

TRANSPARENCY IN THE SAN JOSÉ UNIFIED SCHOOL DISTRICT: LESSONS TO BE LEARNED



2019-2020 Civil Grand Jury
of Santa Clara County

December 17, 2020

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GLOSSARY AND ABBREVIATIONS

Board	Board of Education for the San José Unified School District
CSBA	California School Boards Association is the nonprofit education association representing the elected officials who govern public school districts and county offices of education.
District	San José Unified School District
Entitlement Process	The process through which a real estate developer or landowner seeks the right to develop (or redevelop) property with government approvals for zoning, density, design, use, and occupancy permits. Upon securing all necessary entitlements from the applicable government(s), the real estate developer is thus entitled to build what was proposed and approved.
FPPC	California Fair Political Practices Commission

SUMMARY

San José Unified School District (District) is the largest school district in Santa Clara County (County), with 41 schools serving over 30,000 students. The District is governed by five elected trustees (Trustees) known as the Board of Education (Board) for the District. The Santa Clara County Civil Grand Jury (Grand Jury) commenced an inquiry after receiving multiple complaints about District efforts to build employee housing on District-owned property. A recurring issue raised in these complaints centered on the basic and essential information the District provided, or should have provided, to the Board and public concerning its housing consultancy contracts.

The Grand Jury found that despite the District's commitment to public transparency, there are troubling and confounding inconsistencies between the District's representations about the services of one consultant, and that consultant's actual lobbying activities in the City of San José (City). The District repeatedly denied in public meetings that the consultant was lobbying on its behalf despite clear documentation to the contrary. These actions adversely tainted the public contracting process by misleading the Board charged with approving the use of public funds for the consultant's hiring. Furthermore, public skepticism of the District's truthfulness threatens to undermine community support for building affordable housing needed in the District.

During the Grand Jury's investigation, the District pointed out a consultancy contract for lobbying California (State) legislative and administrative officials as proof of its transparency in hiring lobbyists. With this State lobbying contract, the Grand Jury found the opposite of transparency: the public was virtually left in the dark. By choosing to use the ratification approval process and vague terminology in the public description of the document, the District was opaque – not transparent – about its lobbying activities in Sacramento.

The Grand Jury recommends that the District adopt new policies to address the lack of transparency for lobbying services regardless of their connection to employee housing. Implementing these recommendations should result in complete, accurate, and transparent identification of lobbying contracts in written and verbal communications.

The Board has a duty to exercise oversight of all District activities, including those contracted out to consultants. While the amount of public funds spent on housing consultancy is an extremely small fraction of the District's budget, these funds are supporting a high-profile, multi-year development project that has received intense scrutiny from District residents.¹ This attention is

¹ See for example "Gilman: Time for transparency on San Jose Unified's employee housing initiative," September 20, 2019, accessed November 24, 2020, <https://sanjosespotlight.com/gilman-time-for-transparency-on-san-jose-unifieds-employee-housing-initiative/>.

due in part to the pivotal role lobbying has in moving forward with this project. Lobbying, which is commonly defined as seeking to influence a politician or public official on an issue, has a negative public connotation. Polling shows a majority of Americans view lobbyists as wielding too much power and link their outsized influence to rising distrust of government institutions.²

However, regardless of its reputation, lobbying is a legal and legitimate function of public education throughout the state; many districts retain lobbyists directly or collectively through organizations such as the California School Boards Association (CSBA). Yet, despite approving public funds for lobbyists, the Board has not formulated plans, goals, and objectives for the District's political and legislative advocacy efforts. Without such planning the public has little idea why the Board is approving lobbying contracts.

The vagueness, inaccuracies, and lack of transparency surrounding the consultant contracts cause the Grand Jury to further question whether the District was evaluating these contracts for compliance with government ethics laws. The Grand Jury is concerned about the District's lack of attention to this responsibility; the consultants' failure to disclose their financial interests; and the fact that the public is unaware that consultants may have disqualifying financial interests in the work they perform for the District.

METHODOLOGY

The Grand Jury reviewed voluminous supporting materials. The District website provided links to Board policies, procedures, and regulations; Board meeting agendas, minutes, packets, and audio recordings; and employee housing-related information.³ Interviews with key officials and employees led to additional documents, including contracts, invoices, proposals from bidders, and written staff communications. Mandated reporting for registered lobbyists in Sacramento and San José supplemented information available from the District.

BACKGROUND

District Profile

The District provides for the educational needs of almost 30,000 students and employs over 3,000 teachers and staff. By far the largest school district in the County, it has oversight of 41 schools

² Lydia Saad, "Americans Decry Power of Lobbyists, Corporations, Banks, Feds," April 1, 2011, accessed November 24, 2020, <https://news.gallup.com/poll/147026/americans-decry-power-lobbyists-corporations-banks-feds.aspx>; and Lee Rainee, Scott Keeter, and Andrew Perrin, "Trust and Distrust in America," July 22, 2019, accessed November 24, 2020, <https://www.pewresearch.org/politics/2019/07/22/trust-and-distrust-in-america/>.

³ <https://www.sjUSD.org>

(26 elementary schools, one K-8 school, six middle schools, six high schools, and two alternative education programs) with locations from Downtown San José in the north to the Almaden Valley in the south. Its properties span 3.3 million square feet of facilities and grounds. District operations are financed principally by an annual general fund allocation, which was \$366 million for fiscal year 2019-2020.

Workforce Housing Scope and Timeline

The District has already spent several years considering whether and how to move forward with teacher housing. This timeline is well-documented on the District website under the optimistic heading “Looking Toward the Future: San José Unified’s Employee Housing Initiative.”⁴ The Teacher Housing Act of 2016 encourages school districts to use state and local funds to construct employee housing.⁵ Starting in August 2018, the District discussed a plan to select underutilized District-owned sites for potential conversion to housing. At the September 27, 2018, Board meeting, Trustees authorized staff to explore nine named properties for housing. A tenth site was later added. Further analysis reduced those ten to four for more extensive feasibility assessments. Those completed assessments were accepted by the Board at its June 25, 2020, meeting. In addition, the Board and staff discussed holding future meetings on a general obligation bond to finance housing-related construction and on a detailed review of the assessments with the public.

If and when the Board chooses to proceed to the next phase of housing development, the District would initiate an entitlement process (gaining approvals from government to develop land in a particular way) that is estimated to take 10-12 months. The subsequent construction phase is predicted to take 15 months, depending on the site or sites, so that occupancy would be at least three years out. Due to their unique sizes and characteristics, sites vary in the number of potential housing units (from 75 to 325) and the associated cost estimates (\$49 million to \$237 million).⁶

In 2019, District staff determined that the expertise of land use professionals was needed. Its recommendation, to hire The Schoennauer Company LLC (Schoennauer) as an entitlement expert, was approved by the Board on March 28, 2019, then subsequently extended twice. The contract sets compensation at \$2,500 per month. A second housing consultant, Snider Consulting (Snider), was hired in June 2019 as a project manager. The contract sets an hourly rate of \$150 with a

⁴ SJUSD, “Looking Toward the Future: San José Unified’s Employee Housing Initiative,” accessed December 10, 2020, <https://www.sjUSD.org/who-we-are/employee-housing>.

⁵ SB 1413, accessed December 12, 2020, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1413.

⁶ The full reports are available at <https://sjUSD.app.box.com/s/wykwrlpt6eu8nb4i9ew467zgq4la1a7>.

minimum of 10 hours per month. That contract was extended once. The terms for both consultants expire December 31, 2020.

DISCUSSION

Local Lobbying Contract: What Did the District Tell the Public?

In March 2019, when the proposed contract for the first housing consultant was presented for Board approval, its description of the services the consultant would perform read:

In coordination and as directed by District staff, provide consultation and management of the land use entitlement process for various District-wide projects, including all aspects of communication with the City of San Jose, the community interest groups, and the media.⁷

During public comment, three individuals questioned the rationale for spending public funds to hire this consultant, a professional registered City lobbyist, to lobby on behalf of the District. The discussion that ensued between the Board and District staff indicated that lobbying would not be part of the consulting services. First, staff clearly stated, “This is a service agreement for consulting. I mean... *he’s not lobbying on our behalf*” (emphasis added).⁸ Later, staff added, “*This contract is not for any lobbying services* with the City of San José. It’s for service agreement for the planning and expertise” (emphasis added).⁹

District staff, who had no expertise in this kind of residential housing development project but who did oversee the District’s State lobbying activities, may have believed that local lobbying was unnecessary to progress on employee housing. This belief was unsupported by the written material they had reviewed prior to awarding the contract. The selected consultant, one of six bidders who responded to a Request for Qualifications issued by the District, introduced itself as a local land use consulting and lobbying firm, and highlighted the deep ties of its principals to City government. It appears that the consultant’s own stated premise for being qualified to perform for the District relied at least in part on proficiency in lobbying.

⁷ “Service Agreement – The Schoennauer Company LLC,” Agenda Item N.2 of March 28, 2019 Board Meeting, accessed December 6, 2020, <https://agendaonline.net/public/Meeting.aspx?AgencyID=123&MeetingID=18218&AgencyTypeID=1&IsArchived=True>.

⁸ SJUSD Board Meeting, March 28, 2019, recording at 2:11:16, accessed December 6, 2020, <https://sjusd.app.box.com/v/boardmeetingaudio/file/440366242854>.

⁹ Ibid., at 2:13:14.

Prior to being hired by the District, the consultant regularly filed disclosure reports with the City as a representative for a long roster of clients. These disclosures, required by San José Municipal Code (SJMC), Title 12, Chapter 12.12, are intended “to allow the public to know and better understand the relationship between its elected officials, lobbyists, and lobbyist's clients [and to] enhance public confidence and trust with respect to lobbyist activities and city practices.”

"Lobbying activity" is defined by the City as “influencing or attempting to influence a city official or city official-elect with regard to a legislative or administrative action of the city or redevelopment agency.”¹⁰ While the City code provides for several exemptions, the consultant that the District hired does not qualify for exemption and is subject to regulation as a "contract lobbyist," which is defined as:

Any person, whether an entity or individual, that engages in lobbying activity on behalf of one or more clients (acting individually or through agents, associates, employees or contractors) and who has received or has entered into an agreement for compensation of one thousand dollars (\$1,000) or more for any services which include engaging in lobbying during any consecutive three-month period.¹¹

The City’s ordinance requires that lobbyists file a weekly report if they engage in lobbying activities.¹²

The consultant began work for the District in April 2019 and, despite staff assurances to the Board that the consultant’s scope of work would not include lobbying, began lobbying the City. In compliance with City requirements, the consultant reported lobbying activity on behalf of the District in a weekly filing with the City. This report indicates that on May 17, 2019, the consultant had a scheduled meeting with a city councilmember and a city policy aide. The report described the consultant’s lobbying activity for the District as “Future teacher/employee housing and school facility realignment and modernization.” Filings are available and searchable at the City’s online *Lobbyist Public Portal*.¹³

¹⁰ SJMC 12.12.170, accessed December 6, 2020, https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT12ETOPGOPR.

¹¹ SJMC 12.12.180.

¹² SJMC 12.12.430.

¹³ “City of San Jose – Lobbyist Reporting,” accessed December 9, 2020, https://csjtid.knack.com/lobbyists#reports/?view_204_filters=%5B%7B%22value%22%3A%22%22%2C%22operator%22%3A%22is%20during%20the%20current%22%2C%22field%22%3A%22field_28%22%2C%22type%22%3A%22month%22%2C%22field_name%22%3A%22Week%20Ending%22%7D%5D.

District staff knew or should have known that the consultant was engaging in lobbying activity because the consultant's work was supposed to be directed by district staff. The introductory phrase in the contract clearly establishes the close working relationship between staff and consultant: "*In coordination and as directed by District staff*" (emphasis added).¹⁴ Moreover, staff emphasized its management role at the March 2019 Board meeting in assuaging the Board's concerns about potential lobbying activity. At that meeting, District staff acknowledged to a Trustee who characterized the contract language as "really vague" and "not entirely accurate of what we are actually asking them to do" that "we wrote it really broadly" but maintained "we control the messaging and the meetings."¹⁵

Even if staff did not direct the consultant's lobbying work as required by the contract and promised to the Board, the consultant submitted invoices to staff that clearly showed lobbying was an integral and essential element of the consultancy services the District paid for. All fifteen invoices, from the initial one for April 2019 through the one for June 2020, describe the project as: "Land use and permitting consulting *and political lobbying services*... to assist the District with plans for employee housing and facility repositioning." [emphasis added]

In June 2019, staff recommended extending the consultant's term to December 31, 2019. The new contract's description of services remained exactly as stated in the original, despite staff having received two invoices. At the Board meeting to approve the extension, staff did not correct the earlier misrepresentations concerning lobbying activity that staff should have been aware had a material effect on the public discussion and the Board's deliberations to approve the initial contract. In fact, in response to public comment and a Trustee's request for an update on the consultant's work, staff provided detail at great length on the consultant's activities that sound like lobbying without actually using the word 'lobbying'. The description of that work from a June 27, 2019, Board meeting is transcribed from the recording here:

Trustee: For my own edification, [...] repeat again the work that [Schoennauer] is doing, because obviously there is talk out there about other work that he does. I think it was March when this was [inaudible]... If you could just remind us, what encompasses his work?

Staff: So, if you follow the public press, the construction of housing is incredibly complicated. So, people have ideas but getting that idea through all of the processes it requires to construct something is pretty complicated. You can't just have a parcel of land

¹⁴ "Service Agreement – The Schoennauer Company LLC."

¹⁵ SJUSD Board Meeting, March 28, 2019, recording at 2:09:20, accessed December 9, 2020, <https://sjusd.app.box.com/v/boardmeetingaudio/file/440366242854>.

and say [I'm going] to put a house on it. There are a lot of pieces to that. [Schoennauer] specializes in making sure that your property gets to the finish line for your determined use.

[Lengthy description of private school faculty housing project including the following: The City staff said [the site] is zoned light industrial, we won't let you build housing there. A lot of consultants had to work back-and-forth with the City staff to keep the project alive.]

[Tangential description of teacher hiring challenges.]

That conversation to take a light industrial zoning to move it to housing is what [Schoennauer] does. That is their specialty. How do you take a parcel and get its use to be something that was not originally considered? And in our case our parcels were originally considered as schools. How do you rethink them to go from schools to public school employee housing – that thought process is what [Schoennauer] specializes in.

Trustee: Can you say more about what that thought process entails?

Staff: It's zoning, it's the planning commission, it's the building department, it's all the pieces [Description of Google project.] [Schoennauer's] job is [that] if we identify the right parcel, we can turn it into workforce housing. It would be fruitless for us to say this building, this location, could be great for 500 units if it could never get through the [City's] approval process. [Schoennauer's] job is to make sure if we identify it, we can get it through.¹⁶

After the contract was extended with the same broad description of services as the original contract, City filings disclosed the following lobbying activity by the consultant on behalf of the District, as listed in Table 1.

¹⁶ SJUSD Board Meeting, June 27, 2019, recording at 3:46:30, accessed December 9, 2020, <https://sjusd.app.box.com/v/boardmeetingaudio/file/483166457852>.

Table 1. Schoennauer Local Lobbying Activity for District¹⁷

Date (2019)	Meeting Type/Participants	Meeting Subject
September 4	Unscheduled meeting with City planning director	General Plan policies to allow teacher housing on Public/Quasi-Public land.
October 4	Unscheduled phone call with City mayor; email or letter with City land use director and City chief operating officer	General Plan policies and entitlements to allow teacher housing on Public/Quasi-Public lands.
October 9	Email or letter with City land use director and City chief operating officer	General Plan policies and entitlements to allow teacher housing on Public/Quasi-Public lands.
October 15	Unscheduled phone call with City chief operating officer	General Plan policies and entitlements to allow teacher housing on Public/Quasi-Public and other District lands.
October 17	Email or letter with City land use director and City chief operating officer	General Plan policies and entitlements to allow teacher housing on Public/Quasi-Public and other District lands.
October 25	Scheduled meeting with City mayor and City director of land use	General Plan policies and entitlements to allow teacher housing on Public/Quasi-Public and other District lands.

A second extension to the consultant contract was approved by the Board at its November 21, 2019, meeting. Again, staff did not alter the contract to communicate that the consultant might continue lobbying and made no effort to verbally correct prior misrepresentations at Board meetings of the consultant’s past lobbying activity on behalf of the District. At present, the consultant will provide services for the District for a total of 21 months.

¹⁷ “City of San Jose – Lobbyist Reporting,” accessed December 9, 2020, https://csjtid.knack.com/lobbyists#reports/?view_204_filters=%7B%22match%22%3A%22and%22%2C%22rules%22%3A%5B%7B%22field%22%3A%22field_38%22%2C%22operator%22%3A%22is%20during%20the%20previous%22%2C%22range%22%3A%221%22%2C%22type%22%3A%22years%22%2C%22field_name%22%3A%22Date%20of%20Contact%22%7D%5D%7D&view_204_search=schoennauer&view_204_page=1.

State Lobbying Contract: What Did the Public Know?

In rebutting the complainants' assertion that the District did not provide accurate information about the housing consultant's lobbying activities, staff referred the Grand Jury to the District's contractual relationship with Ball/Frost Group, LLC (Ball/Frost), Sacramento-based registered lobbyists. According to District staff, hiring this firm is proof of the District's extraordinary transparency in its lobbying activities.

The District provided the Grand Jury with two State lobbying contracts for the 2019-2020 term. One is an unsigned June agreement riddled with drafting errors that was presented for Board approval at its June 27, 2019, meeting. It was grouped with service agreements for legal counsel from six law firms but was pulled from the agenda item prior to the Board's vote without explanation.

The other contract is signed and dated July 16, 2019. Board approval occurred 72 days later at its September 26, 2019, meeting through ratification, an authorized process that allows the District to enter into certain small-dollar contracts that must be ratified by the Board after the fact.¹⁸

Nothing is remotely transparent about the State lobbying contracts. The unsigned and withdrawn June agreement, which the public can link to from the Board's electronic minutes, contains a broad, one-sentence description of services (similar in its brevity and vagueness to the housing lobbyist's contract with the District) and a lengthy appendix related solely to legal case management. The lobbying group is not a law firm; none of its professional team hold law degrees or active membership in the State Bar of California, so they would be unqualified to provide the services outlined in the appendix and it is unclear why lobbying services would be grouped with legal services. It certainly is not transparent.

By contrast, the signed July contract that was taken to the Board for approval 72 days after signing does not include the legal case management appendix.¹⁹ However, the lobbying contract is not

¹⁸ Education Code 17604, accessed December 9, 2020, <http://www.gamutonline.net/displayPolicy/137110/3> (Public username and password required: public/sanjose), and Board Policy 3312, <http://www.gamutonline.net/DisplayPolicy/258915/3>: "The Superintendent or designee shall be authorized to approve contracts for professional services, which are exempt from formal bidding, up to an amount not to exceed \$25,000 without prior approval from the Board."

¹⁹ According to Education Code 17065, <http://www.gamutonline.net/displayPolicy/137111/3>, all contracts must be approved or ratified by the Board within 60 days.

publicly available via a link in the electronic Board minutes, so a person must request a copy from the District. It is not expressly mentioned at all in the Board agenda, and its single mention in the ratification list is so brief and vague (“2019-2020 consulting services for administrative services”) that one cannot reasonably identify it among the other 114 contracts in the five-page list; nor would a person understand that “consulting services for administrative services” is a lobbying contract.²⁰

The good news for public transparency is that, unlike the previous Ball/Frost contracts, the 2020-2021 State lobbying contract between the District and Ball/Frost spells out more precisely the political and legislative services that the District is receiving from its paid lobbyists. Unfortunately, because the public only knew that the Board was being asked to ratify a contract to “provide consulting services to administrative services for 2020-2021,” the public and the Board cannot easily identify this contract as a lobbying contract.²¹

Board Oversight: What More Must the Board Do to Create Transparency in the District’s Lobbying and Contracting?

Board policy articulates a strong preference for transparency and public engagement. Board policy reads as follows:

The Governing Board appreciates the importance of community involvement and therefore shall strive to keep the community informed of developments within the school system in timely and understandable ways.²²

The District implements this policy primarily through open session Board meetings. Community meetings, online surveys, and focus groups are also utilized to collect input from students, staff, families, and community members. The District webpage devoted to its employee housing efforts promises “a transparent public discussion before any big decisions are made” and invites those who want to share feedback to attend public Board meetings.²³

²⁰ Ratification List – September 26, 2019, SJUSD Board Meeting, Agenda Item M.20, September 26, 2019, accessed December 10, 2020, <https://agendaonline.net/public/Meeting.aspx?AgencyID=123&MeetingID=20137&AgencyTypeID=1&IsArchived=True>.

²¹ Ratification List for Sept. 24, 2020, SJUSD Board Meeting, Agenda Item M.25, September 24, 2020, accessed December 9, 2020, <https://agendaonline.net/public/Meeting.aspx?AgencyID=123&MeetingID=23741&AgencyTypeID=1&IsArchived=True>.

²² San Jose USD BP 1100, accessed December 9, 2020, <http://www.gamutonline.net/DisplayPolicy/258845/1> (Public username and password required: public/sanjose).

²³ SJUSD, “Looking Toward the Future: San José Unified’s Employee Housing Initiative.”

Effective boards advocate at the local, state, and federal levels.²⁴ Board policy on political processes, including lobbying, encourages an active and primary role for trustees. This is clearly demonstrated in the following policy statements:

The Board's responsibility as an advocate for the district may include *lobbying at the state and national levels*.

Because local governments also make decisions which impact the district's schools, the Board and the Superintendent or designee shall work to establish ongoing relationships with city and county officials and agencies, and shall inform them of the potential effect of local issues on the schools.²⁵ [emphasis added]

Because it is expected and appropriate for the District to engage in lobbying efforts to further the District's goals, there is no reason to be any less than totally transparent on this subject. A document, referred to as an advocacy plan, should guide these lobbying efforts. In its CSBA leadership training on February 27, 2019, the Board received a sample governance calendar indicating that a study session to begin development of an advocacy plan for the coming year occurs sometime between September and December of each year. After development, the plan is to be finalized by the end of the year. Implementing the plan while tracking bill development in the legislature starts in January and runs through summer until the Board develops a new plan.

Our review of Board meeting agendas and the District website failed to uncover any instance of public formulation and approval of an advocacy plan. The District cited an article in a 2016-2019 labor agreement, which required the District to seek State legislative actions in order to implement certain provisions of that contract, as an advocacy plan. Although the labor agreement is a publicly available document, two sentences contained in a 106-page contract clearly fall short of a Board-created advocacy plan.

Moreover, the contract provisions specified in that article relate solely to the probationary status of employees. The District's actual lobbying activities, on the other hand, impact a wider array of topics. State law requires the District, as a lobbyist employer, to file periodic reports (which are public records and may be searched).²⁶ These reports enumerate the variety of legislation and

²⁴ CSBA, "Professional Governance Standards," accessed December 9, 2020, https://www.csba.org/-/media/CSBA/Files/GovernanceResources/ProfessionalGovernanceStandards/CSBA_PGS_Brochure.ashx?la=en&rev=5fc78a303c5b45c4a6d89d519f991e56.

²⁵ San Jose USD BP 1160, accessed December 9, 2020, <http://www.gamutonline.net/displayPolicy/258852/1> (Public username and password required: public/sanjose).

agencies that the District’s lobbyist seek to influence, and show how the variety has expanded over time, as the table below details.

Table 2. Ball/Frost State Lobbying Activity for District²⁷

Legislative Term and Quarter	Bills and Agencies Lobbied (as filed)
2019-2020 7th Quarter	California Department of Education, Department of Finance & Governor's Office COVID-19 Relief State Board of Education: LCAP Template, Charter School Oversight State Budget & trailer bills: SB 117, AB 77, SB 98, SB 121, SB 74, SB 820 State Legislature AB 1384 CDE: Charter Schools issues
2019-2020 6th Quarter	California Department of Education, Department of Finance & Governor's Office: COVID-19 Relief State Board of Education: LCAP Template, Charter School Oversight State Budget & trailer bills: SB 117, AB 77, SB 98, SB 121, SB 74 State Legislature AB 1384 CDE: Charter Schools issues
2019-2020 5th Quarter	Governor's Office COVID -19 Relief State Board of Education - LCAP Template, Charter School Oversight State Budget & trailer bills - SB 117 State Legislature - AB 2710 CDE: Charter Schools issues
2019-2020 4th Quarter	Governor's Office State Board of Education: Charter School Oversight State Legislature AB 221, AB 751, AB 1233, AB 1507, AB 1505 SB 328 CDE: Charter Schools issues
2019-2020 3rd Quarter	State Board of Education - Charter School Oversight Governor's Office State Legislature AB 221, AB 751, AB 1233, AB 1507, AB 1505, SB 328, AB 1579 California Department of Education: Charter School Issues
2019-2020 2nd Quarter	State Legislature AB 221, AB 751, AB 1233, AB 1507, AB 1505, AB 751, AB 328, AB 1579 California Department of Education: Charter Schools issues

²⁶ A lobbyist employer is an individual, business or other organization that employs a lobbyist or hires a lobbying firm. See Cal-Access, “Employers of Lobbyists,” accessed December 9, 2020, <http://cal-access.sos.ca.gov/Lobbying/Employers/>.

²⁷ Cal-Access, “Lobbying Activity: San Jose Unified School District,” accessed December 9, 2020, <http://cal-access.sos.ca.gov/Lobbying/Employers/Detail.aspx?id=1145257&view=activity>.

Legislative Term and Quarter	Bills and Agencies Lobbied (as filed)
2019-2020 1st Quarter	State Legislature AB 221, AB 751, AB 1233, AB 1507, AB 1505 CDE: Charter Schools issues Governor's Office: charter school issues
2017-2018 8th Quarter	State Legislature Charter School issues Pathways to College Act
2017-2018 7th Quarter	State Budget State Legislature, California Department of Education AB 1951, SB 328 State Board of Education Advisory Commission on Charter Schools: Charter School Petition Appeals
2017-2018 6th Quarter	State Budget State Legislature, California Department of Education AB 1743, AB 1951, AB 3149 State Board of Education Advisory Commission on Charter Schools: Charter School Petition Appeals
2017-2018 5th Quarter	State Budget State Legislature California Department of Education AB 1743, AB 1951 State Board of Education Advisory Commission on Charter Schools: Charter School Petition Appeals
2017-2018 4th Quarter	AB 1220, AB 168 State Board of Education: Charter School Petitions
2017-2018 3rd Quarter	AB 1220, AB 1164, AB 168 State Budget
2017-2018 2nd Quarter	AB 1220, AB 168 State Budget

Peer school districts in the State (those that employ lobbyists in Sacramento) provide the public easily accessible information on their lobbying activities. The Grand Jury conducted a review of these peer school districts and found the following:

- Palo Alto Unified School District (PAUSD) receives two presentations annually from its state lobbyists at regular open session public board meetings. The PAUSD trustees ask questions and interact with the presenters on the local implications of broader legislative initiatives, and on PAUSD’s political advocacy efforts.
- Oakland Unified School District (OUSD), under the ‘Community’ tab found on the home page of its website, provides information on how to ‘Get Involved/Stay Connected.’ The status of past legislation that the OUSD Board supported or opposed is presented in chart form. Current advocacy efforts in three specific areas are documented with links to original content. A comprehensive statement, *OUSD’s Legislative Principles and 2020 State*

Legislative Priorities (updated February 12, 2020), is also available “as a tool for the board and the District’s legislative advocates, staff, and community to promote the District’s interests.”²⁸

- San Francisco Unified School District (SFUSD) formed a standing board committee on legislation that meets frequently to receive updates from SFUSD’s lobbyists and to consider its position on legislative proposals. Those positions are obvious in the written update linked to in the committee agenda.²⁹
- Los Angeles Unified School District (LAUSD) staffs a government relations office. The public can quickly learn about its mission, team members, and priorities on the LAUSD website. The LAUSD board and superintendent set these priorities annually. A colorful two-page graphic titled *2020 Advocacy Agenda* explains LAUSD’s legislative and funding priorities to the public.³⁰

CSBA's *Professional Governance Standards*, which is incorporated in Board Bylaw 9005, emphasizes that trustees should commit the time and energy necessary to be informed and effective leaders.³¹ The Grand Jury found that Trustees minimized their role in reviewing contracts related to employee housing because they feared appearing unsupportive of the District's workforce, or because they felt they lacked expertise in large-scale higher-density residential development projects. These are not valid excuses for shirking Board responsibilities. After multiple investigations found that Trustees of neighboring Alum Rock School District had improperly approved construction-related contracts, a representative for the Office of the District Attorney stated,

²⁸ Oakland Unified School District, “We Believe...,” accessed December 9, 2020, <https://www.ousd.org/cms/lib/CA01001176/Centricity/Domain/5090/Oakland%20Unified%20School%20District%20Principles%20and%20State%20Legislative%20Priorities%20v2%20clean.pdf>.

²⁹ Capitol Advisors Group, LLC, “San Francisco Unified School District, Current Bill Positions,” accessed December 9, 2020, [https://go.boarddocs.com/ca/sfusd/Board.nsf/files/BCSPYK656566/\\$file/20190603%20-%20SFUSD%20-%20Current%20Bill%20Pos.pdf](https://go.boarddocs.com/ca/sfusd/Board.nsf/files/BCSPYK656566/$file/20190603%20-%20SFUSD%20-%20Current%20Bill%20Pos.pdf).

³⁰ Los Angeles Unified School District, “2020 Advocacy Agenda,” accessed December 9, 2020, https://achieve.lausd.net/cms/lib/CA01000043/Centricity/Domain/359/LAUSD_2020_Advocacy_Agenda_revisions%2003.02.2020.pdf.

³¹ CSBA, “Professional Governance Standards.”

While we use consultants a lot in government these days, you don't just hand the keys to the car, you need to follow up, and do due diligence. ... School officials, not well versed [in construction,] should have asked more questions along the way.³²

Board governance standards also require trustees to respect differences of perspective among parents and community members.³³ While it is clear that District staff misled Trustees on the housing consultant's lobbying activities, it is also apparent from the Grand Jury's investigation that Trustees discounted questions from the public about lobbying at Board meetings because they were asked by residents of a particular neighborhood where opposition to the District's housing initiative had been vocal.

Trustees also play an important role in developing the public meeting agendas.³⁴ Having adopted digital tools that allow the public to have greater accessibility to the materials in the Board packet, trustees should leverage that technology to build public trust and confidence through openness in conducting their business. Clear guidance from the Board on expectations for transparency in contracting should not result in lobbying contracts with vague descriptions being buried in the ratification list. While the ratification process, like the use of the consent agenda, promotes efficient meetings, that time savings function "shall be [for] items of a routine nature or items for which no Board discussion is anticipated."³⁵ It is impossible for the public and the Trustees to know if an item for ratification relates to a concerning topic when the description is so opaque.

Day-to-day operations of the District are managed by the superintendent, who is the chief executive officer and educational leader of the district.³⁶ Effective boards ensure the superintendent holds district personnel accountable.³⁷ The Board and District Superintendent developed six criteria for evaluating the Superintendent's performance. One of these, Community Relations, considers the degree to which the Superintendent generally interacts with constituencies

³² "No criminal charges in Alum Rock school district construction scandal," *The Mercury News*, July 14, 2020, accessed December 7, 2020, <https://www.mercurynews.com/2020/07/14/no-criminal-charges-in-alum-rock-school-district-construction-scandal/>.

³³ San Jose USD BB 9005, accessed December 10, 2020, <http://www.gamutonline.net/displayPolicy/258799/9> (Public username and password required: public/sanjose).

³⁴ San Jose USD BB 9322, accessed December 9, 2020, <http://www.gamutonline.net/DisplayPolicy/258837/9> (Public username and password required: public/sanjose).

³⁵ Ibid. The consent agenda allows the Board to act upon more than one item by a single vote.

³⁶ San Jose USD BP 2120, accessed December 10, 2020, <http://www.gamutonline.net/DisplayPolicy/258887/2> (Public username and password required: public/sanjose).

³⁷ CSBA, "Professional Governance Standards."

outside of the District's officers and employees. As currently written, this criterion does not expressly state transparency as a valued characteristic of those interactions.

Similarly, effective boards conduct self-evaluations to monitor the performance of trustees both as a group and individually. The Board's CSBA training materials indicate that trustees should commit to annual self-evaluation. These assessments should also expressly gauge the efforts of the Board to mirror transparency in conducting its duties and responsibilities.

Consultant Disclosures: Is the District Doing its Part to Obtain Financial Information from Consultants for the Board and Public to Assess Potential Conflicts?

The complaints to the Grand Jury about the District's efforts to build workforce housing alleged that the District was not forthcoming with information related to the consultants' financial interests that might unduly influence their work for the District. While the ultimate resolution of alleged state ethics law violations rests with other public bodies, the Grand Jury's investigation found deficiencies in the District's process for identifying consultants who are required to file public statements of economic interests.

In 1974, California voters passed Proposition 9, known today as the Political Reform Act ("the Act"), to subject the personal financial affairs and campaign activities of state and local officials to greater scrutiny.³⁸ The Act simultaneously created the Fair Political Practices Commission (FPPC) to administer and enforce the Act, as well as inform and assist public officials, employees, and candidates to comply with its provisions.³⁹ In general, the Act prohibits public officials from making, participating in making, or using their official positions to influence, a governmental decision in which they have a financial interest.⁴⁰ Compliance with the Act requires: (1) identifying public officials; (2) disclosing their financial interests; and (3) avoiding disqualifying financial interests.

District staff understand that the Act applies to employees and the Board trustees, but the Act is broader in its reach than that. The Act applies to designated employees and certain individuals that

³⁸ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. Also see Fair Political Practices Commission, "About the Political Reform Act," accessed December 9, 2020, <https://www.fppc.ca.gov/about-fppc/about-the-political-reform-act.html>.

³⁹ Government Code Section 83114; Regulations 18329(c)(3). The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

⁴⁰ Section 87100 et. seq.

contract with the agency known as “consultants.”⁴¹ Not all contractors qualify as “consultants” under the Act. In general, a “consultant” is subject to the Act’s requirements if an individual who, pursuant to a contract with the public agency, either (1) makes certain specified types of governmental decisions; or (2) serves in a staff capacity and in that capacity, either (a) participates in making a governmental decision, or (b) performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position with the agency that is specified in the agency’s conflict-of-interest code.⁴²

The District has an affirmative duty to identify contractors that qualify as consultants.⁴³ The Grand Jury acknowledges that it is not always clear who qualifies as a consultant under the Act, but agencies are encouraged to direct questions to the FPPC. The FPPC, as part of its role in interpreting and implementing the Act, is authorized to issue opinions and advice letters to those who have duties or obligations under the Act and who wish guidance from the FPPC in advance of undertaking a particular course of action.⁴⁴

The Grand Jury is concerned about the District’s overall lack of attention to analyzing which contractors are consultants, and particularly the lack of analysis of whether the housing consultants qualify as a “consultant” for purposes of the Act’s disclosure and disqualification provisions. As discussed above, the scope of work in the Schoennauer contract is, in the words of one trustee, “really vague” and, in the words of staff, “really broad.” The agreement with the other housing consultant, Snider, was also characterized by a trustee at a Board meeting as “very vague about what was to be done.”⁴⁵ It is even further concerning to the Grand Jury that contractor Schoennauer’s actual work for the District is mischaracterized by District staff who have repeatedly assured the Board that a lobbyist is not lobbying even though the contractor has detailed their lobbying activities for the District with the City and clearly identified these tasks in their invoices to the District.

⁴¹ Section 87300 et. seq., 82048, 82019.

⁴² Regulation 18700.3(a), 18704.

⁴³ FPPC Bakker Advice Letter, No. I-16-062, July 26, 2016, p. 4, accessed December 9, 2020, <https://www.fppc.ca.gov/content/dam/fppc/documents/advice-letters/1995-2015/2016/16-062.pdf>.

⁴⁴ Section 83114.

⁴⁵ SJUSD Board Meeting, June 27, 2019, recording at 3:29:29, accessed December 9, 2020, <https://sjusd.app.box.com/v/boardmeetingaudio/file/483166457852>.

Detailing the expected work scope is important because the analysis of who qualifies as a consultant under the Act is very fact specific.⁴⁶ Vesting a contractor with decision-making authority without sufficient intervening review is a factor in deciding whether the contractor is a consultant. In the present case, Schoennauer and Snider delivered recommendations directly to the Board that narrowed site selection from ten to four for additional analysis. The Board accepted those recommendations in whole at its September 23, 2019, meeting, and then on November 7, 2019, awarded a \$440,000 contract for feasibility studies on the basis of those accepted recommendations to a firm whose selection was also vetted by Schoennauer and Snider. This is the type of situation that both suggests that Schoennauer and Snider are consultants for purposes of the Act's disclosure requirements and poses the potential for the undisclosed financial conflicts that the Act is intended to prevent.

In addition to the presence of intervening review, other factors that argue in favor of a contractor being a consultant are the length of term employed with the agency, and the profile of the project.⁴⁷ Schoennauer and Snider will have been contracted with the District for a total of 18-21 months when their current terms expire. Although there has been no action publicly on employee housing since the June 25, 2020, Board meeting, trustees left open the possibility for a general obligation bond to finance housing construction (a campaign that Snider has started work on), and eventual application for necessary land use entitlements (Schoennauer's area of expertise). The District estimates on its housing information webpage that delivering residential units will take three to five years. These facts are significant in determining a contractor's status as a consultant for the Act because they suggest an ongoing relationship contemplated between the District and the contractors Schoennauer and Snider.⁴⁸

At present the District has hundreds of contractors and no discernable system for analyzing whether a contractor qualifies as a consultant. To manage this problem, the FPPC encourages entities to utilize the Agency Report of Consultants Form 805 (Form 805) to identify consultants

⁴⁶ FPPC Greenwald Advice Letter, No. A-90-349, June 13, 1990, pp. 2-4, accessed December 9, 2020, <https://www.fppc.ca.gov/content/dam/fppc/documents/advice-letters/1984-1994/1990/90-349.pdf>.

⁴⁷ A contractor serves in a staff capacity where the contract calls for work to be performed "over more than one year" on "high level" projects was a consultant. (See FPPC Ferber Advice Letter, No. A-98-118, May 26, 1998, pp. 4-5, accessed December 9, 2020, <https://www.fppc.ca.gov/content/dam/fppc/documents/advice-letters/1995-2015/1998/98-118.pdf>.) Contractor does not act in a staff capacity where the work is to be performed on one project or a limited number of projects over a limited period of time (See FPPC Sanchez Advice Letter, No. A-97-438, September 4, 1997, p. 4, accessed December 9, 2020, <https://www.fppc.ca.gov/content/dam/fppc/documents/advice-letters/1995-2015/1997/97-438.pdf>).

⁴⁸FPPC Harris Advice Letter, No. A-02-239, October 18, 2002, pp. 5-6, accessed December 9, 2020, <https://www.fppc.ca.gov/content/dam/fppc/documents/advice-letters/1995-2015/2002/02-239.pdf>.

that will make or participate in making governmental decisions.⁴⁹ An agency indicates on the Form 805 that a consultant must file a Statement of Economic Interests Form 700 (Form 700) that either “conforms to the range” of a consultant’s duties or falls “under the broadest disclosure category in the agency’s conflict of interest code.”⁵⁰ In the last three years, the District has never used the Form 805.

Where the consultant qualifies under the Act, the consultant is subject to the Act's conflict-of-interest disqualification and Form 700 disclosure requirements.⁵¹ According to the FPPC, the Form 700 is designed to provide transparency and ensures accountability in two ways:

1. It provides necessary information to the public about an official’s personal financial interests to ensure that officials are making decisions in the best interest of the public and not enhancing their personal finances.
2. It serves as a reminder to the public official of potential conflicts of interest so the official can abstain from making or participating in governmental decisions that are deemed conflicts of interest.⁵²

Each public agency in California is required to adopt a conflict-of-interest code.⁵³ The District has adopted Bylaw 9270, which contains the broadest disclosure requirement for consultants, as its conflict-of-interest code. Nevertheless, District staff lacked an understanding that contractors can be consultants under the Act and instead are under the mistaken understanding that the Board Bylaws mean that contractors are not required to file Form 700s under the Act. This is not an appropriate application of the Act's requirements.

Board Bylaws also provide a procedure for the superintendent (or designee) to tailor the disclosure requirements of a consultant with limited duties. This determination must be in writing and available to the public, and shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description.⁵⁴ The District could not produce any written determinations made in the last three years that limit a consultant’s disclosure to be less than the broadest category.

⁴⁹ See Appendix.

⁵⁰ Appendix, p. 2.

⁵¹ Section 87300 et. seq.

⁵² FPPC, accessed December 10, 2020, <https://www.fppc.ca.gov/transparency/form-700-filed-by-public-officials/form700-search.html>.

⁵³ Section 87300.

⁵⁴ San Jose USD E 9270.

In the absence of any Form 805s or other written superintendent determinations, qualifying consultants hired by the District should have filed Form 700s that provided the broadest disclosure of financial information. In the case of Schoennauer and Snider, the District could not provide their Form 700s. Without this information, the Board and public may not be able to identify areas in which the consultants are potentially prohibited from participating due to their financial interests.

The potential conflict is actually quite real in the awarding of the November 7, 2019, contract for workforce housing feasibility studies. Of the four sites recommended by Schoennauer and Snider, one property is directly adjacent to real estate owned by one of those contractors. Notably, this consultant is a District parent who was familiar to District staff. District staff knew the contractor's primary residence (which also serves as their business office) is located within yards of a site on the list of District properties for potential workforce housing. Under FPPC rules, a decision is presumed to have a reasonably foreseeable effect on an official's real property interest and is therefore material if it "involves property located 500 feet or less from the property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property."⁵⁵ Because the District determined that the contractors did not need to disclose conflicts of interest, the contractor did not prepare a Form 700 listing the contractor's residence and this information was not disclosed to anyone, including the Board.

Finally, if the contractor is a consultant with a disqualifying conflict of interest, they are disqualified from participating in the decision. The District is avoiding this disqualification issue by ignoring the analysis of who qualifies as a consultant and avoiding disclosure requirements of the Act by suggesting that the Bylaw exempts those consultants from the Act's requirements.

⁵⁵ Regulation 18702.2(a)(7).

FINDINGS AND RECOMMENDATIONS

Finding 1

The District repeatedly misrepresented the lobbying activity that the housing entitlement consultant Schoennauer would perform on its behalf. These misrepresentations undermined the integrity of the public contracting process and sowed mistrust in the District's community relations.

Recommendation 1

The Board should provide clear direction on transparency, truthfulness, and accuracy in contracting and communications with the public. This direction should be incorporated in the Board's self-evaluation process and the expectations for the superintendent's performance to ensure accountability for the actions of District staff. The evaluation of necessary changes should be finalized and delivered in an improvement plan by July 2021.

Finding 2

The descriptions of the services provided under consultancy contracts awarded to Schoennauer and Ball/Frost failed to specify lobbying, and therefore the public and Board were not fully informed as to their purposes.

Recommendation 2a

The District should revise its contracting procedures to require that any lobbying service agreements clearly and explicitly describe the lobbying activities for the Board's and public's knowledge. This revision should be completed by July 2021.

Recommendation 2b

The District should revise its agendaing procedures to require that the Board and public receive timely and understandable notice of any action on lobbying service agreements. These procedures should be implemented by July 2021.

Finding 3

The Board has no legislative advocacy plan so state lobbying efforts are directed solely by District staff without appropriate Board oversight or public awareness.

Recommendation 3

If the Board elects not to have a legislative advocacy plan, the District should specifically agendaize each lobbying effort in a way that is transparent to the Board and the public so the District's position on legislative matters is transparent. The District should develop a plan to ensure transparency about its lobbying activities by September 30, 2021.

Finding 4

The District has no discernable method to analyze its hundreds of contracts to determine which contractors are consultants subject to financial disclosure laws. Therefore, the Board and the public may not have the information necessary to assess potential conflicts of interest.

Recommendation 4a

The District should have a method in place to review current and future contracts for determination of whether the contractor qualifies as a consultant under the FPPC. This method should be in place by July 2021.

Recommendation 4b

For those contracts appropriately identified by the District, the District should notify each contractor of the contractor's obligation to file a Form 700 to meet the guidelines required by the FPPC. Notification for current contracts should be sent no later than July 2021.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Civil Grand Jury requests responses as follows from the following governing body:

Responding Agency	Finding	Recommendation
San José Unified School District Board of Trustees	1, 2, 3, 4	1, 2a, 2b, 3, 4a, 4b

APPENDIX

Agency Report of:
Consultants

A Public Document

California Form **805**

1. Agency Name (Also include, Division, Department, or Region (if applicable)) Amendment

Agency Contact Date of Original Filing: _____
(month, day, year)

Phone Number Email

2. Firm Information

Firm Name

Firm Address Email (optional) Email (optional)

Describe General Purpose of Contract

3. Consultant Information

Consultant Name	Assigned Category	OR	Disclosure Requirement	Assuming/Start Date Leaving/End Date (if known)
				Start <u> </u> / <u> </u> / <u> </u> m / d / yr End <u> </u> / <u> </u> / <u> </u> m / d / yr
				Start <u> </u> / <u> </u> / <u> </u> m / d / yr End <u> </u> / <u> </u> / <u> </u> m / d / yr
				Start <u> </u> / <u> </u> / <u> </u> m / d / yr End <u> </u> / <u> </u> / <u> </u> m / d / yr

4. Verification
I have read and understand FPPC Regulations 18700.3 and 18734. I have verified that the disclosure assignment(s) set forth above, is in accordance with its provisions.

Signature Name Title (month, day, year)

Comment: (Use this space or an attachment for any additional information.)

Agency Report of: Consultants

California **805**
Form

A Public Document

State and local government agencies may use this form to identify consultants that will make or participate in making governmental decisions on behalf of the agency. A consultant must file a Statement of Economic Interests (Form 700) within 30 days of assuming office.

This form identifies the Statement of Economic Interests, Form 700, disclosure requirements for individuals serving in these positions. This form is for the agency's internal use and should be maintained by the agency in the same manner as the agency's conflict of interest code. For more information, refer to the FPPC website www.fppc.ca.gov and Regulation 18700.3 and 18734.

Disclosure Requirements

- Disclosure requirements should conform to the range of duties.
- Alternatively, the agency must require an individual to file under the broadest disclosure category in the agency's conflict of interest code or, if the agency does not have a conflict of interest code, full disclosure.

Full disclosure includes reporting all investments, business positions, and interests in real property held on the date of assuming office and income received during the 12 months immediately preceding assuming office.

Examples:

An agency hired a law firm to act as its general counsel. An individual will make recommendations to the agency's board and provide general legal services. The individual qualifies as a consultant and based on the indefinable duties will be assigned the broadest or full disclosure under the agency's conflict of interest code.

Not all outside contractors meet the consultant definition in FPPC Regulation 18700.3 requiring of the Form 700. When an agency determines that an individual is a consultant with limited duties, tailored disclosure should be used.

An agency hired a firm to prepare an environmental impact report ("EIR") on airport expansion. The individual at the firm who will prepare the EIR should be assigned a disclosure requirement that reflects the contract's scope of authority. An example might include real property, investments and business positions in business entities, and income from only those sources engaging in air traffic or aviation goods or services. Note: The agency can assign an existing disclosure category, if applicable.

Instructions

An individual must file the Form 700 within 30 days of assuming office and an annual statement for each calendar year of the contract. At the conclusion of services a leaving office statement is required.

Part 1

Identify the agency, contact information, and provide the amendment explanation in the comment section when applicable.

Part 2

Identify the consultant's firm name and address. Briefly describe the general purpose of the contract.

Part 3

Identify the name of those individuals that qualify as consultants and will file the Form 700. Identify the disclosure by:

- Assigning an existing category(s) in the agency's code, or
- Writing a disclosure requirement.

Provide the start and end dates of service if known.

Part 4

The Agency's conflict of interest code should identify the position that is responsible for the verification.

Example of Part 2 & 3


2. Firm Information

Firm Name ABC Company		
Firm Address 1010 Capital St., Sacramento, CA 95814	Email (optional) abcco@company.com	Email (optional)
Describe General Purpose of Contract Prepare an EIR on airport expansion.		

3. Consultant Information

Consultant Name	Assigned Category	OR	Disclosure Requirement	Assuming/Start Date Leaving/End Date (if known)
Hector Rodriguez	3			Start 11/12/XX m / d / yr End 12/12/XX m / d / yr

This report was **ADOPTED** by the 2019-2020 Santa Clara County Civil Grand Jury on this 17th day of December, 2020.

A handwritten signature in cursive script that reads "Karla Fukushima". The signature is written in black ink and is positioned above a horizontal line.

Ms. Karla Fukushima

Foreperson