

UNIFORM COMPLAINT / BROWN ACT VIOLATION

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This Uniform Complaint will address two distinct issues:

1. Brown Act Violation by President of the Board Steven Lilly and Board Member Carol Herrera.
2. VUSD policies.

1). **BROWN ACT VIOLATION**

On the August 19, 2010 meeting of the VUSD board of directors held at Foothill-Oak Elementary the Agenda under 11. -POLICIES - Action A. B. C.¹

B. Approve the Second Reading and Adoption of Board Policies-1000 Series: Community

Relations [17] 18

BP 1000: Concepts and Roles [19] 20

BP 1020: Youth Services [20] 21

BP 1100: Communication with the Public [22] 23

BP 1112(a): Media Relations [24] 25

BP 1113: District and School Web Sites & Administrative Regulation (AR) [26] 27

BP 1150: Commendations and Awards & AR [29] 30

BP 1160: Political Processes [31] 32

BP 1220: Citizen Advisory Committees & AR [34] 35

BP 1230: School Connected Organizations & AR [39] 40

BP 1240: Volunteer Assistance & AR [41] 42

BP 1250: Visitors/Outsiders & AR [44] 45

BP 1260: Educational Foundation [46] 47

BP 1312: Resolving Complaints Concerning the Vista Unified School District [47] 48

& AR 1312.1 Procedures for Complaints Concerning Employees & AR 1312.2

Resolving Complaints Regarding Adopted Instructional Materials & AR 1312.3

Uniform Complaint Procedures & AR 1312.4 Student Learning (Williams and

Valenzuela Settlements)

BP 1321: Solicitation of Funds from and By Students & AR [65] 66

¹ http://www.vusd.k12.ca.us/board/Board%20Meetings/2010/Board_Agenda-08-19%202010.pdf
http://www.vusd.k12.ca.us/board/Board%20Meetings/2010/Board_Packet-08-19-2010.pdf

BP 1325: Advertising and Promotion [67] 68
BP 1330: Use of School Facilities and Grounds [69] 70
BP 1340: Access to District Records & AR [75] 76
BP 1400: Relations Between Other Governmental Agencies and the Schools [82] 83
BP 1431: Waivers [84] 85
BP 1700: Relations Between Private Industry and the Schools [86] 87

C. Approve the First Reading of Board Policies – 3000: Series, Business & Non-Instructional Operations [88] 89

BP 3000: Concepts and Roles [90] 91
BP 3100: Budget & AR [91] 92
BP 3110: Transfer of Funds [96] 97
BP 3111: Deferred Maintenance Funds [98] 99
BP 3220.1: Lottery Funds [99] 100
BP 3260: Fees and Charges & AR [100] 101
BP 3270: Sales and Disposal of Books, Equipment and Supplies & AR [103] 104
BP 3280: Sales or lease of District-Owned Real Property & AR [107] 108
BP 3290: Gifts, Grants and Bequest [111] 112
BP 3300: Expenditures and Purchases [112] 113
BP 3311: Bids & AR [114] 115
BP 3312: Contracts & AR [123] 124
BP 3312.2: Educational Travel Program Contracts & AR [131] 132
BP 3314: Payment for Goods and Services & AR [134] 135
BP 3314.2: Revolving Funds [136] 137
BP 3315: Vendor Relations [137] 138
BP 3320: Claims and Actions Against the District & AR [139] 140
BP 3350: Travel Expenses [149] 150
BP 3400: Management of District Assets/Accounts & AR [150] 151
BP 3430: Investing & AR [154] 155
AR 3440: Inventories [157] 158
BP 3452: Student Activity Funds [159] 160
BP 3460: Financial Reports and Accountability & AR [161] 162
BP 3510: Green School Operations [167] 168
BP 3511: Energy and Water Management & AR [169] 170
BP 3511.1: Integrated Waste Management & AR [172] 173
AR 3512: Equipment [174] 175
BP 3513.1: Cellular Phone Usage & AR [177] 178
BP 3513.3 Tobacco-Free Schools & AR [179] 180
BP 3514: Environmental Safety & AR [181] 182
BP 3514.1: Hazardous Substances & AR [188][189] & AR 3514.2 Integrated Pest Management
BP 3515: Campus Security & AR [195] 196
BP 3515.2: Disruptions & AR [200] 201
BP 3515.4: Recovery for Property Loss or Damage & AR [202] 203
BP 3515.5: Sex Offender Notification & AR [204] & AR 3515.6: Criminal Background Checks for Contractors
BP 3516: Emergencies and Disaster Preparedness Plan & AR[209] [210] & AR 3516.1 Fire Drills and Fires & AR 3516.2 Bomb Threats & AR 3516.3 Earthquake Emergency Procedure System
BP 3516.5: Emergency Schedules [219] 220
BP 3517: Facilities Inspections [220] 221
BP 3530: Risk Management/Insurance & AR [222] 223
BP 3540: Transportation & AR [224] 225 & AR 3541 Transportation Routes and

Services & AR 3541.1 Transportation for School- Related Field Trips
BP 3541.2: Transportation for Students with Disabilities & AR [234] 235
AR 3542: School Bus Drivers [236] 237
AR 3543: Transportation Safety and Emergencies [239] 240
BP 3550: Food Service/Child Nutrition Program & AR [243] 244
BP 3551: Food Service Operations/Cafeteria Fund & AR [249] 250
BP 3553(a):Free and Reduced Price Meals & AR [251] 252
BP 3554: Other Food Sales & AR [255] 256
BP 3580: District Records & AR [258] 259
BP 3600: Consultants [262] 263

The center of the front page of the VUSD website reads: ²

Board Policy Review

Each policy will have two readings. The First Reading is to review or make changes if necessary to the policy. The Second Reading is brought back to the following Board meeting with incorporated changes and adoption of the policy. Some Board policies may take more than two readings.

As noted each policy was distinctly different from one another and the actual reading of the policy was included in the Agenda Packet. I had some brief comments and areas of concern on policies; 1112 (a); 1113; 1160; 1220; 1230; 1312.2; 1340; C. 3530. So I pulled out a card for each and every item, as written in the Agenda. The VUSD board took a brief break.

When the Agenda moved to Item 11 B. President Lilly said, "I have hold cards under this item." Member Carol Herrera sitting right next to him, unaware of the microphone in front of her turned to Lilly and said, "don't let her speak, make her....." Instead of reading BP Items per number and allowing time for speakers. Lilly called me and asked to be brief and run through my comments on all of the items together within three minutes, then he said, 'I will give extra time.'" The VUSD board voted on all times listed under 11. B. without discussion or correction of errors in the second reading of the policies.

When it came to item 11. C. Board President Lilly read each and every item number and asked the board if they had any comments. I pulled out a card under Item C. 3530, and I was not allowed to speak. Instead the Board Members Herrera and Jaka said, "she already spoke."³ The way in which this Agendized Item was handled was a complete disgrace and blatant denial of First Amendment Rights. The Vista Unified School District is not new to violations of First Amendment Rights at their VUSD Board Meetings. President of ELAC Educardo Preciado is constantly shut down by VUSD President Lilly. Vista Unified School District has a permanent injunction by the United States Southern District Court in the nationally quoted case of *Leventhal v. Vista Unified School Dist.*,⁴

² <http://www.vusd.k12.ca.us/Pages/default.aspx>

³ This blatant discriminatory actions of censoring, "HISPANIC SPEAKERS" is very pervasive and system at VUSD meetings of the Board of Directors and VUSD subcommittee meetings.
http://www.voiceofsandiego.org/education/article_aaff073a-6d1b-11df-a453-001cc4c002e0.html

A Battle Over Who Speaks for Latinos in Vista Schools

⁴ *Leventhal v. Vista Unified School Dist.*, 973 F. Supp. 951 (1997)

Although the Vista Unified School System [District]was formed on or before 1920's it has never created policies, practices or procedures. For almost **one hundred years** VUSD has run amuck, violating students civil and constitutional rights. Destroying thousands of students and their parents lives with their clandestine illegal actions. With full immunity from the California Department of Education, State Board of Education and County Offices of Education.

VUSD does not have a set time to discuss items in the Agenda for the exception of "PUBLIC COMMENTS." Since there is no time limit on the Agendized items for VUSD and its employees. Most of the time it is used to filibuster with no substantial or significant educational discussions.⁵ President of the Board Lilly continuously interrupts speakers under public comment. Continuously refuses to allow Hispanic speakers to speak freely without interruptions or impudent comments. Even a blind and deaf person could have seen or heard the censuring of First Amendment Right to Speech on the VUSD board meeting of August 19, 2010. VUSD employees go to the podium to speak without a hold card, with no time restrictions, while members of the public are asked to turn in a card, "**before the meeting begins.**"⁶ A complete violation of the Ralph Brown Act.

2). VUSD POLICIES

Policy 1160 - pg. 32

VUSD quotes Ed code 7055; "the Board may establish reasonable regulations related to board members and employees engaging in political activity during working hours and on district premises." Yet, both pages addressing this policy there is no mention of a prohibition upon a VUSD employee from engaging in political activity during school hours and in school campuses. This is a very serious problem at VUSD. Employees [teachers] and their allies PTA members pass out campaign fliers at school campuses, post huge cardboard signs in the windshield of their vehicles. At times they have big RV or such vehicles with banners in front of the schools. VUSD so called policy No. 1160 does not address this serious problem. In fact by VUSD board's deliberate ignorance they are actually endorsing and acquiescing in these illegal act. These actions violate the rights of students and their parents who are exposed to this bullying and pressure.

Board Policy 1220 pg. 37

In quoting SBX3 4 (Ch. 12 Third Extraordinary Session, Status of 2009) and ABX4 (Ch. 2 Fourth Extraordinary Session, Categorical Programs. Stating, "**the VUSD has accepted this flexibility funding requirement for these programs....**"

Yet, there is no mention of compliance with the IRS tax reporting and filing of form 990's, 700's, Conflict of Interest disclosures and transparency. In fact the VUSD board members filings are a perfect example

⁵ VUSD spent about an hour discussing an item that I will address later [9 (c) English Language Learners Board Goal 8.]

⁶ VUSD is the only PUBLIC AGENCY in the North County who restricts public comments in this fashion. In other public agencies members of the public are given multiple opportunities to speak before the agendized item is discussed as required by the Ralph Brown Act. At the Vista and Oceanside city meetings the chair will even ask if there are any members of the public who wish to speak on an item. A far cry from VUSD so called, "consolidated motion request" is done strictly with the purpose to silence public members from commenting at VUSD public meetings.

of improperly reporting and filing the above mentioned forms. The VUSD board members have poor leadership skills, and lack honesty and integrity. Their form 990's and 700's reporting's are skewed and misleading. All they do is write their names on the piece of paper, and sign it. Failing to report any required information by state and federal law.

The policy even reads that the school district, "**budget advisory committee**" is not required to comply with the California Ralph Brown Act. So, a committee set up by the VUSD board is **not** required to file forms 990's; 700's; Conflict of Interest disclosures and does not have to comply with the Ralph Act? This **budget advisory committee** makes recommendations to the VUSD board on revenues of over One Hundred and Eighty Million dollars yet based on VUSD bylaws not required to follow any state or federal laws?

Policy No. 1230 pg. 41

Under School Connected Organizations - there is no mention that the organizations doing business inside the VUSD school district and raising thousands upon thousands of dollars. These organizations must have a valid non-profit status, must be registered and report to the IRS, the California Attorney General or secretary of state.⁷

Policy No. 1312.3 pg. 56

While it is commendable that in almost one hundred years the VUSD will finally have **Uniform Complaint Forms**, available for parents to fill out.

The policy states that the "crossed out" **Complaint Officer**. The Complaint Officer will assign VUSD, "employees" to investigate Uniform Complaints. Make findings, conclusion of law, disposition of complaint, **corrective actions if any**. That is like the fox controlling the hen house! There is absolutely no impartial panel or diverse members. In fact all of these type of committees have only inside members handpicked by the board. Most of not all have conflict of interests and it is a true debacle. The SARB VUSD committee is an illegal committee formed without any diverse members of the community and only on or about three VUSD employees. The majority if not all of the students referred to the SARB committee are Hispanic or African American students and most have the same result⁸. The white student counterparts are not referred to the SARB for same infractions and they never have to face expulsions. I personally have attended various meetings and I testify with a 100% certainty that parents and students go into these meeting unprepared, do not even know what the hearings are all about out gunned and outnumbered.⁹ This practice completely violates any form of due process of laws and equality. When entering these hearings, [including Uniform Complaints] students and parents are completely stripped of their dignity, demoralized and made to feel they have no rights.

Policy No. 3530

In the policy VUSD states, "the Board of Trustees strongly supports a risk management program that protects District resources and promotes safety of students, staff and public."

VUSD further pledges that they are going to, "keep its liability at a minimum and its insurance premiums as low as possible while maintaining adequate protection.

⁷ IRS Registration No. form 990's; 700's and Conflict of Interests disclosures.

⁸ expulsions

⁹ Many times VUSD legal counsel is present to put an extra punch and totally demoralized these students.

The Risk Management Insurance is not intended to protect students or promote student safety. In fact for decades the Risk Management Insurance did not want the VUSD to create policies, practices or procedures. VUSD has the highest premiums in San Diego County and Riverside along with Poway Unified School District. While other school districts pay .19 cents per student DA in premiums. Both VUSD and PUSD pay over .29 cents DA per student in premiums per Joint Power of Authority "JPA." The more lawsuits and violations the higher the insurance premiums.

What this means is that VUSD spends almost the entire budget in employee salaries and insurance companies! [JPA's] A perfect example of malfeasance and wrong legal advice which VUSD has had for decades is Thursday **August 19, 2010 closed session item 37-2009-00057592**. VUSD voted to appeal this case. The case is a simple \$ 6, 412.07 dollars which Superior Court Judge Nugent entered judgment against VUSD in favor of **California School Employees Association and its Vista Chapter 389**. Instead of paying the \$ 6, 412.07 Court Judgment. VUSD on advice from attorney of record **Daniel Shinoff** and **Lee Patajo** advised VUSD to appeal the judgment to the California Fourth Appellate.¹⁰ Churning and churning the billable hours and higher insurance premiums in the Southern Golden State.¹¹

10

Case Number:	37-2009-00057592-CU-PT-NC	Date Filed:	07/27/2009
Case Title:	California School Employees Association and Its Vista Chapter 389 vs. Vista Unified School District, its Governing Board	Case Status:	Post Judgment
Case Category:	Civil - Unlimited	Location:	North County
Case Type:	Petitions - Other	Judicial Officer:	Thomas P. Nugent
Case Age:	374 days	Department:	
Next Event Type:		Next Event Date:	

Display: [All Entries](#) [Filing Information Only](#) [Scheduling Information Only](#)

<u>Entry Date</u>	Short/Long Entry	Filed By
08/04/2010	Judgment was entered as follows: Judgment entered for California School Employees Association and Its Vista Chapter 389; Gil, Debra and against Bales, Joyce ; Vista Unified School District, its Governing Board in the amount of \$ 6412.07, punitive damages of \$ 0.00 , attorney fees of \$ 0.00 , interest in the amount of \$ 0.00, costs in the amount of \$ 0.00, for a grand total of \$ 6412.07.	
08/04/2010	Memorandum of Costs After Judgment; Acknowledgment of Credit and Declaration of Accrued Interest filed by California School Employees Association and Its Vista Chapter 389.	California School Employees Association and Its Vista Chapter 389 (Petitioner)
08/04/2010	Memorandum of Costs After Judgment; Acknowledgment of Credit and Declaration of Accrued Interest filed by California School Employees Association and Its Vista Chapter 389.	California School Employees Association and Its Vista Chapter 389 (Petitioner)

08/04/2010	Judgment filed by California School Employees Association and Its Vista Chapter 389.	California School Employees Association and Its Vista Chapter 389 (Petitioner)
08/04/2010	Order - Other (Order and judgment for \$6,412.07 plus costs.) filed by California School Employees Association and Its Vista Chapter 389.	California School Employees Association and Its Vista Chapter 389 (Petitioner)
07/08/2010	OSC - Why Case Should Not be Dismissed scheduled for 07/16/2010 at 11:00:00 AM at North County in N-30 Thomas P. Nugent was vacated.	
06/30/2010	Miscellaneous Minute Order Finalized.	
06/30/2010	Matter decided.	
06/25/2010	Minutes finalized for Motion Hearing (Civil) heard 06/25/2010 01:30:00 PM.	
06/25/2010	Matter taken under submission.	
06/23/2010	Tentative Ruling for Motion Hearing (Civil) published.	
06/04/2010	Minutes finalized for Motion Hearing (Civil) heard 06/04/2010 01:30:00 PM.	
06/04/2010	Motion Hearing (Civil) continued pursuant to Court's motion to 06/25/2010 at 01:30PM before Judge Thomas P. Nugent.	
06/04/2010	Motion Hearing (Civil) scheduled for 06/25/2010 at 01:30:00 PM at North County in N-30 Thomas P. Nugent.	
06/04/2010	Motion Hearing (Civil) rescheduled to 06/25/2010 at 01:30:00 PM in N-30 before Thomas P. Nugent at North County.	
06/03/2010	Tentative Ruling for Motion Hearing (Civil) published.	
05/27/2010	Reply to Opposition of Noticed Motion and Supporting Declarations (WRIT OF MANDATE) filed by California School Employees Association and Its Vista Chapter 389.	California School Employees Association and Its Vista Chapter 389 (Petitioner)
05/20/2010	Opposition to Noticed Motion and Supporting Declarations (WRIT OF MANDATE) filed by Vista Unified School District, its Governing Board; Bales, Joyce.	Bales, Joyce (Respondent); Vista Unified School District its Governing Board (Respondent)
04/28/2010	OSC - Why Case Should Not be Dismissed scheduled for 07/16/2010 at 11:00:00 AM at North County in N-30 Thomas P. Nugent.	
04/22/2010	Notice of Motion and Supporting Declarations filed by California School Employees Association and Its Vista Chapter 389.	California School Employees Association and Its Vista Chapter 389 (Petitioner)

04/22/2010	Motion for Peremptory Writ of Mandate filed by California School Employees Association and Its Vista Chapter 389.	California School Employees Association and Its Vista Chapter 389 (Petitioner)
01/22/2010	Motion Hearing (Civil) scheduled for 06/04/2010 at 01:30:00 PM at North County in N-30 Thomas P. Nugent.	
01/13/2010	Amended Petition (1ST) filed by California School Employees Association and Its Vista Chapter 389; Gil, Debra.	California School Employees Association and Its Vista Chapter 389 (Petitioner); Gil, Debra (Petitioner)
01/13/2010	Stipulation - Other - Fee Due (Stip and order to amend Petition for Writ of Mandamus, Prohibition, or other appropriate relief.) filed by California School Employees Association and Its Vista Chapter 389.	California School Employees Association and Its Vista Chapter 389 (Petitioner)
01/11/2010	Demurrer / Motion to Strike scheduled for 01/15/2010 at 01:30:00 PM at North County in N-30 Thomas P. Nugent was vacated.	
10/05/2009	Demurrer / Motion to Strike scheduled for 01/15/2010 at 01:30:00 PM at North County in N-30 Thomas P. Nugent.	
10/05/2009	Demurrer / Motion to Strike rescheduled to 01/15/2010 at 01:30:00 PM in N-30 before Thomas P. Nugent at North County.	
09/17/2009	Proof of Service of 30-day Summons & Complaint - Personal filed by California School Employees Association and Its Vista Chapter 389; Gil, Debra.	California School Employees Association and Its Vista Chapter 389 (Petitioner); Gil, Debra (Petitioner)
09/10/2009	Proof of Service of 30-day Summons & Complaint - Personal filed by California School Employees Association and Its Vista Chapter 389.	California School Employees Association and Its Vista Chapter 389 (Petitioner)
08/28/2009	Notice of Motion and Supporting Declarations filed by Vista Unified School District, its Governing Board; Bales, Joyce.	Bales, Joyce (Respondent); Vista Unified School District its Governing Board (Respondent)
08/28/2009	Answer filed by Bales, Joyce; Vista Unified School District, its Governing Board.	Bales, Joyce (Respondent); Vista Unified School District its Governing Board (Respondent)
08/28/2009	Demurrer / Motion to Strike scheduled for 10/23/2009 at 01:30:00 PM at North County in N-30 Thomas P. Nugent.	
07/28/2009	Case reassigned to Thomas Nugent effective 07/27/2009	
07/27/2009	Case assigned to Department N-30.	
07/27/2009	Civil Case Cover Sheet filed by California School Employees Association and Its Vista Chapter 389; Gil, Debra.	California School Employees Association and Its Vista Chapter 389 (Petitioner); Gil, Debra (Petitioner)

The likelihood that the VUSD board will cut legal fees and the highest insurance premiums is simply silly. VUSD Board Members were not elected for their intellectual capacities or problem solving skills. Rather for their rubberstamping skills and deliberate ignorance, lack of genuine student care, and lack of conscious, morals and integrity.

Item 9. C page 2 English Language Learner Board Goal # 1
Presented by Matt Doyle, Executive Director, and Jeannie Luckey, Assistant Superintendent

Matt Doyle gave a presentation that primary focused on a picture of a hand pointing to each finger starting from the thumb giving five reasons as to why Hispanics cannot learn.

1. a). English Learner no primary language background and no home support.
2. b). English Learner limited primary language background and limited home support.
3. c). English Learner some primary language background and home support.
4. d). English Learner good primary language background and good home support with sibling experience in English.
5. e). English Learner strong primary language background and strong home support with sibling and parent experience in English.¹²

Throughout the presentation Matt Doyle kept making excuses as to why Hispanic students cannot learn to speak, read, write and calculate. Many times he blamed the parents and stated they did not even teach their kids their own primary language. He also claimed that many of the students were homeless and then went back to blaming the parents. VUSD has used the same discriminatory and racist propaganda for decades.¹³

If these type of statements were made about any other race there would be a heighten uproar and the ACLU would be all over the issue. To state as a matter of fact that Hispanic parents do not even teach their children how to speak their own primary language is simply outrageous. Is VUSD claiming that Hispanic children are raised as pigs in pig pens? So are Hispanic parents pigs too?

The language and manner in which VUSD speaks of the Hispanic students, parents and community without any true facts and making blatant discriminatory and racial statements is simply illegal. These actions degrade the race, prompts racial attacks, promotes student low self esteem, and damages a student's self worth. When a student is told what he can and cannot learn; when boundaries are placed before them and they are given a so called, placement "TEST." Before the students embark on their academic journey. The likelihood that the students will ever leave their segregated enclosure is minuscule.

07/27/2009	Petition for Writ of Mandate filed by California School Employees Association and Its Vista Chapter 389; Gil, Debra.	California School Employees Association and Its Vista Chapter 389 (Petitioner); Gil, Debra (Petitioner)
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¹¹ http://www.voiceofsandiego.org/education/article_54aa5926-e499-5e51-ade1-0d8b1c9bfbc3.html

¹² Both D and E student groups were placed in the so called Immersion Program because they had Spanish last names and many of these students do not speak Spanish at all.

¹³ <http://www.latimes.com/news/local/la-me-ed-grants-20100825,0,1448546.story>

These facts are self evident and the results are devastating as VUSD has a very high student drop out and illiteracy rate. VUSD is made out of Teflon and VUSD illegal actions are tolerated by the SDCOE, CDE and the California State Board of Education. This is because all these public agencies have conflict of interests. They are all members of the same Joint Powers of Authority Pools. It is the best organized criminal activity PUBLIC MONEY can buy...

Sincerely,

Silvia Peters