



## OFFICE OF THE SUPERINTENDENT

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*Karen Janney, Ed.D.*  
*Superintendent*

November 13, 2019

**SENT VIA E-MAIL &  
FedEx EXPRESS**

Bruce Harter, Interim Deputy Superintendent  
California State Department of Education  
1430 N Street  
Sacramento, CA 95814

**Re: Appeal to Challenge Various Actions Imposed in November 8, 2019 Revised Budget Approval Letter from San Diego County Superintendent**

Dear Deputy Superintendent Harter:

Enclosed you will find Sweetwater Union High School District Governing Board's appeal pursuant to Education Code Section 42127.9 challenging various actions imposed by the San Diego County Superintendent of Schools set forth in their November 8, 2019 letter (Attachment A). On November 8, 2019, the Sweetwater Union High School District (SUHSD) board of trustees and superintendent received a letter from San Diego County Office of Education (SDCOE) Deputy Superintendent Michael Simonson approving the district's revised budget for 2019-2020. The letter also informed SUHSD of its intent to impose various budget revisions in accordance with Education Code Section 42127.6(e)(1).

Prior to receipt of the November 8, 2019 letter, SDCOE provided district staff with a draft letter of budget approval that included an intent to exercise imposition of budget reductions. SUHSD staff expressed verbally and in writing (Attachment B) to SDCOE that the actions they intended to impose were not in the financial interest of the district. SUHSD proposed alternatives and requested that SDCOE not impose the budget actions. (Attachment B) On November 6, 2019, SDCOE verbally stated that the actions to impose budget reductions would still be included in the November 8, 2019, revised budget approval letter, over the district's objections. When the letter was received on November 8, 2019, it included five budget impositions. Pursuant to governing board action on November 12, 2019, the district requests your assistance in setting aside two of the imposed items. The district is appealing the first and second bullet as noted on page 2 of the letter pursuant to Education Code Section 42127.9(a)(2).

To contextualize this appeal, we are including background regarding our experience with SDCOE since September 2018, when SDCOE exercised its expanded authority under AB 1840 to oversee our fiscal situation. This information is provided in order to help CDE understand SDCOE's lack of support and collaboration in response to SUHSD's fiscal stabilization and recovery plan. Furthermore, we draw your attention to the tone of the sixteen letters (Attachment C) we received from the SDCOE since September 18, 2019, which are negative, inflammatory and have contained requests that have sometimes been unreasonable in both scope and timing. Taken together, these exchanges have been counter-productive to the efforts undertaken by district staff and have impugned our standing in the community; this is in direct contradiction to the intent of AB 1840 to assist districts in financial distress.

We are asking for your assistance to stay the imposition of the two budget items set forth above and to convene and facilitate a mediation between SUHSD and SDCOE to address our fiscal recovery under AB 1840.

*"Putting Students First"*

## **Background**

In late August 2018, SUHSD's outgoing Chief Financial Officer Karen Michel and the newly hired Chief Financial Officer (CFO) Dr. Jenny Salkeld realized there were problems with the Unaudited Actuals (UAs) for the 2017-18 school year. We immediately notified the SDCOE of the potential problems and requested more time to complete the UAs. Our plan was to take the UAs to SUHSD Board of Trustees on the September 24, 2018 Board Meeting. At the same time, we informed SUHSD's Board of Trustees and our Labor Partners (Sweetwater Education Association/CTA, School Counselors & Guidance Association/CTA, CSEA, and NAGE/SEIU) of the potential problems. Although we notified SDCOE and were openly engaging with SDCOE staff, we received a letter from Mike Simonson on September 18, 2018, disapproving our 2018-2019 Budget, which was sent to media outlets, without a prior conversation or discussion of its content with SUHSD. At that time, we considered the SDCOE decision to disapprove our budget as premature since the UAs were not finalized. Even though SUHSD CFO Dr. Salkeld and I met with County Superintendent Paul Gothold and Deputy Superintendent Mike Simonson on September 19, 2018, to request a delay in the decision, there was no movement on their part to make any changes; therefore, the letter became official. Since AB 1840 trailer bill became effective on September 17, 2018, this disapproval letter triggered the new law and its accompanying actions, which included a Fiscal Health Risk Analysis Survey by FCMAT and a requirement for the district to revise the 2018-2019 budget by October 8, 2018. The following is a chronology of these events:

- SUHSD submitted a revised 2018-2019 budget to SDCOE by October 8, 2018. We received support and affirmation of the work we accomplished by CDE Deputy Superintendent Nick Schweizer.
- On November 8, 2018, SDCOE approved the 2018-2019 revised budget and assigned SUHSD a fiscal advisor, Dr. Mark Skvarna.
- During this same time period, we successfully worked collaboratively with all Labor Partners to agree on two (2) furlough days and a Supplemental Early Retirement Plan (SERP) that would be offered mid-year in December 2018, and end of the year in June 2019.
- Our 1<sup>st</sup> Interim Budget Report in December 2018, was negatively certified.
- SDCOE publicly disagreed with the SERP (Letter dated December 17, 2018); however, the cost savings from the SERP not only helped us with cash flow, but also helped us right-size district staff through voluntary retirement/resignation versus layoffs (advocated by SDCOE and Dr. Mark Skvarna).
- Between September 2018 and January 2019, there were 33 media stories published about Sweetwater's budget situation (Attachment D). Many times we received these communications either at the same time as media outlets or after their publication in print media or aired on TV news.
- On February 12, 2019, a group of SUHSD Labor Leaders representing all six bargaining units, two SUHSD board members, superintendent, CFO, and general counsel traveled to Sacramento to visit five local legislators, the Senate Budget Committee, the Department of Finance, and CDE Deputy Superintendent Nick Schweizer to share our progress and also share our concerns that our relationship with SDCOE had not improved and had taken on a retaliatory tone. At that time, we expressed an interest in having CDE assist in mediating the fractured relationship with SDCOE. Deputy Superintendent Nick Schweizer said he would speak with Deputy Superintendent Mike Simonson and Mark Skvarna regarding our concerns. While SUHSD was in Sacramento in Senator Hueso's office, we received an inquiry from a Union Tribune reporter seeking comments about the February 12, letter that was e-mailed only an hour prior. This single experience left all labor associations dismayed as to how SDCOE would share a letter with the media within minutes of the district.
- On February 25, 2019, we requested weekly meetings with SDCOE in an effort to improve communication and our relationship. Minutes were transcribed (Attachment E).

- We continue to meet and confer with SDCOE on a weekly basis; unfortunately, the hoped-for improved communication and relationship has not materialized.
- At the end of our weekly meeting on August 7, 2019, Deputy Superintendent Mike Simonson announced that we would be receiving a letter late that day from SDCOE disapproving our 2019-2020 Budget. This was not discussed prior to this meeting nor did SDCOE ask to have the topic agendaized for the meeting.
- We sent an email to the SDCOE responding to the August 7, 2019 letter regarding our 2019-2020 adopted budget stating it “was inflammatory and unacceptable. Without the courtesy of having a direct conversation with our staff prior to sending out such an incriminating and impugning referendum not only puts Sweetwater in an unfair predicament, but also casts a ‘cloud’ over the hard work our staff has completed to address the financial deficit we discovered.”
- On August 14, 2019, in that same email sent to SDCOE Superintendent Dr. Paul Gothold (Attachment F, page 1) we shared our disappointment that “SDCOE’s continued practice of making our fiscal recovery so public has made it extremely difficult to maintain our focus on our district priorities... From our perspective, the County has not been working ‘with’ us, but rather has continually ‘moved the goal post’ as we work to comply with your requests.”

Moreover, in this email to Dr. Gothold, I drew his “attention to the inappropriate language and innuendos Mr. Mike Simonson has chosen to use in a few of our weekly meetings.” The examples I cited in the email (Attachment F, page 2) are unprofessional, unacceptable, and unbecoming of a senior leader representing the County Office of Education. I requested a meeting with Dr. Gothold to discuss Mr. Simonson’s unprofessional behavior to informally resolve this matter in lieu of filing a uniform complaint.

Finally, I requested a meeting with Dr. Gothold to “discuss how we can repair the relationship between Sweetwater and SDCOE.”

- I met with Dr. Gothold on August 27, 2019. When I raised the complaint regarding Mr. Simonson, Dr. Gothold stated he could not discuss it because there would be an investigation and that Dr. Salkeld and I would be contacted at a future date. To date, we have not been interviewed as part of an investigation regarding this complaint.
- During the August 27, 2019 meeting, I also requested that we (Dr. Salkeld and I) would be willing to participate in a mediation with SDCOE staff. Dr. Gothold agreed to participate; however, despite follow-up contacts he has not agreed on a mediator. Since that time, I have sent two emails and five texts following up on this request for a mediation to repair the relationship; we still have no plans in place.
- On October 28, 2019, SUHSD was informed at our weekly meeting that we would receive a draft letter approving our revised 2019-2020 budget later that day. During the meeting, Mr. Simonson mentioned that SDCOE would listen to any comments from SUHSD about the letter, but SDCOE did not anticipate making any changes or revisions to the letter. Fiscal Advisor Dr. Mark Skvarna brought hard copies of the letter to SUHSD Board of Trustees and the Superintendent in Closed Session that same day. We posed a number of questions that Dr. Skvarna could not answer directly.
- As stated in the second paragraph of this appeal, we emailed Deputy Superintendent Mike Simonson and Fiscal Advisor Dr. Mark Skvarna a response to the draft letter on November 4, 2019 (Attachment B).
- We then followed up with a discussion about the draft letter on November 6, 2019.
- In an article that just came out today in the San Diego Union Tribune regarding the approved budget, SDCOE Deputy Superintendent Mike Simonson provided additional opinions, not stated in the letter, that are derogatory to the district and conveys to the public that the district is incompetent. He does not support his opinion with any facts, while continuing to communicate a negative narrative about Sweetwater to our community.

Once again, I am sharing this background information with hopes that your office can help facilitate a mediation between SDCOE and SUHSD as part of this appeal so that we can move forward together in a collaborative and supportive environment.

### **Appeal**

Specifically, the actions the District requests the SPI stay in this appeal are set forth below:

**The SDCOE's action to impose removal of the estimated \$3.8M budget savings for two furlough days among the bargaining units from the budget (first bullet on page 2 of the letter): This appeal is based on section 42127.9(a)(2). Specifically, the district believes that this imposition "require reductions that are unnecessary in view of other reductions that are proposed by the governing board of the school district and that reasonably can be expected to be realized."**

Our Board of Trustees believes that this is a reduction that "reasonably can be expected to be realized," given the agreements already reached, the progress made, and the pending dates set for negotiations in advance of the furlough days for which we have budgeted. SDCOE's imposition now, in the midst of active negotiations, is premature and negatively impacts the District's ability to reach these reductions in the current year, and potentially harms out year negotiations as well. Negotiations are in progress with the certificated bargaining units, Sweetwater Education Association and the Sweetwater Counseling and Guidance Association. We have six bargaining sessions set with our labor partners, three with each CTA chapter between now and December 17, 2019 for furlough days that are not set to take place until mid-January 2020. We have already reached agreement and implemented furloughs for four of our six labor partners. The three chapters of Classified School Employees Association and the National Association of Government Employees have approved the two furlough days, contingent on agreements with the certificated bargaining units. The SDCOE's conditions under which agreement needs to be reached significantly limit these efforts, as the parties still have negotiation dates well into December 2019. The District requested in writing to have this imposition deferred until Second Interim when it was more appropriately timed. The District alternatively requested that if the SDCOE would not modify the timeline to Second Interim, that SDCOE would give us until the end of December to finalize negotiations and waive or soften the AB 1200 ten-day timelines to ensure all steps of approval could occur. SDCOE denied these requests. The District does not disagree that these reductions should occur if negotiations are not fruitful; we disagree with when the reductions are removed from the budget. The District has already committed that if no agreement is reached by January 13, 2020, the budget savings will be removed.

**Requested Action:** Stay imposition of this budget action at this time with the commitment that if by January 13, 2020, agreement is not reached, the District itself will make the reduction.

**The SDCOE's action to impose addition of \$3M in budget expenditures (second bullet on page 2 of the letter). This appeal is based on section 42127.9(a)(2). Specifically, the district believes that this imposition "require reductions that are unnecessary in view of other reductions that are proposed by the governing board of the school district and that reasonably can be expected to be realized."**

This change will impact the current financial analysis by the finance team for the First Interim projections. The staff is in the process of evaluating year-to-date certificated and classified payroll expenditures and posting the respective adjustments to the budget, specifically allocating labor costs to restricted funding sources. This additional amount could overstate the current projections based on continued analysis and work related to schools and programs. When requesting information on the specifics none was provided by the SDCOE.

**Requested Action:** Stay imposition of this budget action at this time since budget adjustments are currently in progress by the finance team in preparation for the First Interim budget report.

We greatly appreciate your willingness to consider our appeal, and to consider the context under which the SDCOE implementation of AB 1840 budget trailer language has impacted our efforts to move to fiscal recovery. The District, like others facing declining enrollment, increased pension costs and increased costs to special education need support in the coming years. However, sometimes the “how” is more important than the “what” of the support. While we acknowledge that the Education Code has delegated authority to oversee our budget to SDCOE, the purpose of that delegation is to provide districts support. In spite of our best efforts to work collaboratively, the manner in which SDCOE has provided “support” has created an incredibly fractured relationship. We are requesting that in addition to staying the two budget actions above, that the Superintendent of Public Instruction convene and facilitate a mediation process to assist the SDCOE and district to repair this relationship and in how we move forward together in the district’s fiscal recovery.

We appreciate your time and welcome the opportunity to discuss this appeal and any supporting information you may request in advance of your response.

Sincerely,

A handwritten signature in blue ink that reads "Karen Janney". The signature is written in a cursive style.

Karen Janney, Ed.D.  
Superintendent

Cc: SUHSD Board of Trustees  
Dr. Jenny Salkeld, SUHSD Chief Financial Officer  
Jennifer Carbuccia, General Counsel  
Dr. Paul Gothold, County Superintendent