

East Side Union High School District

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Academic, personal and social success for each and every student.

Dan Moser, Interim Superintendent

FILED

SEP 28 2010

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY D. ALDYCKI

September 17, 2010

The Honorable Jamie Jacobs-May
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, California 95113

Re: East Side Union High School District: Response to Santa Clara County Civil Grand Jury Report, *Looking at Policies Our Schools Use to Find and Place Employees*

Dear Judge Jacobs-May:

This is in response to the letter from the Santa Clara County Civil Grand Jury, dated June 24, 2010, requesting the East Side Union High School District (“District”) to respond to the Grand Jury’s report, entitled *Looking at Policies Our Schools Use to Find and Place Employees*. The District responds to the Grand Jury’s findings and recommendations as follows:

FINDINGS AND RECOMMENDATIONS

#1 **Grand Jury Finding:** Per the Districts’ current Collective Bargaining Agreements (“CBAs”), internal applicants are given priority over external applicants who may be better qualified for the job.

ESUHSD Response: Disagree in part, and agree in part. Internal applicants are reviewed prior to external applicants, however the District hires only those applicants who are fully qualified for the position. Moreover, the Education Code and the CBAs allow for return and re-hire rights following reductions-in-force and involuntary transfers.

Grand Jury Recommendation: Each board should revisit this subject in future CBA negotiations to ensure that competency is the determinant factor in the job candidate selection process.

BOARD OF TRUSTEES: Frank Biehl, Eddie Garcia, J. Manuel Herrera, Patricia Martinez-Roach Lan Nguyen. It is the policy of the East Side Union High School District not to discriminate on the basis of sex, age, religion, race or national origin, sexual orientation, or handicapping condition in its educational programs and activities or in the recruitment and employment of personnel.

ESUHSD Response: This recommendation has been implemented. Although internal applicants are considered prior to external applicants, the District's CBAs establish that hiring decisions are based on the candidate's qualifications.

#2 **Grand Jury Finding:** The PAUSD utilizes a process that requires teacher job applicants to teach demonstration lessons which are subsequently scored by a qualified review team. The scores are utilized as significant factors in hiring decisions.

ESUHSD Response: Agree, however ESUHSD does not have detailed information of how PAUSD implements its process.

Grand Jury Recommendation: All Districts should consider adopting interview practices like PAUSD, which provide opportunities for applicants to demonstrate their teaching skills.

ESUHSD Response: This recommendation cannot be implemented because it is not financially feasible or reasonable at this time. In addition to reemploying teachers who have been laid off, the District hires approximately twenty teachers each school year. The District interviews approximately twenty-five to thirty qualified applicants for each of these vacant teaching positions. If the District conducted a teaching demonstration with each interviewee, this would total approximately five-hundred teaching demonstrations each school year. Given the severe fiscal cutbacks the District has experienced over the past three years, the District does not have the necessary staff and financial resources to implement this recommendation at the present time. As the State and local fiscal condition stabilizes and improves, the District will be better positioned to implement such practices after consultation and input from its teachers.

#3 **Grand Jury Finding:** Twenty-two of the 32 Districts [including East Side Union High School District] have policies covering the hiring of employee and Board member relatives.

ESUHSD Response: Agree that ESUHSD has such a policy.

Grand Jury Recommendation: All Boards should formulate and implement policies covering the hiring of relatives, including the disclosure of any familial relationships to the Board, to avoid the appearance of bias or favoritism in the recruitment and job assignment processes.

ESUHSD Response: This recommendation has been implemented. District Board Policy 4112.8 prohibits appointing an employee to a position that is supervised by a member of the employee's family. In addition, Board Policy 9270 requires Board members to abstain from voting on personnel matters that uniquely affect a relative of the Board member

#5 **Grand Jury Finding:** The following 18 Districts [including the East Side Union High School District] allows the Superintendent to override the policy of not permitting relatives to be placed in direct reporting relationships to current employees, on a case-by-case basis.

ESUHSD Response: Agree that ESUHSD, like many other districts, has such a policy.

Grand Jury Recommendation: Boards should adopt a policy of reviewing all Superintendent decisions that override the policy that pertains to the placement of related employees in direct reporting positions.

ESUHSD Response: This recommendation will not be implemented because it is not warranted. To the District's knowledge, no Superintendent at the District has ever overridden the policy prohibiting the placement of related employees in direct reporting positions. Per the Interim Superintendent's contract, all candidates for positions which report directly to the Interim Superintendent must be approved by the Governing Board. Thus, the District has a mechanism in place for addressing this issue at the administrative level without the need for policy revisions. Transfers, assignments and reassignments are regularly presented to the Governing Board

#6 **Grand Jury Finding:** Fourteen of the 32 Districts are aware of and/or document the number and names of related employees. The following Districts [including East Side Union High School District] do not document this information.

ESUHSD Response: Agree that ESUHSD does not document the names of related employees.

Grand Jury Recommendation: The Boards of the Districts listed in Finding 6 should implement a policy of identifying familial relationships and tracking such data.

ESUHSD Response: This recommendation will not be implemented because it is not reasonable or financially feasible at this time. Due to the severe financial cutbacks the District has experienced over the past three years, including the elimination of staff positions in the Human Resources Department, the District does not currently have the resources to develop, implement, and maintain this recommended data tracking system.

#7 **Grand Jury Finding:** Only Los Gatos-Saratoga Joint Union and the Palo Alto Unified School District responded that they ask about familial relationships on their job applications.

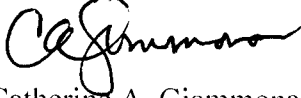
ESUHSD Response: Agree that ESUHSD does not ask about familial relationships on its job applications.

Grand Jury Recommendation: All Boards should implement measures to identify familial relationships during the hiring process.

ESUHSD Response: This recommendation will not be implemented because it is not reasonable or warranted at this time. The District employs approximately two-thousand employees. Consequently, it is impossible for a new hire to know with certainty whether he or she has a familial connection with another District employee without disclosing an entire employee roster during the application process. The information is not relevant to the hiring process and, if required of new applicants, could result in claims of discrimination and/or unfair or illegal hiring practices against the District. Moreover, this information is relevant only in the context of direct supervisory relationships and the District has successfully relied on self-reporting in this context. In addition, as stated in response to Recommendation #6, due to the severe financial cutbacks the District has experienced over the past three years, including the elimination of staff positions in the Human Resources Department, the District does not currently have the resources to develop, implement, and maintain a system for tracking familial relationships among its employees.

Thank you for the opportunity to respond to the *Looking at Policies Our Schools Use to Find and Place Employees* Grand Jury Report. Please let us know if you require any additional information.

Sincerely,



Catherine A. Giammona
Associate Superintendent, Human Resources and Instruction

Cc: Dan Moser, Interim Superintendent