



Cupertino Union School District

Superintendent
Board of Education

Stacy Yao
Ava Chiao
Sylvia Leong
Jerry Liu
Satheesh Madhathil
Phyllis Vogel

Office Address: 1309 S. Mary Avenue, Suite 150, Sunnyvale, CA 94087-3050
Mailing Address: 10301 Vista Drive, Cupertino, CA 95014-2040

Telephone: (408) 252-3000

December 16, 2022

(ENDORSED)
FILED
DEC 23 2022
Clerk of the Court
Superior Court of CA County of Santa Clara
by *[Signature]* DEPUTY

Honorable Beth McGowen, 2023 Presiding Judge
Superior Court of California, County of Santa Clara
191 North First Street
San José, CA 95113

Re: Grand Jury Report - *If You Only Read the Ballot, You're Being Duped*

Dear Presiding Judge McGowen,

Below is the response of the Cupertino Union School District's ("District") Board of Education ("Board") to the 2022 findings of the Santa Clara County Civil Grand Jury Final Report titled, *If You Only Read the Ballot, You're Being Duped* ("Report"). The Board of Education approved the following responses at its December 15, 2022 meeting.

Preliminarily, the District wants to make clear that it agrees with the Report's emphasis on the need for voters to fully review and understand all matters on the ballot before voting. The District and its Board have always strived to provide clear information to voters about measures placed on the ballot by the Board and will continue to do so. While the District may not intend to implement the Report's recommendations, it will continue its efforts to prepare ballot labels which are clear and comply with the law, while also providing voters with impartial information to give them the tools to make a fully informed decision when voting.

Report Finding 1:

The Civil Grand Jury finds that in the current environment, which is unregulated at the local level, it is easy for the author of a ballot measure question to write the question in a way that is confusing or misleading to voters.

Board Response to Finding 1:

The District disagrees with this finding to the extent that it finds that it is easy for the author of a ballot measure question to draft the question in a way that is confusing or misleading to voters.

Ballot measures are limited to 75-words. Within this limited word count, it is difficult to provide all of the context and detail that the Civil Grand Jury might find useful to voters. This is especially true for school district bond measures and parcel taxes which must include specific information, leaving little room for additional words. (Elec. Code, § 13319.) For that reason, election materials include not only an impartial analysis prepared by the County Counsel, but the measure's full text that provides additional details to better inform voters. Voters are encouraged to read the full text and not just the 75-word question, which is simply a summary, and are assumed to have done so by the courts.

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Report Recommendation 1b:

Governing entities within Santa Clara County should voluntarily submit their ballot questions to the County Counsel for review prior to submission to the Registrar of Voters, unless and until Recommendation 1d is implemented.

Board Response to Recommendation 1b:

Recommendation 1b will not be implemented because it is not warranted and is not reasonable.

The District will not be implementing Recommendation 1b because the law and voters have entrusted the creation of ballot questions to the elected Board of Education. Proposed ballot measures are already vetted by various parties who are knowledgeable about the District's needs and the various legal requirements specific to election and education law. Furthermore, this additional step may create timing challenges for the District, as ballot measures already must be submitted at least 88 and sometimes as many as 90 days prior to the date of the election. Factoring in the time required for an already busy County Counsel to approve the ballot measure may require the District to determine the language before all of the necessary data for drafting the measure is even available. Additionally, the law already provides interested parties with an opportunity to challenge ballot materials in court as a protection against false or misleading labels.

Report Recommendation 1c:

Governing entities within Santa Clara County should, by March 31, 2023, adopt their own resolution or ordinance to require submission of their ballot questions to the County Counsel for review prior to submission to the Registrar of Voters, unless and until Recommendations 1d and 1e are implemented.

Board Response to Recommendation 1c:

Recommendation 1c will not be implemented because it is not warranted and is not reasonable.

As discussed in our response to Recommendation 1b above, submitting ballot questions to County Counsel for review is not warranted and is not reasonable. Therefore, the District will not adopt a resolution to require submission to County Counsel prior to submission to the Registrar of Voters.

Report Recommendation 1e:

Governing entities within Santa Clara County should submit their ballot questions for review by the Good Governance in Ballots Commission pursuant to Recommendation 1d.

Board Response to Recommendation 1e:

Recommendation 1e will not be implemented because it is not warranted and is not reasonable.

Recommendation 1e is problematic because the "Good Governance in Ballots Commission" does not exist, and the Report does not give any indication that a proposed "Good

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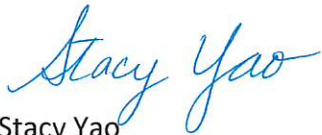
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Governance in Ballots Commission" would be comprised of individuals knowledgeable about education and election law. In addition, individuals lacking expertise in these matters could easily disagree on proposed ballot measure language, and a consensus could be difficult to reach. This would further impact the election timeline and impede the District's ability to place a measure on the ballot. As noted above, the law entrusts the elected Board of Education to prepare ballot labels which are not false or misleading and it intends to continue to do so.

Please feel free to contact me if you seek additional information or have any questions regarding this response.

Sincerely,



Stacy Yao

Superintendent

Cupertino Union School District