



STEFAN BEAN, Ed.D.
County Superintendent of Schools

200 Kalmus Drive · P.O. Box 9050
Costa Mesa, CA 92628-9050

(714) 966-4220
(714) 434-4945 FAX

SCHOOLS LEGAL SERVICE

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GREGORY J. ROLEN
General Counsel

CLAIRE Y. MOREY
LYSA M. SALTZMAN
RUTH D. BREWDA
CARL J. PIPER
Counsel

DEVON ATKINSON
Paralegal

Assemblymember John Harabedian
Chair, Joint Legislative Audit Committee
1020 N Street, Room 107
Sacramento, CA 95814

Re: Request for Audit of Orange County Board of Education

Dear Chair Harabedian,

The Orange County Board of Education (“Board”) respectfully submits that Sen. Umberg’s request for a Joint Legislative Audit Committee (“JLAC”) audit lacks a factual basis and is not the proper subject matter for a JLAC audit. The Board has received no complaints, nor has any misconduct been alleged in the last five (5) years of public comment (see attached declarations of Renee Hendricks and Devon Atkinson). Each Board member has completed all mandatory ethics training (see attached Declaration of Darou Sisavath). Finally, Sen. Umberg asks JLAC to audit matters subject to independent legal review and which are time-barred. The following will identify the statutory framework for Sen. Umberg’s proffered legal concerns, as well as the resolution procedures and limitations periods.

1. **Board Actions and Activities**

a. **Federal Civil Rights Laws (Title VI, Title IX, IDEA)**

i. **Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d)**

- i. *Administrative enforcement:* Complaint to the U.S. Department of Education, Office for Civil Rights (“OCR”).
Administrative deadline: Within 180 days of the last act of discrimination.
- ii. *Civil enforcement:* Private right of action in federal or state court.
Statute of limitations: Two (2) years.¹ Assuming arguendo, the filing deadline is March 24, 2026; acts alleged before September 24, 2024, would be presumptively time-barred.

¹ Federal law determines when a federal cause of action accrues, and state law governs the applicable statute of limitations. (*McDonough v. Smith* (2019) 588 U.S. 109, 115; see also, *Heras v. Pasadena Area Cmty. Coll. Dist.*, 2025 Cal. Super. LEXIS 72752, *12-13.)

- ii. Title IX of the Education Amendments of 1972 (20 U.S.C. §1681)
 - i. *Administrative enforcement*: OCR complaint.
Administrative complaint deadline: Within 180 days of the alleged discrimination.
 - ii. *Civil enforcement*: Private right of action in federal or state court.
Statute of limitations: Two (2) years.² Assuming arguendo, the filing deadline is March 24, 2026; acts alleged before September 24, 2024, would be presumptively time-barred.
- iii. Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §1400 et seq.)
 - i. *Administrative enforcement*: Due process complaint.
Statute of limitations: Two (2) years from the date the parent or agency knew or should have known of the alleged violation.³
 - ii. *Civil enforcement*: Judicial review of due process decision.
Statute of limitations: Within ninety (90) days of the hearing officer's decision.⁴
Assuming arguendo, the filing deadline is March 26, 2026; acts alleged before September 24, 2025, would be presumptively time-barred.

No citizen or public agency has filed a civil rights complaint against the Board.

b. Transparency Provisions

- i. Ralph M. Brown Act (Gov. Code, § 54950 et seq.)
 - 1) *Remedy*: Cure and correct demand.⁵
Deadline: Written demand must be made within ninety (90) days of the alleged violation, or thirty (30) days if the violation involves agenda posting requirements.
 - 2) *Civil enforcement*: An action by mandamus, injunction, or declaratory relief to determine whether the action is null and void.⁶

² Since Title IX contains no express statute of limitations, courts borrow the most analogous state limitations period. In California, the two-year personal injury statute (Code Civ. Proc., § 335.1) generally applies. However, claims arising from childhood sexual assault may be governed by extended limitations period. (Code Civ. Proc., § 340.1; *Doe v. Los Angeles Unified Sch. Dist.*, 2025 Cal. Super. LEXIS 64760 (2025).)

³ 20 U.S.C. § 1415(b)(6)(B); Ed. Code, § 56505, subd. (l).

⁴ 20 U.S.C. § 1415(i)(2)(B); Ed. Code, § 56505, subd. (k).

⁵ Gov. Code, § 54960.1, subd. (b).

⁶ Gov. Code, § 54960.1, subds. (a).

Statute of limitations: Within fifteen (15) days of the agency’s response (or failure to respond).⁷ Assuming arguendo, the filing deadline is March 24, 2026. Board actions taken before December 24, 2025, are presumptively time-barred, except for specific exceptions.

ii. Public Records Act (Gov. Code, § 7920.000 et seq.)

- 1) *Civil enforcement:* Petition for writ of mandate to compel disclosure of public records.⁸

Statute of limitations: None specified in the statute; petitions must generally be filed within a reasonable time after denial of records. Assuming arguendo, March 26, 2026, is the last day to file a petition for writ of mandate, any agency decision that became final before December 26, 2025, would be presumptively time-barred under Code of Civil Procedure § 1094.6.

iii. Political Reform Act of 1974 (Gov. Code, § 87100 et seq.)

- 1) *Administrative enforcement:* Complaint to the Fair Political Practices Commission (“FPPC”).

Administrative deadline: Within five (5) years of the date of violation.⁹ Assuming arguendo, the filing deadline is March 24, 2026; violations before March 24, 2021, are time-barred.

- 2) *Civil/criminal enforcement:* By the FPPC, a District Attorney, the Attorney General, or a private citizen.¹⁰

Statute of limitations: Four (4) years.¹¹ Assuming arguendo, the filing deadline is March 24, 2026; violations before March 24, 2022, are time-barred.

No citizen or public agency has ever filed a complaint against the Board alleging violations of transparency provisions.

2. Use of Public Resources/Improper Political/Ideological Use

a. Misuse of Public Funds (under Gov. Code, § 8314)

- i. *Administrative enforcement:* FPPC complaint for misuse of public resources under Government Code section 8314.

⁷ Gov. Code, § 54960.1, subds. (c)(4).

⁸ Gov. Code, § 7923.000.

⁹ Gov. Code, § 91000.5.

¹⁰ Gov. Code, § 91001.

¹¹ Gov. Code, § 91011(b).

Administrative deadline: Within five (5) years of the date of violation.¹² Assuming *arguendo*, March 24, 2026, is the final day to commence an action under Government Code § 8314; any alleged misuse of public resources occurring before March 24, 2022, would be presumptively time-barred.

- ii. *Civil/criminal enforcement:* By the FPPC, a District Attorney, the Attorney General, or a private citizen.¹³

Statute of limitations: No civil action alleging a violation of Section 8314 may be commenced more than four (4) years after the date the alleged violation occurred.¹⁴

b. Misuse of Public Funds (under Pen. Code, § 424)

- i. *Criminal enforcement:* By a District Attorney or the Attorney General.
Statute of limitations: Three (3) years. If the prosecution deadline were March 26, 2026, the latest chargeable act would typically be March 26, 2023.

c. Taxpayer Action (under Code of Civ. Proc., § 526a)

- i. *Civil enforcement:* Taxpayer suit seeking injunction or declaratory relief to prevent unlawful expenditure of public funds.
Statute of limitations: Three (3) years.¹⁵ Assuming, *arguendo*, March 24, 2026, is the filing deadline; acts before March 26, 2023, are presumptively time-barred.

No citizen or public agency has ever filed a complaint against the Board alleging misuse of public resources.

3. Litigation Authorization

a. Fiscal Prudence Allegations

California County Board of Education members are immune from liability for decisions such as voting to initiate litigation, provided they act within the scope of their authority.¹⁶

- i. *Discretionary act immunity:* Public employees are not liable for injuries resulting from discretionary acts within the scope of their authority.¹⁷

¹² Gov. Code, § 91000.5.

¹³ Gov. Code, § 91001.

¹⁴ Gov. Code, § 8314(c)(3).

¹⁵ Taxpayer actions under Code of Civil Procedure section 526a are subject to the three (3) year statute of limitations for liabilities created by statute. (See Code Civ. Proc., § 338, subd. (a); *Howard Jarvis Taxpayers Assn. v. City of La Habra* (2001) 25 Cal.4th 809, 815; *Cruz v. Radecki* (2021) 2021 Cal. Super. LEXIS 92420, at *4–5.)

¹⁶ See Ed. Code, § 1042 regarding the scope of a county board of education’s authority; see also 86 Ops. Cal. Atty. Gen. 57 regarding a county board of education’s authority to contract with outside counsel.

¹⁷ Gov. Code, § 820.2.

- ii. *Public entity derivative immunity*: A public entity is not liable where its employee is immune from liability.¹⁸
- iii. *Common law legislative immunity*: Public officials performing legislative or policy-making functions are protected by common law legislative immunity.¹⁹

The Board has the right to initiate, defend, or participate in litigation. If the Board's participation had been inappropriate, it would have been disallowed by the tribunal involved.

4. Charter School Authorization and Oversight²⁰

a. Charter School Authorization and Appeals

- i. *Administrative enforcement*: Appeal of charter school authorization decisions to the State Board of Education ("SBE") following denial or revocation by a local authorizer.
Administrative appeal deadline: Thirty (30) days to appeal the Board's decision to the SBE.²¹
Statute of limitation: Three (3) years for filing a civil action to challenge the SBE's decision. Assuming arguendo, the filing deadline is March 24, 2026; acts before March 26, 2023, are presumptively time-barred.

b. Charter School Oversight Duties

- i. *Administrative enforcement*: See discussion in section 4a above.
- ii. *Civil enforcement*: Petition for writ of mandate to compel a public entity to perform a mandatory statutory duty.²²
Statute of limitations: Two (2) to three (3) years, depending on the cause of action alleged. Assuming arguendo, the filing deadline is March 24, 2026; acts before March 26, 2023, are presumptively time-barred.

c. Academic Oversight Decisions

- i. *Discretionary act immunity*: Public employees are not liable for injuries resulting from discretionary acts within the scope of their authority.
- ii. *Public entity derivative immunity*: A public entity is not liable where its employee is immune from liability.
- iii. *Common law legislative immunity*: Public officials performing legislative or policy-making functions are protected by common law legislative immunity.

¹⁸ Gov. Code, § 815.2, subd. (d).

¹⁹ *Steiner v. Superior Court* (1996) 50 Cal.App.4th 1771.

²⁰ Ed. Code, §§ 47605 et seq., 47607, 47604.32.

²¹ Ed. Code, § 47605(k)(2)(A).

²² Code of Civ. Proc., § 1085; Gov. Code, § 815.6.

Over the last five (5) years, the Board has made approximately 33 decisions regarding charter school approval and renewal. There was only one (1) challenge, which led the SBE to rule unanimously in favor of the Board.

5. **Procurement**

a. **Procurement (under Pub. Cont. Code, § 20111)**

- i. *Civil enforcement:* Action seeking injunctive relief, declaratory relief, or writ of mandate to enforce competitive bidding requirements or to set aside an improperly awarded contract.
Statute of limitations: Three (3) years.²³ Assuming arguendo, the filing deadline is March 24, 2026; acts before March 26, 2023, are time-barred.

In the last five (5) years, no citizen or public entity has filed a complaint against the Board alleging procurement violations.

6. **Whistleblower Complaints; Retaliation**

a. **Labor Code, § 1102.5**

- i. *Civil enforcement:* Private right of action.
Statute of Limitations: Three (3) years. (CCP §338a.) Assuming arguendo, the filing deadline is March 24, 2026; acts before March 26, 2023, are time-barred

b. **Education Code, § 44110**

- i. *Administrative enforcement:* Complaint to the governing Board, appeal to the State Superintendent of Public Instruction.

c. **Fair Employment and Housing Act Retaliation (Gov. Code, § 12940(h))**

- i. *Enforcement:* Complaint to the Civil Rights Division (“CRD”); private right of action.
Statute of Limitations: Four (4) years. Claimants have three (3) years to file a complaint with the CRD and one (1) year to file a civil claim after receiving a right-to-sue letter. Assuming arguendo, the filing deadline is March 24, 2026; acts before March 26, 2022, are time-barred.

In the last five (5) years, no citizen or public entity filed a complaint alleging whistleblower retaliation against the Board.

Simply stated, multiple state and federal agencies, as well as every Californian, have several avenues to complain and/or seek legal recourse to remedy the allegations raised by

²³ Code of Civ. Proc., § 338.

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Sen. Umberg. They have not. The five (5) year review period substantially exceeds the applicable statutes of limitations governing the legal claims referenced in the letter. This is likely why JLAC has never audited a County Board of Education (see Atkinson Declaration ¶ 16). The other concerns raised, such as “best practices,” “fiscal prudence,” “adequacy of cost-benefit analysis,” and “general ideological influence,” are subjective. Such subject matter is not the province of a JLAC audit but, in fact, is subject to voter scrutiny. Since 2018, Orange County voters have universally supported the Board's decisions, with Board trustees winning eight (8) elections and losing none.

Respectfully submitted,



Gregory J. Rolan

Attachments