

BOARD OF EDUCATION
PASADENA UNIFIED SCHOOL DISTRICT
RESOLUTION NO. 2170

RESOLUTION OF REPRIMAND
OF BOARD MEMBER SCOTT PHELPS

WHEREAS, the Board of Education has adopted a Code of Ethics Policy and Procedure pursuant to Board Bylaw 9271 providing in part that: " It is the policy of the Governing Board that all of its members shall abide by federal and state laws that are applicable to members of the Governing Board, as well as to Board Policies or Bylaws. Violation of school laws, policies, or bylaws tends to injure the good name of the District and undermine the effectiveness of the Governing Board as a whole. Such conduct is deemed to be a dereliction of duty;" and

WHEREAS, the breaches of the Code of Ethics and Board Policy section of Bylaw 9271 contains procedures which provide a mechanism by which the Board of Education can discipline any of its members who violate state or federal laws applicable to the District or for violation of the board policies or bylaws of the Board of Education and which is deemed a serious offense; and

WHEREAS, in a letter dated September 13, 2011, Board President Cooper, Board Vice-President Honowitz, and Board Member Pomeroy requested the public censure of Board Member Scott Phelps; and

WHEREAS, in accordance with Board Bylaw 9271, the Board of Education by a 4-2 vote determined at a special board meeting held on October 18, 2011 that the matter should proceed to a public hearing; and

WHEREAS, a public hearing was held on October 25, 2011 where Board Member Phelps was given an opportunity to respond to the request for censure/reprimand and to provide information and materials relevant to the charges. Proponents of the request were also given an opportunity to respond to the presentation and members of the Board of Education were afforded the opportunity to ask questions pertaining to the request for censure; and

WHEREAS, in accordance with the Code of Ethics Policy and Procedure: "A decision to censure requires the adoption of a Resolution making findings with regard to the specific charge(s), based on substantial evidence, and approved by a two-thirds vote of the Governing Board. The member of the Governing Board whose actions are the subject of the Resolution shall be entitled to vote on the matter. As an alternative to public censure, a written warning or written reprimand may be adopted in the same manner as public censure except by majority vote of the Governing Board;" and

WHEREAS, the Ralph M. Brown Act, at Government Code section 54957, specifically providing for the personnel exception to the open meeting requirements of the Act, was adopted by the California Legislature to protect employees and candidates for employment from public embarrassment and to permit free and candid discussions of personnel matters in closed session by a local government body; and

WHEREAS, Board Bylaw 9011 reads: “Confidential/privileged information which is produced for, or which comes out during, closed session of the Board shall not be divulged or released unless a majority of board members agree to release the information, subject to applicable laws regarding closed sessions. (Education Code §35146; Government Code §§3549.1, 6250-6270, 54956.8, 54956.9, 54957-54962);” and

WHEREAS, pursuant to Board Bylaw 9271, Code of Ethics, members of the Board of Education have agreed to the following responsibilities: 1) ”Refusing to discuss personnel matters or any other confidential business of the Board outside of an official Board meeting;” and 2) “Striving to procure, when vacancy exists, the best professional leader available for the superintendency.”

WHEREAS, Board Bylaw 9271, Code of Ethics further states: “The public expects, and must receive the highest standard of ethics from all of those in public service;” and

WHEREAS, in accordance with the Code of Ethics, members of the board are always to think in terms of “Children First.”

THEREFORE, the Board of Education resolves as follows:

RESOLVED, that the Board of Education hired Ray and Associates and agreed to conduct a confidential search process to hire a permanent superintendent; and

RESOLVED, that in June 2011, with the participation of Board Member Phelps, the Board of Education agreed in closed session to interview six (6) finalists for the vacancy created by the retirement of former superintendent Diaz; and

RESOLVED, that Board Member Phelps made disparaging remarks about one of the superintendent candidates that appeared in the Pasadena StarNews newspaper, Pasadena StarNews website and Facebook; and

RESOLVED, that after the candidate withdrew from consideration, Board Member Phelps continued to make disparaging comments about the candidate that appeared in a subsequent addition of the Pasadena StarNews; and

RESOLVED, that Board Member Phelps conducts is deemed a serious offense; and

RESOLVED, that Board Member Scott Phelps is reprimanded by the Board of Education for his

above referenced conduct.

ADOPTED, SIGNED AND APPROVED this 25th day of October, 2011.

President of the Governing Board for the
Pasadena Unified School District

I, Jon Gundry, Clerk of the Governing Board of the Pasadena Unified School District, do hereby certify that the foregoing Resolution was adopted by the Governing Board of said District at a meeting of the Governing Board held on the 25th day of October, 2011, and it was so adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Clerk of the Governing Board
Pasadena Unified School District