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Contra Costa County 2008-2009 Grand Jury Report No 0906

LEADERSHIP CRISIS IMPERILS MOUNT DIABLO SCHOOL DISTRICT

TO: The Board of Trustees of the Mt Diablo Unified School District

SUMMARY:

The Board of Trustees of the Mount Diablo School District is responsible for over one-quarter of a billion dollars of annual expenditures. Disbursements have been made without Board approval, required Federal Payroll Taxes have not been paid, and Legal Services contracts have not been properly administered. These actions contribute to a lack of confidence in the district's leadership. Investigative evidence indicates the Superintendent and the Board of Trustees have failed in their respective administrative roles. Corrective policies and procedures are recommended to address these problems.

BACKGROUND:

The Mount Diablo School District (District), which is governed by a Board of Trustees (Board), is one of California's largest. Incorporated in 1948, its 56 schools and educational centers provide educational services to over 36,000 students in the incorporated cities of Walnut Creek, Concord, Pleasant Hill, Martinez and Clayton and unincorporated sections of Lafayette, Pacheco, and Bay Point. The District has 3736 employees, of which 2161 are certificated and 1575 are classified. It has a \$286.3 million budget for the 2008-2009 Fiscal Year.

Multiple occurrences in 2008 brought the school district to the attention of the Grand Jury. These included citizens' complaints, press reports of significant budget problems, contentious labor negotiations, and unpaid Federal Payroll Taxes. The Grand Jury elected to conduct a fact-finding investigation of the school district. This effort involved review of publicly available information and structured interviews with selected district personnel. The Grand Jury's findings and recommendations follow.

FINDINGS:

1. The Mount Diablo Unified School District has a \$286.3 million budget for the 2008-2009 fiscal year.
2. The Superintendent, rather than the Board, controlled the agenda for board meetings and decided what information to give or withhold from the Board.
3. Some Board members did not have a full understanding of their duties regarding their function and financial responsibilities to taxpayers. As a result, they failed to lead and instead, followed the Superintendent's directives.
4. The District had 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. This matter remains unresolved as of this writing.
5. ADP, a private corporation which had served as the District's payroll tax processor, cancelled its contract in November 2006, because the District failed to fund the necessary amounts to provide for payment to the IRS.
6. The Board approved the creation of an in-house attorney position as a cost cutting measure. It directed that 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.
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 this situation because renewal contracts were not forwarded by the Superintendent.

8. District policy dated 7/16/2002 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.
9. The Superintendent withheld critical financial information from the Board.
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.

RECOMMENDATIONS:

1. That the President of the Board have a direct role in setting the agenda for its meetings.
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.
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 the reason for payment.
4. That the Board initiate a feasibility study on the outsourcing of the payroll function.
5. That in-house legal counsel report directly to the Board.
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 the majority of legal work in-house, including unique work for Special Education.
7. That outside legal service providers agree to adhere to District billing policies.
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.
9. That a list of all service contracts up for renewal be provided to the Board 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.

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

CONCLUSION:

The administrative and financial functions of the Mount Diablo School District have been in chaos. The Superintendent and a Board majority have allowed continuing policy violations, the non-payment of Federal Payroll Taxes, and the disbursement of monies without required Board approval. The subsequent time and attention devoted to these matters detracts from the District's educational mission and contributes to continuing budget problems. In December 2008, the leadership of the Board changed. Since that time the Grand Jury has noticed positive movement. The Grand Jury strongly advocates its recommendations be adopted immediately.

REQUIRED RESPONSES

Findings:

The Mt Diablo Unified School District Board: 1 through 9.

Recommendations:

The Mt Diablo Unified School District Board: 1 through 11.