

SFUSD Implementation of Proposition 227

Report of the 1999-2000 San Francisco Civil Grand Jury

SUMMARY

On August 23, 1999, the Report of the 1998-1999 San Francisco Civil Grand Jury was released to the public. It was at this time that the present Civil Grand Jury also received copies of this Report. One section of the Report entitled, "SFUSD", detailed an investigation pertaining to the highly publicized statements made by former Superintendent of Schools Waldemar Rojas regarding the implementation of the recently enacted Proposition 227, a statewide limitation on bilingual education.

After reviewing the previous year's Civil Grand Jury Report as well as pertinent transcripts, this year's Civil Grand Jury began an investigation of its own regarding this issue. While there were several valid points made in the Report, it became clear to this Grand Jury early in our investigation that there had been a very serious degree of miscommunication between the SFUSD and the Grand Jury, which this Report attempts to clarify.

This year's Civil Grand Jury recommends continued good cooperation on the part of SFUSD administration with respect to investigations and greater emphasis on informing the public as to the Dual Language Education model and its waiver allowance.

BACKGROUND

The 1998-1999 Civil Grand Jury was concerned with the implementation by SFUSD of the voter-enacted Proposition 227. This concern arose due to statements attributed to former Superintendent Rojas by the press at the time. The Report included two main subsections ("Delay of and Interference with Grand Jury's Investigation" and "Manipulation of Reported Numbers") as well as a smaller miscellaneous subsection. The Report concluded by making several recommendations to the incoming Civil Grand Jury regarding continuation of this investigation. The Civil Grand Jury Report detailed obstruction by the administration regarding their investigation and made a number (11) of recommendations to the incoming Grand Jury as to continuation of the investigation.

METHODOLOGY

After thoroughly reviewing all documents regarding the 1998-1999 Grand Jury's investigation of SFUSD and Proposition 227, the Civil Grand Jury interviewed the administration overseeing the bilingual program as well as a representative of the Language Academy (a sub-division of the district which implements the bilingual education program for SFUSD) at the SFUSD administration building. In addition, the Civil Grand Jury met with various teachers and principals on site at their schools both for interviews as well as to review "on site" documents. Advance notice of two to three days was provided to the SFUSD in the case of all interviews conducted and all requests made by the Civil Grand Jury for access to personnel and schools were granted without restriction.

RESULTS OF INVESTIGATION

(This section follows the format and headings of the 1998-1999 Civil Grand Jury Report)

Aside from the perception of the lack of financial accountability suggested by the Report, the current Civil Grand Jury found most disturbing the various cited examples

which demonstrated the perceived lack of cooperation on the part of the SFUSD administration regarding this investigation. It should be noted that the administration referred to in the 1998-1999 Civil Grand Jury was no longer in place at the start of the current Grand Jury's term. It should further be noted that during our investigation, we were given full access to all schools and documents we requested within three days of contacting the current acting administration.

1. Delay of and Interference with Grand Jury's investigation

The 1998-1999 Civil Grand Jury detailed many examples illustrating what it perceived as the obstruction of its investigation. A strong case was made that, in its dealings with both the City Attorney's office as well as with the SFUSD administration at the time, it faced several unnecessary obstacles as well as several misleading statements. It was impossible for us to investigate further as there is now in place a completely different administration at SFUSD and as noted earlier, the current Civil Grand Jury received a commendable degree of cooperation from this current acting administration.

There does seem to be a grey area regarding the City Attorney's Office and their internal communication. Several meetings were held with a City Attorney and it is believed that at this time the City Attorney's Office is able to act as counsel for the Civil Grand Jury. It should be noted however that the Civil Grand Jury views this as an informal understanding between the City Attorney's Office and the current Civil Grand Jury. The situation regarding possible conflicts of interest should be monitored closely by subsequent Grand Juries.

2. Manipulation of reported numbers

The 1998-1999 Civil Grand Jury Report on SFUSD referred to a possible manipulation by SFUSD of the results of the California Test of Basic Skills ("CTBS," a state-wide student proficiency exam no longer in use) given by SFUSD. This was allegedly achieved by the exclusion of the lower scoring students from testing at the discretion of former Superintendent Rojas.

In our interviews with the current administration we were told that during the period that the CTBS test was administered by SFUSD there were several specific criteria which would exclude a student from testing. Under the currently used

federal proficiency test (the "STAR" test) only a written request for exclusion in the form of a parental letter excuses a student from the test. This change in exemption policy would no longer allow for the type of administrative manipulation of proficiency scores perceived by the previous Civil Grand Jury if such manipulation previously occurred.

3. Miscellaneous issues

The most striking aspect of the 1998-1999 Civil Grand Jury Report on the SFUSD was the antagonistic reaction by former Superintendent Rojas to that Jury's investigation of the Proposition 227 issue. It is the opinion of the current Civil Grand Jury that this obstructive attitude highly exacerbated the levels of miscommunication and misinformation surrounding this issue.

One example of such a miscommunication involved the amount of funding received by SFUSD for the bilingual education program as well as the discretion the district has in allocating those funds to various programs unrelated to bilingual education. A quote attributed to former Associate Superintendent Dr. Rosita Apodaca stated that the district received approximately \$30 million per year for students in bilingual education and that the SFUSD was under no obligation to spend those funds on bilingual programs.

In our interview with a representative of the Learning Academy we were given a much smaller amount as to the funding received for bilingual education (between \$8-\$9 million). The representative interviewed was at a loss to explain the quote attributed in the 1998-1999 Grand Jury Report to former Associate Superintendent Apodaca regarding the disbursement of said funds, that the district "...is not obligated to spend all monies received from the state and federal governments on bilingual education; nor does it." Other than a ruling several years ago which allows that bilingual funds to be used for common equipment (e.g., an overhead transparency projector which is dedicated to the bilingual program yet is available to the rest of the school when it is not being used by the bilingual students), we were told most emphatically that all funds received for bilingual students are currently spent on bilingual programs.

The Language and Literacy Assessment Rubric (LALAR) and the Language Proficiency Academic Achievement Committee (LPAAAC) are written assessment/parental consent procedures for bilingual education. During our visits to various schools, members of the Civil Grand Jury were allowed unfettered access to the files and found that all required consent forms were completed and onsite as required by law (see Appendix A for examples of forms). It should be noted that a great deal was made of the district using waivers from parents to maintain high bilingual enrollment and that this in some way subverted Proposition 227. In fact, Proposition 227 has in place a provision allowing parents to enroll their children in a bilingual program each year should they so choose.

After speaking with several teachers and administrators, the Civil Grand Jury clarified the stated discrepancy between the estimates of educators as to the length of time required for a student to become sufficiently proficient in English in order to be taught exclusively in English. There was agreement by all those interviewed that basic language proficiency can be obtained within two to three years of bilingual study

allowing most of the student's instruction to be conducted in English. However, there was also widespread agreement that in many cases, children benefit from supplemental instruction in their native language, particularly in the development of specialized vocabulary and in the explanation of previously unknown theoretical concepts. The Grand Jury was apprised that it is this, the "Dual Language Enrichment" model, which is generally accepted as the most educationally sound model and the one that SFUSD and the Language Academy both advocate. It is not, however, within the scope of the Civil Grand Jury to evaluate the pedagogical aspects of the SFUSD as to their effectiveness and so this area was not examined further.

4. [1998-1999 Civil Grand Jury] Recommendations

In concluding its Report on SFUSD the 1998-1999 Civil Grand Jury included a series of recommendations regarding the continuation of their investigation. It should be stated that while many of the conclusions reached by the previous Civil Grand Jury were unfairly influenced by the lack of information they received, their recommendations were extremely valuable to the current Civil Grand Jury as a sort of "primer" to the investigation. The members of the previous Civil Grand Jury should be commended for their foresight in including such recommendations.

Although the previous Grand Jury's recommendations have already been covered by the body of this Report, there are two particularly strong suggestions which were not addressed.

The first is regarding the allegations of discrimination against Asian American students by SFUSD. While several inquiries were made, no examples were found. This was not an area the current Civil Grand Jury investigated thoroughly; and while there may be no substance to the charges, future Grand Juries should remain mindful of the previous allegations should others come to light.

The second is the use of independent counsel by the Civil Grand Jury, which should be further explored by the Court. Despite several conversations between the City Attorney's Office and this year's Civil Grand Jury attempting to clarify whether conflicts of interest could arise, there remains an uneasy ambiguity regarding the appropriateness of the Office of the City Attorney to act as counsel to both the Grand Jury as well as the various city departments under investigation.

CONCLUSIONS AND RECOMMENDATIONS

(Of the 1999-2000 Civil Grand Jury)

Conclusion (1)

There was a large degree of animosity among the members of the 1998-1999 Civil Grand Jury who perceived that their investigation was being obstructed by former Superintendent Rojas. For unknown reasons, the former Superintendent did nothing to assuage the Grand Jury's concerns regarding this perception and to some degree prevented an early resolution to this investigation through various delays regarding the taking of testimony as well the production of pertinent documents.

Recommendation (1)

Future administrations of SFUSD would do well to follow the example of the current acting SFUSD administration in cooperating fully with any investigations conducted by the San Francisco Civil Grand Jury pertaining to SFUSD.

Required Response

Board of Education
Superintendent of Schools

Conclusion (2)

The SFUSD is well within its rights to grant waivers for the English Immersion educational model as permitted by Proposition 227, providing these documents are properly filled out and are on site as required by law.

Recommendation (2)

It would greatly improve the public's understanding of SFUSD and bilingual education in general if more was done in terms of informing the public as to the waiver allowance as well as the pedagogical value SFUSD perceives in the Dual Language Educational model. SFUSD should explore the various public relation avenues in this regard.

Required Response

Board of Education
Superintendent of Schools

Conclusion (3)

There is still some doubt in the mind of the Civil Grand Jury as to the ability of the City Attorney's Office to avoid conflicts of interest in its capacity as counsel for the San Francisco Civil Grand Jury, particularly in the area of counsel representing various city departments under investigation.

Recommendation (3)

The City Attorney should direct all attorneys employed by her office that there should be no communication between them and the counsel representing the Civil Grand Jury on any substantive matter including the time or date of any particular interview. Finally, the incoming Civil Grand Jury should be particularly vigilant in this area realizing that any indiscretions on the part of counsel are part of a continuing problem and not an isolated incident.

Required Response

City Attorney

APPENDIX A

Forms used by both educators and parents in connection with the LALAR/LPAAAC process