

This is the minority response received from Sierra Joint Community College District Board of Trustee member Sally Robison regarding Grand Jury Final Report 1 titled, "Sierra Joint Community College District Post Retirement Medical Fund."

April 5, 2001

To:
The Honorable James D. Garbolino
Presiding Judge, Superior Court
County of Placer
Historic Courthouse
1010 Maple Street
Auburn, CA 95603

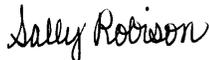
The Honorable John Cosgrove
Judge of the Superior Court & Advising Grand Jury Judge
Department 10
11546 B Avenue
Auburn, CA 95603

Reference: Transmittal of Minority Response to Grand Jury Final Report 1

Dear Judge Garbolino and Judge Cosgrove,

Sally Robison, Sierra Joint Community College District Trustee representing Trustee Area 4, hereby submits her minority response to the 2000-2001 Placer County Grand Jury Final Report 1.

Respectfully yours,



SALLY ROBISON
Trustee Area 4, Sierra Joint Community College District

MINORITY RESPONSE OF SALLY ROBISON, SIERRA COMMUNITY COLLEGE TRUSTEE, AREA 4 TO THE PLACER COUNTY GRAND JURY FINAL REPORT I, DATED FEBRUARY 2001.

I, Sally Robison, am a duly elected trustee of Sierra Joint Community College District, representing Area 4. On March 27, 2001, I voted "no" in order to show my opposition to the response of the Sierra College Board of Trustees to the Placer County Grand Jury Final Report dated February 2001.

I hereby submit to the Presiding Judge of the Placer County Superior Court and to the Grand Jury of Placer County the reasons for my disagreement with the position taken by the majority of the Board of Trustees.

THE ISSUES IN WHICH I DISAGREE WITH THE BOARD MAJORITY RESPONSE TO THE PLACER COUNTY GRAND JURY REPORT ARE AS FOLLOWS:

RESPONSE TO FINDING 3 OF THE BOARD OF TRUSTEES RESPONSE TO THE GRAND JURY REPORT

The majority of the Board of Trustees stated in their response to the Grand Jury Finding 3:

"However, the fund provisions are unclear as to whether funds may be removed under separate legal authority, such as that provided for expendable trust funds in the California Community Colleges Budget and Accounting Manual."

ARGUMENT IN OPPOSITION TO THE BOARD RESPONSE

The Board majority chose to ignore the plain language of the Collective Bargaining Agreements as set forth in full in the Final Report I of the Placer County Grand Jury identified as Exhibit 12 (pages 1 through 15) of that report.

That agreement is neither unclear, nor confusing. The majority of the Board, under the direction of legal counsel and the administration of the college, seeks to divert attention from the plain (and controlling) language of the Collective Bargaining Agreement by reference to provisions of the California Community Colleges Budget and Accounting Manual. That manual has absolutely no relevance to whether the collective bargaining agreement provisions do or do not permit the college administration to arbitrarily and unilaterally remove employee funds from the Post Retirement Medical Fund.

RESPONSE TO FINDING 4 OF THE BOARD OF TRUSTEES RESPONSE TO THE GRAND JURY REPORT

The majority of the Board of Trustees stated in their response to Grand Jury Finding 4 that:

This is the minority response received from Sierra Joint Community College District Board of Trustee member Sally Robison regarding Grand Jury Final Report 1 titled, "Sierra Joint Community College District Post Retirement Medical Fund."

"The majority of the Board of Trustees lacks the evidence to agree that removal of \$165,000 from the Fund by College administrators was either a breach of the terms and conditions of the collective bargaining agreements between the College and its employees or a violation of The State Employer-Employee Relations Act, Government Code §§3540 et seq. (the "EERA"). The language used in the Fund provisions is vague and ambiguous. We are concerned that the fund provisions are likely to remain open to conflicting interpretations unless they are written to clarify the intent of the parties."

ARGUMENT IN OPPOSITION TO THE BOARD RESPONSE

The Board majority again chose to ignore the plain terms and conditions of the Collective Bargaining Agreement as set forth in Exhibit 12 (pages 1 through 15) of the Grand Jury Report.

They also chose to ignore the remarks of the former Vice President of Finance and Administration John DeLury as stated on Tuesday, March 14, 2000, before the Board of Trustees in an open public meeting. Those remarks are reported in Exhibit 13 of the Grand Jury Report, page 11, lines 1 and 2:

"If employees are to contribute to the Fund, then it becomes negotiable."

Who better than John DeLury, former Chief Negotiator for the College, knew the true contents of the collective Bargaining Agreements between the College and its employees. Mr. DeLury knew and stated that when employees contribute to a fund, any fund, it is a matter to be negotiated between the College and its employees.

Any changes, by the administration or the employees to the Post Retirement Medical Fund had to be negotiated pursuant to "The State Employer-Employee Relations Act, Government Code §§ 3540 et seq.

Certainly the unilateral removal of funds from the Post Retirement Medical Fund by the administration was a change in the bargaining agreement provisions. It is obvious that no negotiations ever took place. In fact, there is evidence in Exhibit 4 of the Grand Jury report, the newsletter of the Sierra College Faculty Association, "Letters to the Editor," that employee representatives attempted to meet with the administration regarding the Post Retirement Medical Fund in December 1999, but were rebuffed by Mr. DeLury.

The College, under law, had an obligation to negotiate changes to the Collective Bargaining Agreements with its employees and apparently refused and failed to do so.

The defensive statements by the majority of the Board that the removal of funds from the Post Retirement Medical Fund was not "covert" is without foundation.

This is the minority response received from Sierra Joint Community College District Board of Trustee member Sally Robison regarding Grand Jury Final Report 1 titled, "Sierra Joint Community College District Post Retirement Medical Fund."

The Board's responsive Exhibit 2, the minutes of the Board meeting of January 14, 1997, presented in support of their position that the fund removal was not "covert" merely reinforces the point made by the Grand Jury that removal of money from the Fund was in fact done covertly. How could anyone know from the minutes of January 14, 1997(as presented as evidence of notice), that the administration had or was removing money from the Post Retirement Medical Fund?

The Board's responsive Exhibit 3, minutes of the Board meeting of January 12, 1999, Item 10598, is presented in support of the position that the administration duly noticed removal of funds from the Post Retirement Medical Fund. That document instead supports the Grand Jury position. How could anyone reading that exhibit know that funds were to be or had been removed from the Post Retirement Medical Fund? The answer is that no one other than the administration could have known. I was on the Board of Trustees at the time and present at that meeting and I didn't know! How are the employee groups, the retirees and the public supposed to know what was or had occurred when the minutes of the Board meetings bear no resemblance to the actions taken by the administration and voted on by the Board?

RESPONSE TO FINDINGS 6 & 8 OF THE BOARD OF TRUSTEES RESPONSE TO THE GRAND JURY REPORT

The college denies that the Post Retirement Medical Fund was an "agency fund", Fund 84. According to the College, its legal counsel, and auditor Perry Smith, no such fund ever existed.

ARGUMENT IN OPPOSITION TO THE BOARD RESPONSE

Please refer to Exhibits 1 & 6 of the Board's response in support of their position.

Having done that, now refer to Exhibit 1 and 2 of this minority response attached hereto and incorporated by reference.

Exhibit 1 is a document provided by the College administration a few days after the memorandum of College President Kevin Ramirez dated September 28, 2000. Exhibit 1 was presented by the administration as proof that the removal of funds from the Post Retirement Medical Fund was duly and appropriately noticed to the Board of Trustees and the public. That document purportedly authored by Mr. DeLury identifies the Post Retirement Medical Fund as FUND 84.

Exhibit 2 is a document entitled "Post Medical Retirement" prepared by Sierra College employee Kim Trimble from the College Business Office on September 26, 2000, for presentation to a retirees' group who had demanded an accounting of the Post Retirement Medical Fund. That document designates the Post Retirement Medical Fund as FUND 84 FINANCIAL ACTIVITY ACCRUAL BASIS.

This is the minority response received from Sierra Joint Community College District Board of Trustee member Sally Robison regarding Grand Jury Final Report 1 titled, "Sierra Joint Community College District Post Retirement Medical Fund."

Clearly, someone is not being truthful. The Post Retirement Medical Fund, according to the Grand Jury report, is designated on the records of the Placer County Office of Education as FUND 84, an AGENCY ACCOUNT and on the accounts of the Placer County Treasurer as a FUND 84, an AGENCY ACCOUNT and now from the College's own financial report prepared by a college employee as a FUND 84, an AGENCY ACCOUNT.

The majority of the Board and its auditor deny the existence of FUND 84, when it is absolutely clear that the Post Retirement Medical Fund account carried that designation for years.

If that designation was in error, as alleged by the Board majority in its response to the Grand Jury report, why did not College officials charged with financial oversight detect the error over the years? Why did the College auditor, Perry Smith fail to take notice that the Post Retirement Medical Fund carried the account designation of FUND 84, an AGENCY ACCOUNT, year after year in its audits?

The Board's response fails to answer these questions.

RESPONSE AND ARGUMENT TO FINDING 13 OF THE BOARD OF TRUSTEES RESPONSE TO THE GRAND JURY REPORT

The majority of the Board again, rather than deal with facts, has chosen to ignore the transcript of the remarks of Robert Wickstrom, Director of Business Services, at the Tuesday, September 22, 1998 meeting of the Board of Trustees as shown in Exhibit 11 of the Grand Jury report.

Mr. Wickstrom's statements, taken from the transcript of the Board meeting of September 22, 1998 (Exhibit 11 of the Grand Jury Report) were clearly misleading to the Board. The Board voted on the budget based on the misleading statements made to them by Mr. Wickstrom.

RESPONSE TO FINDING 15 OF THE BOARD OF TRUSTEES RESPONSE TO THE GRAND JURY REPORT

The majority of the Board denies that interest lost on funds withdrawn from the Post Retirement Medical Fund in the amount of \$32,444.00 was paid from public funds.

The rationale of the Board majority and College administration is that monies taken from the Post Retirement Medical Fund were placed in the General Fund and therefore accrued interest as if never removed from the Post Retirement Medical Fund. Following that

This is the minority response received from Sierra Joint Community College District Board of Trustee member Sally Robison regarding Grand Jury Final Report 1 titled, "Sierra Joint Community College District Post Retirement Medical Fund."

rationale, the money transferred to the General Fund accrued interest for the College General Fund and not the Post Retirement Medical Fund, an account held in trust by the College.

The problem with that rationale is that the College administration themselves said that the funds were removed from the Post Retirement Medical Fund to "balance the budget." (Refer to Exhibit 1 of the Grand Jury report – memo dated September 28, 2000 by College President Ramirez). Then, in a memorandum dated April 16, 1997 by Robert Wickstrom, (Exhibit 6 of the Grand Jury report) he stated that "Retiree premiums of \$93,000.00 were paid out of the fund to cover health benefit costs for specific retirees..."

The question unanswered in the Board response to the Grand Jury report is – "How can interest accrue on Post Retirement Medical Fund money transferred to the General Fund if that money was used to "balance the budget" as stated by the College administration or paid out for retiree health benefits?"

If the money from the Post Retirement Medical Fund was not "paid out," then why was it removed from the Post Retirement Medical Fund at all? If it was spent, then it could not accrue interest. The interest reimbursed to the Fund in December 2000 in the amount of \$32,444.00 was paid with the taxpayers' money and is a direct, identifiable cost of the improper actions of College administrators. The Grand Jury report is correct in its conclusions!

Respectfully submitted,



SALLY ROBISON
SIERRA JOINT COMMUNITY COLLEGE TRUSTEE, AREA 4

Exhibit 1

SIERRA COLLEGE MEMORANDUM

TO: Members of the Board of Trustees

FROM: John DeLury
Vice President Finance & Administration

RE: 1998-99 District Budgets

Enclosed please find the 1998-99 District Budgets for all funds.

- FUND 01 - The General Fund of the District is balanced in the amount of \$50,264,174. This represents a 13.8% increase over last years adopted budget. This fund includes both restricted and unrestricted programs for the general operation of the District.
- FUND 05 - The Bookstore Fund as presented represents classified salaries for the month of July as a result of outsourcing the District Bookstore Operation to Barnes & Noble College Bookstores, Inc. The fund is balanced in the amount of \$30,239.
- FUND 20 - The Financial Aid Fund is balanced in the amount of \$2,441,072 and includes Federal and State categorical funds for loans and grants to students.
- FUND 51 - The Dormitory Revenue Fund is balanced in the amount of \$296,910. It is anticipated that there may be a requirement to augment this budget due to revenue reduction as a result of only one semester of operation. The staff will monitor this fund carefully throughout the year.
- FUND 53 - The Bond Interest and Redemption Fund is out of balance with the expenditures exceeding the revenues in the amount of \$55,800. The prior years fund balance will be used to balance the fund. This is occurring due to the remodel of the residence hall facility.
- FUND 78 - The Capital Projects Fund is balanced in the amount of \$5,535,508. This fund is used to process revenues and expenditures for major construction projects, scheduled maintenance and equipment.
- FUND 83 - The Foundation Fund is not balanced because the only activity is the revenue earned on funds held in the county treasury. The District acts as custodian for the Sierra College Foundation.
- FUND 84 - The Post Medical Retirement Fund is being presented with revenues exceeding expenditures by \$369,006. The expenditure for other payments is the estimated amount of funds to be transferred from this fund to General Fund to pay medical insurance premiums for retirees.

The Budgets will be reviewed and discussed by the Board Finance Committee at its meeting prior to the regular board meeting. They will be presented to the Board for adoption under agenda item #10502 Public Hearing - Final Budget. The staff will be available to answer questions presented by the Board.

EXHIBIT 10

This is the minority response received from Sierra Joint Community College District Board of Trustee member Sally Robison regarding Grand Jury Final Report 1 titled, "Sierra Joint Community College District Post Retirement Medical Fund."

Exhibit 2

	Fund 84 Financial Activity					Balance
	Employee Contributions	District Match	Refunds (1)	Transfers Out	Interest	
6/30/91	63,687	198,273	(1,280)	0	1,906	262,586
6/30/92	136,975	136,938	(1,822)	0	20,953	555,629
6/30/93	141,972	141,972	(3,762)	0	31,215	867,026
6/30/94	141,170	141,270	(2,376)	0	66,350	1,213,441
6/30/95	142,425	142,344	(10,041)	0	81,504	1,569,672
6/30/96	143,110	143,192	(21,129)	(93,000)	97,189	1,839,034
6/30/97	143,580	143,580	(19,763)	0	105,779	2,212,211
6/30/98	141,665	142,833	(6,733)	(72,000)	121,192	2,539,167
Subtotal	\$1,054,585	\$1,190,402	(\$66,907)	(\$165,000)	\$526,087	\$2,539,167

(1) Employees who terminated prior to vesting in Sierra Colleges retirement and were reimbursed