



# LUTHER BURBANK SCHOOL DISTRICT

Established in 1906

**FILED**

*Becki Cohn-Vargas Ed.D.*  
Superintendent-Principal

OCT 29 2009

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk,  
Superior Court of CA County of Santa Clara  
BY D. ALDYCKI

October 26, 2009

Honorable Jaime Jacobs-May  
Presiding Judge  
Superior Court, Santa Clara County  
191 N. First Street  
San Jose, CA 95112

Re: Response to the Luther Burbank School District Grand Jury Report

Honorable Judge Jacobs-May,

The Luther Burbank school district has completed its responses to the Luther Burbank Grand Jury Report. The court granted the District an extension through October 30, 2009. The Board of Trustees reviewed and approved the responses found in the report at a special board meeting of October 26, 2009. The Board of Trustees extends its appreciation to the Court for granting the extension.

Sincerely,

Antonio Perez  
Board President

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## *Board of Trustees*

*Lizando Carrasco • Blanca Diaz • Lorraine Garza • Pam Ortiz • Antonio R. Perez*  
4 Wabash Avenue • San Jose, California 95128-1931

*District 408-295-2450 • School 408-295-1814 • Fax 408-295-3168 • Child Development 408-295-1731*

**GRAND JURY REPORT RESPONSE:  
BOARD OF TRUSTEES OF LUTHER BURBANK SCHOOL DISTRICT  
DATED MAY 28, 2009**

**1. BOARD CONDUCT – FINDINGS AND RECOMMENDATIONS**

**FINDINGS 1:**

- A. *Has failed to self-police individual Board members to ensure that each member follows Board Policy and acts in a professional and reasonable manner.*

LBSD response: The Luther Burbank School District (“LBSD”) wholly disagrees with this finding. Board members regularly conduct themselves in a professional and courteous manner, consistent with Board Policy, even in the face of occasional invective and hostility by a very small number of people. In addition, the majority of the Board has been participating in the CSBA Masters of Governance Program, which addresses the Board’s professional and legal responsibilities.

- B. *Has assumed, for the most part, a passive role at open Board meetings by generally not discussing alternative actions or questioning the recommendations of the Board President or Interim Superintendent.*

LBSD response: The LBSD disagrees wholly with this finding. Board members regularly discuss matters at Board meetings. Because the majority of the Board had a high level of confidence in the expertise and professionalism of its Interim Superintendent, it was not necessary for each agenda item to be discussed extensively at Board meetings. Moreover, when appropriate, Board members individually undertake to become more informed on agenda items in advance of public meetings by reviewing documents and materials prepared by staff so as to facilitate a more efficient and orderly public meeting.

It should be noted that the recommendations and/or suggestions of the Board President carry no more weight than the recommendations and/or suggestions of any other Board member and his views are considered and discussed in that light. In general, motions and seconds to approve the Superintendent’s recommendations have been evenly distributed amongst Board members.

- C. *Has failed to adequately inform the public during Board meetings of the background, financial implications, options and potential consequences of Board actions.*

LBSD response: The LBSD wholly disagrees with this finding. Fiscal implications and consequences are presented and discussed at Board meetings. Board items contain back-up information regarding fiscal implications as to which funds will be used in completing the action.

D. *Has failed to openly and actively encourage public participation at Board meetings.*

LBSD response: The LBSD wholly disagrees with this finding. The Board encourages public comments as noted on the Public Communications section on the agenda. Moreover, the Board complies with all legal requirements for encouraging public participation including compliance with the Brown Act. The Board President and other Board members regularly solicit public input on all matters that come before it for action. In addition, members of the public and LBSD staff are encouraged to contact their elected representatives directly when legally appropriate, outside of the formality of a Board meeting.

E. *Is not adequately serving the District's best interest.*

District response: The Luther Burbank School District wholly disagrees with the finding. The Board is serving in the District's best interest. In general, Board members take their responsibilities for supervising the activities and policies of the District very seriously. The Board members strive to uphold the public trust and are committed to serving students and families in the District to the best of their ability. The administrative practices of the former superintendent were unfocused and weak, and fostered a divisive and contentious environment that was not in the best interest of the District. The Board majority, acting in the best interests of the District, has taken action to improve both the administrative practices and the District environment by effecting a change in the office of the Superintendent.

F. *Have failed in their independent responsibilities as Board members.*

LBSD response: The LBSD wholly disagrees with this finding. The Board takes its role and responsibility very seriously. For example, Board members have participated in the following California School Boards Association ("CSBA") conferences and educational seminars in an effort to stay informed about the latest developments in educational policy and governing issues:

- CSBA Annual Conferences
- CSBA Board President Workshop January, 2008
- Participating in CSBA Masters in Governance (ongoing)

Additionally, in keeping with the CSBA's governance standards, individual Board members do the following:

1. Keep learning and achievement for all students as a primary focus, as witnessed by the increasing academic achievement of LBSD students;
2. Value, support and advocate for public education generally and LBSD

specifically, as witnessed by Board member's visibility in the LBSD community and county-wide;

3. Commits time and energy to be an informed and effective leader, as witnessed by attendance at California School Boards Association education conferences and training sessions;
4. Through CSBA education training sessions and self-initiated local board training sessions, Board members are made to understand the distinction between Board and administrative roles and refrain from infringing on the roles of staff; and
5. Through CSBA education training sessions and self-initiated local board training sessions, Board members are made to understand that the authority of the Board is a collective one and does not rest upon any single Board member.

- G. *Have failed to provide contact information on the LBSD website to enable the public to contact Board members.*

LBSD response: The LBSD agrees with this finding. Accordingly, the Website has recently been updated to include e-mail addresses for all Board members. The LBSD Website now has information on individual Board members.

#### **RECOMMENDATIONS 1:**

- A. *Ensure that each member of the Board understands and complies with Board Policy and CSBA guidelines and takes action as appropriate.*

LBSD response: The recommendation has been implemented. The Board Agenda has scheduled continuing sessions to review, revise and update Board policies and administrative regulations. Board members will continue to participate in CSBA workshops and will continue to update Board policies as needed.

- B. *Actively welcome and reach out to the LBSD community to increase attendance and engage participation at all Board meetings.*

LBSD response: The recommendation has been implemented. The Board welcomes public participation and complies with legal requirements, including the Brown Act. The Board and LBSD will make it a continuing goal to actively reach out and welcome community participation and will seek to increase attendance and engage participation at Board meetings. With a new Superintendent/principal on board, it will be a goal of the Board to improve the outreach and increase attendance and public participation at Board meetings.

- C. *Actively participate in Board meetings by encouraging discussion within the Board that informs the public of the background, options and financial implications of Board actions.*

LBSD response: The recommendation has been implemented.

- D. *Actively foster open communication and participation with school organizations including, School Site Council (SSC), Parent Teacher Organization (PTO) and Padres con Poder (Parents with Power) to inform them of Board meetings and school operation/issues.*

The recommendation has been implemented. All school staff, parents and community members are regularly encouraged to attend and participate at Board meetings. At Board meetings, public participation is encouraged. Further, the Board will be encouraging its members to, in turn, regularly attend the meetings of these District and community organizations.

- E. *Actively utilize the School Site Council (SSC) as an advisory body.*

LBSD response: This recommendation has been implemented; the Board will continue to review and utilize the SSC as an advisory body.

- F. *Utilize resources and training from the Santa Clara County Office of Education (SCCOE) and CSBA.*

LBSD response: This recommendation has been implemented. Three members of the Board participated in the CSBA Masters in Governance program. Two Board members participated in the annual CSBA conference. The LBSD seeks support from SCCOE with budget, payroll, human resources, special education, curriculum and instruction and many other resources. The LBSD will continue to strengthen relations with SCCOE.

- G. *Resign.*

LBSD response: This recommendation will not be implemented. Trustees were duly elected by the voters in a fair and democratic election process. The Grand Jury's recommendation calls for a complete disregard of the democratic process in this working class community. The LBSD and its Board shall respect and follow the democratic process of elections and/or fill vacancies pursuant to the requirements of California law and the California and United States Constitution.

## 2. BOARD PRESIDENT CONDUCT – FINDINGS AND RECOMMENDATIONS

### FINDINGS 2:

#### *Board Presidency:*

- A. *Continues to serve as Board President for a third term of office despite not being duly elected by the Board.*

LBSD response: The LBSD wholly disagrees with this finding. The Grand Jury committee is misinformed, perhaps by a disgruntled former employee of the District. At the Board meeting on December 9, 2008, the approved Board minutes read: "Motion was made by Trustee Carrasco seconded by Trustee Diaz to nominate Antonio Perez as President." A regular vote followed, applicable parliamentary procedures were followed and the requirements of California law were followed.

- B. *Intimidated a LBSD teacher after a Board meeting and retaliated by requesting removal of said teacher from school premises by a county sheriff officer the following day.*

The LBSD disagrees wholly with this finding. No intimidation of any LBSD staff member occurred. No retaliation ensued by any trustee. The security of confidential information and confidential files belonging to the LBSD that were then housed in the former superintendent's office was attended to by a county deputy sheriff. The Board President acted to protect the security and safety of personnel and property. All applicable laws were followed.

- C. *Applied an overly aggressive approach to changing the locks on the District office, by calling a complete "lock down" of school premises, disturbing teacher's routine work practices.*

LBSD response: The LBSD wholly disagrees with this finding. The Board President, upon the request from another Board member, changed the locks only to the Superintendent's office and the confidential records room within the LBSD office. The LBSD Secretary still had access to the LBSD office reception area, since her locks were not changed. The school premises were not locked down, as verified by the Interim Superintendent and the School Principal.

- D. *Orchestrated the timing of the November 7, 2008 special Board meeting because he was unsure that there would be adequate votes to buy out the former Superintendent's contract after Ms. Ortiz (the incumbent) was defeated in the November 2008, Election.*

The LBSD disagrees wholly with this finding. The Board has the power and the duty to set meetings as necessary to act in the best interest of the District. A special board meeting was duly noticed and published to deliberate on the issue of the former superintendent.

- E. *Failed to recuse himself from discussion and the resulting vote related to the buy-out of the Superintendent's contract despite their recognized mutual long-term animosity and public conflict.*

The LBSD disagrees partially with this finding. It is correct to assert that the Board President did not recuse himself from the vote pertaining to the former superintendent's contract buy-out. It is entirely incorrect and contrary to accepted principles of American democracy to assert or imply that a duly elected representative should refrain from voting and acting in the best interest of his constituency simply because such elected representative has a difference of opinion with a subordinate employee.

- F. *Used his position as Board President to recommend and influence the hiring of the Interim Superintendent immediately upon release of the former Superintendent without meeting the requirements of Education Code (§45125 (c), (g)).*

LBSD response: The LBSD wholly disagrees with this finding. On advice from the LBSD's legal counsel, several candidates for the Interim Superintendent were reviewed by the Board. Such candidates included, but were not limited to, the LBSD Principal and Director of Curriculum. After careful deliberation, the Board directed the Board President to contact Dr. Elizondo.

The opinion and recommendation of the Board President carries no more weight than that of any other trustee. The Board fully discussed and considered its options in connection with an Interim Superintendent.

- G. *Has created a repressive environment and adversely affected the morale of teachers and staff by:*

- i. *Removing a teacher from campus:*

LBSD response: The LBSD wholly disagrees with this finding. This statement is vague and ambiguous. On Saturday, November 8, 2008, the Board President, upon receiving the request of a fellow Board member who voiced concerns as to the security of the LBSD office, recommended the LBSD office be secured. The Board President followed up by notifying the Sheriff to secure only the LBSD office building. Consequently, the Sheriff, upon request from the Board President, required that all *unauthorized* personnel be vacated from the LBSD office, until the next business day.

- ii. *Contacting various District employees to surreptitiously obtain inappropriate information about District staff*

LBSD response: The LBSD wholly disagrees with this finding. The Board President did not solicit inappropriate information from LBSD employees about LBSD staff.

iii. *Aggressively confronting District staff*

LBSD response: The LBSD wholly disagrees with this finding. This statement is vague and ambiguous. In any event, the Board President did not aggressively confront LBSD Staff. Rather, at the November 7, 2008 Board meeting, various members of the audience aggressively confronted the Board President and members of the Board in an attempt to continue to discuss the action taken by the Board of Trustees in buying out the former Superintendent's contract.

iv. *Surprising staff by attending a classified staff meeting unannounced where potential layoffs were being discussed.*

LBSD response: The LBSD partially disagrees with this finding. First, this statement is vague, ambiguous and misleading. Dr. Elizondo encouraged Board members to visit the school and encouraged their active participation on campus. The meeting in question was conducted by Dr. Elizondo, who invited Board President Antonio Perez to attend and observe the proceedings. At the meeting, Dr. Elizondo introduced projected budget reduction information affecting classified staff. This meeting was also coordinated by Dr. Elizondo through the classified Union President. The classified union President thanked Dr. Elizondo for the ongoing communication. No issues or concerns about the Board President's attendance were brought to his attention.

H. *Circumvented the Superintendent in a personnel matter involving a school janitor by directing a member of LBSD administrative staff to provide him with access to the employee's LBSD confidential personnel file and attempting to obtain the employee's fingerprint results from the Santa Clara County Office of Education (SCCOE).*

LBSD response: The LBSD wholly disagrees with this finding. The Board President did not direct any member of the Administrative Staff to provide him with access to the employee's confidential personnel file. The allegations are simply incorrect and apparently based on the assertions of a disgruntled former employee.

I. *Failed to display leadership by publicly and privately fostering the long term mutual animosity between himself and the former Superintendent.*

LBSD response: The LBSD wholly disagrees with this finding. The Board President and the former Superintendent had differences of opinion regarding LBSD policy. There was no personal animosity emanating from the Board President, although in a free society differences of opinion can and should be voiced. The Board President has worked tirelessly to foster mutual respect and professionalism among the trustees, and between the trustees and the former superintendent. The Board President was instrumental in recommending board training for the governance team.



- J. *Appears to have orchestrated actions against LBSD staff who had been supporters of the previous superintendent by eliminating certain positions, cutting hours, or demoting specific staff members.*

LBSD response: The LBSD wholly disagrees with this finding. All recommendations to reduce staff and positions have followed procedures required by California law and LBSD policies. In addition, such recommendations generally come from the LBSD's supervising staff. Such recommendations are determined by budget constraints and reductions. President Perez has not made such recommendations.

- K. *Endorsed Candidate B with the knowledge that Candidate B had been following Candidate A's movements on several occasion.*

LBSD response: The LBSD partially agrees with this finding. This statement is vague, ambiguous and misleading. However, Board President Perez endorsed Candidate B.

- L. *Actively sought to discourage Candidate A from running against another member of the Board in a recent election.*

LBSD response: The LBSD partially agrees with this finding. This statement is vague, ambiguous and misleading. There is insufficient information provided for any reasonable response to be made. However, LBSD understands that Board President had one conversation with Candidate A regarding the candidacy, at which conversation Candidate A was informed of the duties, time commitments, joys and challenges of serving as a trustee. It is apparent now that Candidate A misunderstood the import of the information conveyed by the Board President.

- M. *Unilaterally promised to appoint Candidate A to a future open Board seat, if Candidate A withdrew from the race.*

LBSD response: The LBSD wholly disagrees with this finding. This statement is vague, ambiguous and misleading. There is insufficient information provided for any reasonable response to be made. LBSD understands that a discussion with candidate Dorren Hassan did occur about a future open Board seat, but no promise was made.

## **RECOMMENDATIONS 2:**

- A. *(Mr. Perez) Resign as Board President.*

LBSD response: The LBSD wholly disagrees with this finding. The Board President was elected in accordance with Board Policy and California law. In any event, the Board's leadership will be subsequently reviewed at the December 8, 2009 annual organizational Board meeting.

- B. *(The Board) Conduct an immediate election for Board President, whereby the president is duly elected by the majority of the Board and conduct in full compliance with Board Policy (§9320).*

The recommendation will not be implemented because it is not warranted, is not reasonable and is contrary to law. The California Education Code sets the time and place for the election of officers for the Board of Trustees. The Board will follow state law.

- C. *(The Board President) Comply with the recommendations of the CSBA to govern in a dignified and professional manner, treat everyone with civility and respect, not encroach on the learning environment, and ensure that a positive working climate exists.*

LBSD response: The LBSD agrees with, and has implemented, this recommendation. The Board President will exercise a continuing duty to conduct himself in accordance with Board Policy and CSBA governance standards.

- D. *Comply with Board Policy §9271 (Code of Ethics), Board Policy §9200 (Conflict of Interest obligations), and Board Policy §4000, §5000 and §6000 (Governance Role).*

LBSD response: The recommendation has been implemented and the LBSD shall comply with all applicable Board policies. Additionally, on October 26, 2009, all members of the Board received certificates of completion of a formal AB 1234 ethics trainings by qualified attorneys, including review of Board Policies 9270, 9271 and of the Political Reform Act.

### **3. BOARD PRESIDENT CONFLICT OF INTEREST – FINDINGS AND RECOMMENDATIONS**

#### **FINDINGS 3:**

- A. *Made the motion to approve a contract with BCC for \$924,543 four (4) months after Perez Woodworking entered into a six-figure contract with an existing BCC client and under the direction of BCC.*

LBSD response: The LBSD partially disagrees with this finding. The Board President made the motion to approve a contract with BCC approximately four months after Perez Woodworking entered into a contract with CW and that CW was a client of BCC. The LBSD does not agree with the characterization that the contract was under the direction of BCC and does not agree with the implication that a conflict of interest arose on the basis that CW was also a client of BCC.

- B. *Voted on the selection of BCC and construction-related issues on at least thirty (30) occasions.*

LBSD response: The LBSD agrees that the Board President voted on the selection of BCC and a number of construction-related issues.

- C. *Failed to disclose to the Board and the public his personal relationship with BCC's Chief Estimator and his business relationship with BCC on at least thirty (30) occasions where LBSD construction projects were on the Board agenda.*

LBSD response: The finding is vague as to what exactly the Grand Jury is suggesting that the Board President failed to do. The LBSD is not aware of the extent of the Board President's references to "personal relationships". It is not illegal to have acquaintances or engage in community networking.

- D. *Failed to recuse himself from discussion and the resulting vote on at least eleven occasions related to the hiring of BCC and subsequent BCC project construction decisions at LBSD.*

LBSD response: The LBSD agrees that the Board President did not recuse himself from voting on certain BCC matters that appeared on Board agendas. Regardless of whether or not recusal was legally required, the LBSD agrees that there is now a perception issue that should be dealt with. Accordingly, after the Board reviews the entire Grand Jury report and drafts responses, the Board will reconsider the prior Board actions concerning current BCC contracts with the LBSD and will engage in a discussion and vote to reject or ratify these actions without the presence of the Board President.

### RECOMMENDATIONS 3:

- A. *The Board President should immediately comply with Board Policy (§9270) Conflict of Interest, (§9271) Personal Gain and the Political Reform Act.*

LBSD response: This recommendation has been implemented. On October 26, 2009, all members of the Board received certificates of completion of a formal AB 1234 ethics trainings by qualified attorneys, including review of Board Policies 9270, 9271 and of the Political Reform Act.

- B. *The Board President should determine if his business relationships through PWW create an incurable conflict with his Board member obligations.*

LBSD response: This recommendation has been implemented.

- C. *The Board President should disclose all perceived or actual conflicts of interest on matters before the Board, and recuse himself from discussion and voting on these matters.*

LBSD response: All members of the Board, including the Board President, have committed themselves to making all disclosures required by law and to recusing themselves as required from discussion and voting on matters in compliance with the law.

All members of the Board received ethics training on October 26, 2009, which included specific guidance on identification of conflicts of interest and the recusal process.

#### 4. FORM 700 OBLIGATIONS – FINDINGS AND RECOMMENDATIONS

##### FINDINGS 4:

A. *The Board President failed to disclose:*

- i. *His business (PWW) and the name of each reportable source of gross income greater than \$10,000, including but possibly not limited to income from BCC*
- ii. *Interested in real property held by him or in trust and where he holds greater than 10% interest*
- iii. *Gifts (dinners) in excess of \$50 from BCC*

LBSD response: The LBSD wholly disagrees with this finding. Based on a review of information, there are no facts to indicate that any conflict of interest laws or FPPC regulations have been violated. The Board President, however, will review records and make amended filings if he finds that he inadvertently failed to make any material disclosures.

B. *The Interim Superintendent failed to disclose gifts (gold and meals) in excess of \$50 from BCC.*

LBSD response: The LBSD wholly disagrees with this finding. Based on a review of information, there are no facts to indicate that any conflict of interest laws or FPPC regulations have been violated. The former Interim Superintendent, however, will review records and make amended filings if he finds that he inadvertently failed to make any material disclosures.

C. *Prior to April 2009, Board members (with the exception of the (2) members) failed to submit a Form 700 as required by the Political Reform Act.*

LBSD response: The LBSD agrees with this finding. Board members had turned in required documents to the District., however these forms were not submitted to the appropriate agency. This oversight was inadvertent and has been or is in the process of being corrected.

##### RECOMMENDATIONS 4:

A. *File a complete and accurate Form by April 1 of each year*

LBSD response: The recommendation will be implemented.

- B. *Ensure that the Board, District administration, and designated employees complete ethics training regarding the roles and responsibilities of public officials as related to the Political Reform Act including conflicts of interest and accurate completion of Form 700.*

LBSD response: The recommendation has been implemented. On October 26, 2009, all members of the Board received formal AB 1234 ethics training from qualified attorneys. The Board, LBSD administration, and designated employees, will receive continuing education in conflicts of interest and ethics laws, regulations, and requirements, including the filing of Form 700.

- C. *The Board President should immediately amend all Form 700s to accurately reflect his business, real property, income and gifts as required by law.*

LBSD response: The recommendation will be implemented. The Board President completed Form 700 and submitted it to the LBSD Secretary. Subsequently, the Interim Superintendent reviewed the submitted form, and the form is currently being reviewed by the LBSD's Counsel for accuracy.

- D. *The Interim Superintendent should immediately amend his Form 700 to accurately reflect gifts received as required by law.*

LBSD response: The recommendation will not be implemented because the Form 700 was submitted accurately.

## 5. BROWN ACT COMPLIANCE – FINDINGS AND RECOMMENDATIONS

### FINDINGS 5:

- A. *Discussing and/or taking action on topics not on the agenda of closed and open sessions of the Board agenda, including but not limited to:*

- i. *Release of Superintendent and appointment of the Interim Superintendent.*

The LBSD disagrees wholly with this finding. Discussions of the Board and action of the majority of the Board related to the release of the former Superintendent and the appointment of the Interim Superintendent took place at a duly convened meeting of the Board, with such agenda items duly noted and published.

- ii. *Potential impact of state budget cuts on LBSD.*

The LBSD disagrees partially with this finding. At times, members of the Board would have political and informative discussions with other trustees regarding the impact of Sacramento action and inaction as it relates to public education and LBSD generally.

No effort was made to arrive at a collective consensus in the course of those political discussions. No action was taken, and no commitment to take any particular action was made. They were informative discussions among citizens who were expressing a political opinion on issues of general interest.

iii. *Status of Superintendent search.*

The LBSD disagrees partially with this finding. Following inquiries by interested members of the LBSD community, Board members have provided general information about the ongoing Superintendent search process. Such communication with individuals and constituents is proper and part of the duties of an elected representative of the community.

B. *Discussing outside publicly noticed Board meetings, including communications by individual Board members to develop a collective concurrence to buyout the former Superintendent's contract and upcoming Board meeting.*

The LBSD disagrees wholly with this finding. There was no discussion outside of a duly convened Board meeting on this issue, and no effort to develop a collective concurrence on this issue.

C. *Disclosing to members of the public the predetermined Board action to buy out the Superintendent's contract before the Board meeting.*

LBSD response: The LBSD wholly disagrees with this finding. The Board President did not discuss any predetermined Board action with members of the public. This was because there were no such predetermined actions. Additionally, the Board followed the requirements of the Brown Act.

D. *Publicly disclosing confidential employee information and decisions intended to be discussed at a future Board closed session.*

LBSD response: The LBSD wholly disagrees with this finding. No confidential employee information was publicly disclosed or discussed such as to violate California law.

E. *Speaking Spanish at open and closed session Board meetings, even though at least one Board member does not speak Spanish.*

LBSD response: The LBSD wholly disagrees with this finding. The Board meetings are conducted in English. On those occasions when another language is used by a member of the audience to address the Board, translations are provided and available as needed. No California or United States laws have been violated.

**RECOMMENDATIONS 5:**

- A. *Discuss and/or take action only on topics that appear on the publicly noticed Board agenda (Board Policy §9320).*

LBSD response: The LBSD agrees with this recommendation in that the Board shall only take action on publicly noticed agenda items.

- B. *Comply with all obligations under the Brown Act, including but not limited to, refraining from consensus building discussions outside of publicly noticed Board meetings and disclosing confidential information (Gov. Code §54950 et. seq.)*

LBSD response: The LBSD agrees with the recommendation. The Board will comply with the recommendation.

- C. *Receive education and training on the Brown Act from an independent third party recommended by the SCCOE.*

The recommendation has not yet been implemented, but will be implemented in the future. The Board will request such recommendations from the SCCOE and will also solicit recommendations of other third party providers for this training.

- D. *In any open or closed session Board meeting, deliberations and discussions among Board members should be in English.*

LBSD response: The LBSD agrees with this recommendation. Board meetings are to be conducted in English with translators available when needed.

**6. HIRING OF INTERIM SUPERINTENDENT – FINDINGS AND RECOMMENDATIONS**

**FINDINGS 6:**

- A. *Failed to follow Education Code (§45125 (c), (g)) as required. This resulted in the Interim Superintendent working on school premises and having contact with students before required DOJ, background check was completed. Fingerprints for the DOJ check were not obtained until more than three (3) months after the Interim Superintendent was hired.*

LBSD response: The LBSD agrees with this finding. In the instance referred to above, LBSD's Human Resources Department Personnel failed to provide and notify Dr. Elizondo of the Livescan and TB test clearances. However, the problem has been solved since the clearances have since been established, verified, and placed on record in the employee's personnel file.

- B. *Failed to follow Santa Clara County Tuberculosis (TB) Screening Guidelines. This resulted in the Interim Superintendent working on school premises and having contact with students before TB screening was obtained.*

LBSD response: The LBSD Board agrees with this finding. The LBSD's Human Resources Personnel failed to provide and notify Dr. Elizondo of the required Livescan and TB test clearances. Subsequently, clearances have been established, verified, and placed on record in the employees personnel file.

- C. *Failed to interview, obtain a resume, and check references before appointing the Interim Superintendent in November 2008. Several Board members were informed about negative allegations surrounding the Interim Superintendent's tenure as Superintendent of Salinas Union High School District, but failed to investigate these allegations or conduct a thorough background check before his contract was signed in December 2008.*

LBSD response: The LBSD wholly disagrees with this finding. The record clearly shows that contract negotiations between the Board, the LBSD's General Counsel, and Dr. Elizondo, took place during a series of Board meetings. Concurrently, Dr. Elizondo provided his resume to the Board President and members of the Board. Dr. Elizondo reviewed with the Board certain unfounded allegations that arose during his tenure as Superintendent of Salinas Union High School District. Therefore, the Board did not fail to investigate; rather, the Board thoroughly reviewed and discussed the negative allegations.

- D. *Failed to fulfill their fiscal obligation by hiring the Interim Superintendent prior to determining his compensation package.*

LBSD response: The LBSD wholly disagrees with this finding. The record clearly shows that contract negotiations continued between the Board, the LBSD's General Counsel, and Dr. Elizondo, during a series of Board meetings. Concurrently, Dr. Elizondo provided his resume to the Board President and members of the Board. The compensation package was thoroughly reviewed by the Board.

#### **RECOMMENDATIONS 6:**

- A. *Comply with Education Code (§42125 (c), (g)), which requires that the governing Board of a school district shall not employ a person until the DOJ completes its check of the state criminal history file.*

LBSD response: The recommendation has been implemented. Personnel files are immediately established and remain active until appropriate documentation and clearances are secured.

- B. *Comply with Santa Clara County (TB) Screening Guidelines before hiring an employee under the Board's jurisdiction.*



LBSD response: The recommendation has been implemented. Personnel files are immediately established and remain active until appropriate documentation and TB clearances are secured.

C. *Hire staff under their jurisdiction only after:*

- i. *Comprehensive interviews by the Board, Superintendent, Principal and other key stakeholders.*

LBSD response: The recommendation requires further analysis. Given that the LBSD is small and administrators are responsible for a multitude of responsibilities it is not feasible for the Superintendent to actively participate in all interviews. The Board of Trustees is ultimately responsible for interviewing and hiring the Superintendent-Principal.

- ii. *References, fingerprinting and background checks are satisfactorily completed.*

LBSD response: The recommendation has been implemented. Personnel files are immediately established and remain active until appropriate documentation and fingerprint clearances and background checks are completed.

D. *Hire staff only after an employment agreement has been signed.*

LBSD response: The recommendation will not be implemented because it is not always practical. School staff i.e. those in teaching positions, may need to commence the school year before the Board can meet to approve the contract. In such limited cases the Board typically ratifies the contract following the first day of employment of the teacher.

## 7. BOARD APPOINTMENTS – FINDINGS AND RECOMMENDATIONS

### FINDINGS 7:

- A. *Limited the public's opportunity to seek appointment by posting three notices announcing the vacancy on the Board on LBSD property during the period of time when school was not in session (December 13, 2008 - January 4, 2009 holiday break).*

LBSD response: The LBSD wholly disagrees with this finding. The LBSD cured any technical defect by extending the period to call for a special election and provided the three notices required and publishing an announcement in a local newspaper.

- B. *Deprived the public of their rights (as required by the Education Code) in January 2009 by:*

- i. *Failing to adequately notify the public of their right to request a special election within 30 days of Ms. Ortiz' provisional appointment.*

LBSD response: The LBSD partially agrees and partially disagrees with this finding. The LBSD extended the time to call for a special election to cure any technical defect; consequently, registered voters in the LBSD were not precluded from utilizing the procedures to call for a special election if they so desired.

- ii. *Failing to notify the public through an announcement in a local newspaper.*

LBSD response: The LBSD wholly disagrees with this finding. The LBSD cured any technical defect by extending the period to call for a special election and provided notices accordingly.

- iii. *Failing to post the notice in the three (3) locations where the public is accustomed to seeing notices about LBSD.*

LBSD response: The LBSD wholly disagrees with this finding. The LBSD cured any technical defect by extending the period to call for a special election and provided notices accordingly.

- C. *Continued to deprive the public of their rights (as required by Education code) in April 2009 by:*

- i. *Publishing a notice three months late.*

LBSD response: The LBSD wholly disagrees with this finding. Although notices were not posted within the normal 30 day window, the public was never deprived of the opportunity to challenge the appointment because the period for challenging the appointment and calling for a special election by petition was extended.

- ii. *Setting a deadline that had already passed, which deprived the public the opportunity to request a special election.*

LBSD response: The LBSD wholly disagrees with this finding. Although notices were not posted within the normal 30 day window, the public was never deprived of the opportunity to challenge the appointment because the period for challenging the appointment and calling for a special election by petition was extended.

## **RECOMMENDATIONS 7:**

- A. *Provide the public an opportunity to seek a special election within thirty (30) days of a notice. Notice should be:*

- i. *Sent to all LBSD parents.*
- ii. *Posted in a public place frequented by the LBSD community.*

- iii. *Posted at the Burbank Lion's Club.*
- iv. *Posted on LBSD property.*
- v. *Published in the San Jose Mercury News.*

LBSD response: The LBSD partially agrees and partially disagrees with the recommendation when the period for calling a special election was extended, public postings were duly placed.

- B. *Hold a forum at an open Board meeting concerning the provisional appointment process and encourages dialogue on the topic.*

LBSD response: The recommendation will not be implemented because appropriate procedures were completed.

- C. *Certify Ms. Ortiz' appointment only if the public does not request a special election within thirty (30) days of public notice.*

LBSD response: The recommendation will not be implemented because Ms Ortiz's appointment was certified with appointment procedures in accordance with the law.

- D. *Comply with the Education Code (Education Code §5091, §5092) for future Board appointees.*

LBSD response: The LBSD agrees with the recommendation. The LBSD has a continuing duty to comply with LBSD policy.

## 8. BOARD MEETINGS – FINDINGS AND RECOMMENDATIONS

### FINDINGS 8:

- A. *Limits the likelihood of public scrutiny by holding increasingly numerous "special meetings," which require only 24 hours public notice.*

LBSD response: The LBSD wholly disagrees with this finding. The Board notices and holds regular and special meetings in accordance with California law and Board policy.

- B. *Discontinued the practice (Board Policy §9322) of posting regular and special meeting notices at public places (not on LBSD property) where they may be viewed by the members of the public.*

LBSD response: The LBSD wholly disagrees with this finding. Responsible personnel have posted meeting notices in public places in compliance with California law and Board policy.

- C. *Further limits public participation, by inconsistent start times for regular (Board Policy §9320) and special meetings, and meetings that last late into the night which precludes most parents' full attendance.*

LBSD response: The LBSD wholly disagrees with this finding. The length of the Board meetings is directly related to the length of the agenda and discussions by the public and the Board.

- D. *Asks the public to sign in at Board meetings and is antagonistic towards those who do not sign in violation of Government Code section §54953.3.*

LBSD response: The LBSD wholly disagrees with this finding. Signing in at the Board meetings is completely voluntary.

- E. *Fails to provide Board meeting materials for public inspection at Board meetings (Government Code §54957.5)*

LBSD response: The LBSD wholly disagrees with this finding. Board meeting materials are made available to the public in accordance with California law and Board Policy.

- F. *Fails to provide a qualified translator at Board meetings even though the LBSD community is predominately Spanish speaking.*

LBSD response: The LBSD wholly disagrees with this finding. Translation is provided at Board meetings as needed.

- G. *Often fails to allow the public to address the Board on items on the agenda.*

LBSD response: The LBSD wholly disagrees with this finding. All requests to address the Board are accommodated to the extent mandated by California law.

- H. *Discontinued the practice of providing comprehensive minutes of Board meetings.*

LBSD response: The LBSD wholly disagrees with this finding. Comprehensive minutes are kept for all Board meetings in accord with California law.

- I. *Fails to approve minutes in a timely manner, resulting in the release of minutes to the public typically two (2) or more months after a Board meeting.*

LBSD response: The LBSD wholly disagrees with this finding. Board minutes are drafted and presented to the Board as quickly as possible given the workload at the time are approved in accord with California law.

## RECOMMENDATIONS 8:

- A. *Minimize special meetings, and not use these meetings to conduct routine LBSD business.*

LBSD response: The LBSD wholly disagrees with this recommendation. When necessary, special meetings are allowed by California law provided the proper notice and meeting procedures are followed. Such meetings may be necessary and should be available to LBSD business as needed.

- B. *Notice all regular and special Board meetings in a clearly visible place on the school's bulletin Board, in the District Office and at the public place typically frequented by LBSD parents (not on LBSD property)*

LBSD response: The LBSD agrees with this finding. The present practice will be amended to include the Luther Burbank Library.

- C. *Publish all regular and special Board meetings notices and agendas in English and Spanish, including written instructions on how the public can address the Board on agenda items and request a translator.*

LBSD response: The recommendation will not be implemented because it is not reasonable, practical, or legally required to publish all agendas in Spanish. Translation is available at all Board meetings. Notices as to how to address the Board are available in English and Spanish.

- D. *Conduct meetings at a consistent time and ensure public access to the facility before the start of all Board meetings.*

LBSD response: The LBSD agrees with this recommendation. All Board meetings have a consistent starting time of 5:30 p.m. for closed sessions and 6:30 p.m. for open sessions.

- E. *Announce availability and provide at least one (1) Board Packet (Board meeting materials) for public use at all Board meetings.*

LBSD response: The LBSD agrees with this recommendation. A Board agenda packet will be available at all Board meetings.

- F. *Publicly announce availability of and provide translations for those attending Board meetings as a routine practice, not just upon request during the meeting.*

LBSD response: The LBSD partially agrees with this recommendation. At each meeting translation services are often provided without being requested.

- G. *Provide the public the opportunity to comment on items on the agenda before the Board takes action on the item.*

LBSD response: The LBSD agrees with this recommendation. The Board provides the public opportunities to comment as required by the Brown Act.

- H. *Take comprehensive minutes to foster openness and full disclosure of Board discussions and actions.*

LBSD response: The LBSD agrees with this recommendation. Comprehensive minutes are taken at the Board meetings.

- I. *Approve Board minutes at the next scheduled Board meeting.*

LBSD response: The LBSD agrees with this recommendation. Minutes are approved at subsequent meetings as quickly as the LBSD Secretary can feasibly complete the minutes.

- J. *Include the following on the LBSD website:*

- i. *Calendar of regular and special Board meetings*
- ii. *Minutes of Board meetings*
- iii. *Contact information for the Board*
- iv. *Any other information that will cultivate an environment of openness with the public.*

LBSD response: The LBSD agrees with this recommendation. The present site does have the Board members contact information. The LBSD's website is presently being reconstructed. The minutes and agenda will be placed on the site.

## 9. SCHOOL BOND OBLIGATIONS – FINDINGS AND RECOMMENDATIONS

### FINDINGS 9:

- A. *Failed to certify the September 2006 Election results authorizing the issuance of Measure A bonds as required by statute (Education Code §15274)*

LBSD response: The LBSD wholly disagrees with this finding as the election was certified as required by Section 15124 of the Education Code, which is the section applicable to the election procedure followed by LBSD. The LBSD points out that the provisions of the Strict Accountability in Local School Construction Act of 2000, commencing with Section 15264 (the "Prop 39 Act") do not apply to the LBSD School Bond Measure A ("Measure A"). Measure A was a 2/3 bond measure and the applicable election procedures are contained in Sections 15120-15126 of the Education Code.

Pursuant to the requirements of Section 15124, on October 10, 2006, the LBSD adopted Resolution No. 10-10-06-01 (the "Resolution Certifying Election Results"), causing to enter into its minutes the results of the election and certifying election results to the board of supervisors of the County. The LBSD believes that the Resolution Certifying Election Results was forwarded to the County Superintendent and the Clerk of the Board of Supervisors of Santa Clara County, as set forth in Section 3 of the Resolution Certifying Election Results and as required by law.

- B. *Failed to appoint a citizen's oversight committee (Education Code §15278 et. seq.) as of April 2009 (more than 2.5 years after Measure A was approved by voters).*

LBSD response: The LBSD partially agrees and partially disagrees with this finding. The LBSD chose not to hold the election under the Prop 39 Act thereby choosing not to obtain only 55% voter approval for Measure A. Instead, the LBSD chose to only issue debt if it was able to obtain the support of 2/3 of the voters within the district. Measure A was approved by over 75% of the voters. The LBSD agrees that, pursuant to Resolution 06-20-06-02 (the "Election Resolution"), the LBSD did commit to establish a Citizens' Oversight Committee (COC). However, the LBSD did not commit to comply with the requirements of the Prop 39 Act. The LBSD agrees that to date, a COC has not been established. To cure this oversight, the Board will consider commissioning a special audit for Measure A. The purpose of the special audit will be to create a report that includes the information that a COC established pursuant to the Election Resolution would have provided to the Board and the public.

- C. *Failed to provide citizen oversight before:*

- i. *Authorizing and spending in excess of \$7.0 million of Measure A bond proceeds since January 2005*
- ii. *Authorizing the sale of \$1.96M GO Bond Anticipation notes in January 2009*

LBSD response: The LBSD partially agrees and partially disagrees with this finding. The election was not held under the Prop 39 Act, or any provision of the initiative known as Proposition 39, as set forth under Section XIII A, Section 1 of the California Constitution ("Proposition 39"). Therefore, a bond oversight committee was not required either by statute or the provisions of the California Constitution. Notwithstanding the foregoing, the LBSD agrees that the text of the Election Resolution, and the ballot measure, did include language promising the voters that a COC would be established. The Election Resolution, however, did not indicate the timing for the establishment of the COC, nor did it specify what the constitution of the COC should be or what services would be performed by the COC. The Prop 39 Act specifies that the role of a COC is to advise the public concerning the purpose for which bond proceeds are spent. Although the requirements of the Prop 39 Act are not applicable to Measure A, the LBSD believes that informing the public of the projects on which bond proceeds are spent is in the best interest of the LBSD and the public. Consequently, the Board

will consider commissioning a special audit for Measure A. The purpose of the special audit will be to create a report that includes the information that a COC established pursuant to the Election Resolution would have provided to the Board and the public.

- D. *Failed to engage a third party to conduct independent annual financial and performance audits as required by statute (Education Code §15280, §15282 and California Constitution Article XXXIA, Section 1, (3) (b-c) since the issuance of the first Measure A bond in March 2007.*

LBSD response: The LBSD partially disagrees with this finding. The LBSD respectfully points out that neither the provisions of Proposition 39 nor the provisions of the Prop 39 Act are applicable to Measure A. Therefore, the LBSD had no obligation to comply with the provisions of California Constitution, Article XIII A, Section 1, Subsection (b)(3)(C) and (b)(3)(D) nor with Education Code 15280 or 15282.

The LBSD agrees that the Election Resolution and the provisions of the Government Code, Sections 53410 and 53411, require the preparation of an annual report. These provisions require that the annual report be filed with the Board by the Chief Business Official on or prior to January 1 of each year. The report should disclose, the amount of bond proceeds issued and expended and the status of any project required or authorized to be funded. The LBSD will require the Chief Business Official to prepare and file said report each January hereafter, commencing with January 1, 2010.

#### **RECOMMENDATIONS 9:**

- A. *Immediately appoint an independent citizen's oversight committee (in full conformity with Education Code §15282) that will not be unduly influenced by the Board or any individual member.*

LBSD response: The recommendation will not be implemented because Measure A was not approved at a Proposition 39 election and the provisions of Education Code Section 15282 do not apply. The LBSD will complete an audit, as required under Government Code Sections 53410 and 53411 and will publish, on its website, the information regarding the use of bond proceeds that would have been provided to the COC, if one had been established.

- B. *Fully brief the citizen's oversight committee within fourteen (14) days after their appointment on all past and proposed expenditures, project plans and other issues necessary for the committee to perform their function.*

LBSD response: The recommendation will not be implemented because Measure A was not approved at a Proposition 39 election and the provisions of Education Code Section 15280 do not apply. However, a copy of the audit report will be made available to the public.



- C. *Cooperate with and provide the citizen's oversight committee with the documentation and necessary resources for them to fulfill their obligations (Education Code §15280)*

LBSD response: The recommendation will not be implemented because Measure A was not approved at a Proposition 39 election and the provisions of Education Code Section 15280 do not apply. However, a copy of the audit report will be made available to the public.

- D. *Engage an independent third party to conduct financial and performance audits as required by Education Code §15280, §15282 and California Constitution Article XXXIA, Section 1, (3) (b-c).*

The recommendation will not be implemented because Measure A was not approved at a Proposition 39 election and the provisions of California Constitution Article XIII A, Section 1, Subsection (b)(3)(C) and (b)(3)(D), and the Education Code Sections 15282 and 15282 do not apply.

- E. *In the spirit of full disclosure and openness, inform the public of Board actions related to Measure A by documenting in Board minutes all discussion and votes including but not limited to:*

- i. *Contracts approved*
- ii. *Expenditures approved*
- iii. *Budget versus actual expenditures*
- iv. *Detailed status of project activities*
- v. *Identification by name of contractors and other project staff presenting to or available for questions/discussion at Board meetings*

LBSD response: The recommendation has been implemented and will continue to be implemented in the future. All contracts and approved expenditures are approved at meetings that are open to the public, in compliance with the Brown Act and other applicable requirements, as well as Board policy. Furthermore, from time to time, the Board receives detailed updates on the status of projects during regular and special Board meetings. As required under the Brown Act, any member of the public has the right to submit a request to comment on any topic identified on the Agenda for any Board meeting, including but not limited to projects, contract awards, budget or expenditure items.

- F. *Include the following on the LBSD website:*

- i. *Calendar of citizens' oversight committee meetings*

- ii. Roster of citizens' oversight committee members
- iii. Minutes of citizens' oversight committee meetings
- iv. Reports from citizens' oversight committee

LBSD response: The recommendation will not be implemented because Measure A was not approved at a Proposition 39 election and the provisions of Education Code Section 15280 do not apply. LBSD will endeavor to make the special audit report available on the District's website.

## **10. LBSD FINANCIAL MANAGEMENT AND OVERSIGHT**

### **FINDINGS 10:**

- A. *The special audit raised significant questions about internal controls at LBSD and the failure of the Board to follow Board Policy.*

LBSD response: The LBSD agrees with this finding and will be responding to the county audit relative to reviewing appropriate Board policies and administrative regulations.

### **RECOMMENDATIONS 10:**

*The LBSD Board should respond to the special audit by:*

- A. *(LBSD Board) Immediately addressing the issues raised.*

LBSD response: The LBSD is in the process of implementing this recommendation. It will be addressed through the responses to the audit findings within the county audit.

- B. *Developing a timetable for and monitoring the progress/completion against the audit recommendations.*

LBSD response: The recommendation has not yet been implemented, but will be addressed through the responses to the various audit findings within the county audit.

- C. *Reporting compliance with the audit recommendations at least once quarterly at an open session Board meeting.*

LBSD response: The recommendation has not been yet been implemented, but will be implemented in the future. A timetable is being developed.

**11. VOLUNTEERS: PROTECTING STUDENTS FROM SEXUAL PREDATORS AND COMMUNICABLE DISEASES – FINDINGS AND RECOMMENDATIONS**

**FINDINGS 11:**

- A. *LBSD Board Policies do not include any requirement for volunteers to be fingerprinted nor to provide a negative TB screen before contact with students. The LBSD does not currently require testing for TB or fingerprinting of volunteers.*

LBSD response: The LBSD agrees with this finding.

**RECOMMENDATIONS 11:**

The LBSD Board should:

- A. *Fingerprint potential volunteers and obtain the results from the DOJ before any volunteer has contact with the students.*

LBSD response: The recommendation has been partially implemented. All volunteers are required to obtain a DOJ clearance; however, fingerprints are not legally required for volunteers.

- B. *Require prospective volunteers to provide evidence of a negative TB test before contact with students.*

LBSD response: This recommendation has been implemented in that TB clearance is verified and placed in the personnel jacket before starting work.

- C. *Establish Board Policies requiring TB testing and fingerprinting of volunteers.*

LBSD response: Adoption of appropriate policies has been scheduled for the Board's consideration and action.

**12. COMMITMENTS TO THE SUPERIOR COURT – FINDINGS AND RECOMMENDATIONS**

**FINDINGS 12:**

*As of May 2009, it appears that there is no enforceable written agreement between LBSD and Mr. De La Cruz, contrary to their October 2008 commitment to the Court.*

LBSD response: The LBSD agrees with this finding.

## RECOMMENDATIONS 12:

*This Grand Jury supports the recommendation of the 2007-2008 Grand Jury. The Board should provide evidence of a legally enforceable written agreement with Mr. De La Cruz to reimburse Luther Burbank School District for monies he received while a member of the Board and living outside the District.*

The recommendation has not yet been implemented, but will be implemented in the near future. The LBSD is awaiting receipt of the results of an investigation regarding the former trustee De La Cruz which is being conducted by another government agency so that it may adequately review and assess the facts without incurring the additional expense of conducting its own independent investigation.

It is expected that a written agreement with former trustee De La Cruz will be effected and adopted by the Board within 30-45 days of receipt of that investigation report conducted by that government agency.

## 13. REPORT CARD HIGHLIGHTS – FINDINGS AND RECOMMENDATIONS

### FINDINGS 13:

- A. *Fails to openly and actively provide the public with the opportunity to participate and have a voice in Board actions.*

LBSD response: The LBSD wholly disagrees with this finding. The LBSD is in full compliance with the Brown Act. For example, opportunities for public comments are provided in every Board agenda. Within that portion of the agenda, the public is given an opportunity to speak for up to three minutes.

- B. *Fails to adequately inform the public of the background, financial implications, options and potential consequences of Board actions.*

LBSD response: The LBSD wholly disagrees with this finding. The Board's Agenda items have appropriate information as required by law.

- C. *Seeks to exclude public oversight of Measure A expenditures.*

LBSD response: The LBSD wholly disagrees with this finding in that a bond oversight committee was not required under the measure.

- D. *Deprives the public of their right to seek appointment to the Board.*

LBSD response: The LBSD wholly disagrees with this finding. Interested persons submitted applications for appointment to the Board of Trustees.

- E. *Fails to self-police Board members to ensure that each member acts in a professional and responsible manner.*

LBSD response: The LBSD wholly disagrees with this finding. All Board members are duty bound to act in a professional and responsible manner.

- F. *Abdicates their Board responsibilities to the Board President.*

LBSD response: The LBSD wholly disagrees with this finding. Members of the Board of Trustees do not abdicate their legal responsibilities to the Board President.

- G. *Fails to avoid conflict of interest.*

LBSD response: The LBSD partially disagrees with this finding. As a whole, the LBSD Board seeks to comply within applicable law. The Board has now received an AB1234 ethics training. If lapses occur, the Board will take action and conduct remedial measures.

- H. *Places its personal interest and agendas before the needs of LBSD.*

LBSD response: The LBSD wholly disagrees with this finding. The Board does not place personal interests before the needs of LBSD.

- I. *Continues to repeatedly ignore multiple policies and laws to govern their conduct. This includes, but is not limited to:*

- *Board Policy (§4000, §5000, §6000, §9200, §9270, §9271, §9272, §9320, §9322)*
- *Education Code (§5091, §5092, §15264, §15274, §15278, §15280, §15282, §35021, §41402, §45125 (c), (g))*
- *California Government code (§1090, §87500)*
- *California Constitution Article, XXXIA, Section 1, (3) (b-c)*
- *The Brown Act (§54952.2 - §54956.5(a), §54957.5)*
- *The Political Reform Act (§87100, §87103, §87105)*
- *CSBA Guidelines*

LBSD response: The LBSD wholly disagrees with this finding. The Board of Trustees does not ignore policies and laws. The Board recently received an AB1234 Ethics Training covering most of the laws and policies listed above and will continue to attend CSBA and other trainings covering other areas of Board responsibilities.

**RECOMMENDATIONS 13:**

- A. *Closely monitor the LBSD Board to ensure implementation and compliance with the special audit.*

LBSD response: The recommendation will be implemented as the LBSD responds and implements each of items in the special SCCOE county audits.

- B. *Closely monitor the LBSD Board to ensure implementation of the Grand Jury recommendations.*

LBSD response: The recommendation will be implemented through the 2009-2010 school year and thereafter.

- C. *Strongly encourage an amicable organization (merger) of LBSD an adjacent school district.*

LBSD response: The LBSD partially disagrees with this recommendation. A meeting was held with the Interim Superintendent and Board President of the San Jose Unified School District to discuss unification and or sharing services. It was agreed that a merger of the LBSD with the San Jose Unified School District was not feasible at this time although the sharing of services was appropriate and is presently taking place in the form of cafeteria services.