



MT. DIABLO UNIFIED SCHOOL DISTRICT
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OFFICE OF
GENERAL COUNSEL

June 18, 2009

Leslie Lea, Foreperson
2008-2009 Contra Costa County Civil Grand Jury
Wakefield Taylor Courthouse
725 Court Street
Martinez, CA 94553-1201

Re: Response to Grand Jury Report No. 0906
"Leadership Crisis in Perils Mt. Diablo School District"

Pursuant to California Government Code section 933.5 (a) the Mt. Diablo Unified School District responds to Report No. 0906 as follows:

FINDINGS:

1. The Mt. Diablo Unified School District has a \$286.3 million budget for the 2008-2009 fiscal year.

The respondent agrees with the finding.

2. The Superintendent, rather than the Board, controlled the agenda for Board meetings and decided what information to give or withhold from the Board.

The respondent partially disagrees with the finding. Board members occasionally placed items on the Board agenda.

3. Some Board members did not have a full understanding of their duties regarding their function and financial responsibility to taxpayers. As a result, they failed to lead and instead, followed the Superintendent's directives.

The respondent agrees with the finding.

4. The District has not paid its correct federal payroll tax obligations for several years. In 2005 the District paid a levy of over \$105,000 for payroll taxes, interest and penalties. The Board did not approve these payments and was unaware of these issues because financial documents given to the Board lacked adequate detail. In 2008 the IRS informed the District that it may owe \$833,000 in unpaid payroll taxes, interest and penalties. The matter remains unresolved as of this writing.

The respondent partially disagrees with the finding. The District never failed to pay its federal payroll taxes.

5. ADP, a private corporation which has served as the District's payroll tax processor, canceled its contract in November 2006, because the District failed to fund the necessary amounts to provide for payment to the IRS.

The respondent partially agrees with the finding. ADP did write to the District in November 2006. The District believes that ADP bears partial responsibility for the IRS problems.

6. The Board approved the creation of an in-house attorney position as a cost cutting measure. It directed the attorney report to the Superintendent. This reporting relationship limited the volume and type of work provided to the Board by the in-house attorney.

The respondent agrees with the finding.

7. Between 2002 and 2007, the District paid for work performed by an outside law firm. The law firm worked without a valid contract. This action violated District policy and the Board was unaware of the situation because renewal contracts were not forwarded by the Superintendent.

The respondent agrees with the finding.

8. District policy dated July 16, 2002, requires Board approval for all bills over \$25,000. The Superintendent frequently violated this policy by not submitting bills in excess of \$25,000 to the Board. As one example, he unilaterally authorized payment in 2007 of a disputed bill for almost \$110,000 to an outside legal firm.

The respondent agrees with the finding.

9. The Superintendent withheld critical financial information from the Board.

The respondent agrees with the finding.

10. The Superintendent inhibited the free exchange of information between various departments within the District. These actions undermined employee morale, and in some cases, led them to not report for work or to resign.

Respondent partially disagrees with the finding. Respondent cannot speculate as to the mental processes of employees, and on that basis cannot completely agree with the finding.

RECOMMENDATIONS:

1. That the President of the Board have a direct role in setting the agenda for its meetings.

The recommendation has been implemented; the Board President and Vice President take an active role in setting the Board meeting agenda.

2. That current Board members be required to attend training or continuing education programs to learn and understand their role and financial responsibilities as elected Board members and similar training be a requirement for new Board members.

The recommendation has been implemented. Although not a requirement of the position, as a matter of good governance Board Members have attended, and will continue to attend, continuing education sessions.

3. That effective immediately, the Board be given a list of disbursements on a monthly basis. Vouchers exceeding \$25,000 shall detail the vendor and reason for payment.

The recommendation has been implemented. Records of disbursements are now distributed to all Board members. Summaries are included in the Board meeting agenda.

4. That the Board initiated a feasibility study on outsourcing the payroll function.

The recommendation will not be implemented because it is not warranted. Payroll is now functioning well. Employee complaints have been greatly reduced.

5. That in-house counsel report directly to the Board.

That recommendation has already been implemented. On December 16, 2008, the Board approved a change in reporting relationship and a modification of the General Counsel's job description.

6. That a feasibility study be initiated to determine the optimum number of attorneys needed to serve in the Legal Counsel Department, and the Legal Department be expanded to bring a majority of work in-house, including unique work for Special Education.

The recommendation has already been implemented. On January 13, 2009, the Board approved a reorganization of the Office of General Counsel including the addition of an Associate General Counsel position. Review of the feasibility of additional in-house counsel is ongoing.

7. That outside Legal Counsel providers agree to adhere to District billing policies.

The recommendation has already been implemented. Adherence to District billing policies is a necessary precondition to performing legal services for the District.

8. That the Accounts Payable Department verify all contracts over \$25,000 be approved by the Board prior to payment and Legal Counsel monitor deficiencies.

The recommendation has already been implemented. There are multiple levels of review and oversight built into the District's contract processing. Initially, contracts are reviewed by the specific budget manager. Subsequently, the contract is reviewed by relevant Assistant Superintendent or Associate Superintendent and General Counsel reviews the document for legal sufficiency. The contract is then reviewed by the Accounts Payable Supervisor who can determine whether the amount of the contract either singularly, or in aggregate is in excess of \$25,000. If the contract requires Board authorization, the contract must go through a review by the Superintendent's Council.

9. That a list of all service contracts up for renewal be provided to the Board annually.

The recommendation has not yet been implemented. It is currently District policy that all contracts which in aggregate exceed \$25,000, require Board approval. Staff will provide the Board with a list of all contracts in excess of \$25,000 annually.

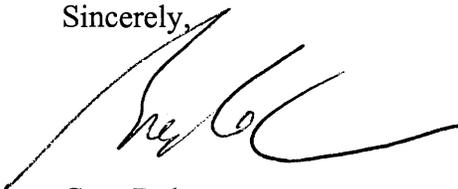
10. That all billing disputes be handled by the in-house Legal Counsel who shall review and recommend to the Board any actions to be taken.

The recommendation has already been implemented. Legal Counsel resolves all billing disputes. However, the ultimate authority to resolve such disputes rests with the Board of Education.

11. That the Board consider approving any unauthorized contracts retroactively to adhere with policy.

The recommendation has already been implemented. If and when District staff discovers unauthorized contracts, they are brought before the Board.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Rolan', written over a horizontal line.

Greg Rolan
General Counsel