creation of a revised administrative procedure consistent with ACCJC best practices and commendations. The Board of Trustees has started this process and hopes to complete its work by November 2021.

Recommendation 21-4:

Peralta board leadership must commit to intervene, consistent with board policy, in situations where trustees or public speakers are verbally attacking staff or other trustees.

The District's Response:

The recommendation has been implemented. The District's board leadership has committed to intervene in verbal attacks on staff, other trustees, or the public, consistent with Board Policy 2350. The Board of Trustees reaffirmed its commitment to eliminate inappropriate conduct and believes that by reading the Board's Statement of Cooperation at each Board meeting in 2021, this type of behavior has not been displayed.

Recommendation 21-5:

The Peralta Board of Trustees must participate in training combatting racial insensitivity and implicit bias (Diversity, Equity, Inclusion and Belonging/DEIB).

The District's Response:

The recommendation has been implemented. The Board of Trustees continues to advance diligently on issues of interpersonal relationships and civility. By working with Chancellor Emeritus Dr. Helen Benjamin in a series of workshops, the Board was able to develop and commit to a new policy dedicated to the improvement of civility and leadership. These workshops also include training on dealing with issues related to race. The Board commenced these workshops prior to the release of the Report and will continue working with Dr. Benjamin throughout the academic year. Additionally, the District is working to create a new position within the District to focus on issues and training specifically related to creating an ant-racist/equity driven culture. Also, the current chancellor and Board President participated in a statewide DEI training for CEOs and trustees on July 22, 2021. Individual trustees also participated in implicit bias training, on July 12, 2021, provided by the California Association of Black School Educators.

Recommendation 21-6:

The Peralta Board of Trustees and Peralta Academic Senate must participate in training regarding the Brown Act, illegal meetings, and closed session ethics.

The District's Response:

The recommendation has been implemented. On August 19, 2021, two trainings on the Brown Act were conducted and attended by leaders from the Academic Senate, the District's faculty, staff, and administrators. An additional training for the Board of Trustees is planned for October or November 2021.

Recommendation 21-7:

The Peralta Board of Trustees must post proof or acknowledgement of all completed board training on the board web page.

The District's Response:

The recommendation will be implemented. The Peralta website will reflect trainings completed by the Board of Trustees as completed.

Recommendation 21-8:

Individual members of the Peralta Board of Trustees must participate in an annual 360 evaluation, including a behavioral component. This evaluation must include staff input and the results must be discussed during a public meeting.

The District's Response:

The recommendation has been implemented. Pursuant to Peralta Board Policy 2745, the Board of Trustees engage in a self-evaluation process. Board Policy 2745, which meets the ACCJC standard, provides in pertinent part that the evaluation be used as the "foundation for a formal discussion during a workshop scheduled in conjunction with [a public board meeting]." The evaluation is meant to "share views, values, concerns, priorities, and recommendations among the trustees." The Board recently completed a self-evaluation for the last academic year in the summer of 2021 with the assistance of Dr. Benjamin. The Board's annual evaluation process will continue in order to provide trustees the opportunity to reflect on their actions and to provide an opportunity for improvement.

Also, it should be noted that the Board of Trustees are public servants elected by popular vote by the citizens of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont. Trustees are under constant public scrutiny as all board meetings are televised and recorded, and available to the public. At each board meeting, the public has the opportunity for public comment and may scrutinize the actions of individual trustees. As such, individual trustees are subject to daily evaluation and ultimately citizens decide through their votes whether individual trustees perform in a satisfactory manner.

Recommendation 21-9:

The Peralta Board of Trustees must discuss the findings and recommendations of this report during a public meeting.

The District's Response:

The recommendation will be implemented. The Board intends on discussing the findings and recommendations of the Report during an October or a November meeting of the Board of Trustees.

