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September 24, 2010

Members of the Santa Clara County Civil Grand Jury
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

FILED

SEP 27 2010

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

Dear Members of the Grand Jury:

Attached are responses from the Mountain View Whisman School District regarding the Grand Jury's Final Report, "Looking at Policies Our Schools Use to Find and Place Employees"

Sincerely,

Craig A. Goldman

Superintendent

**Mountain View Whisman School District
Response to Grand Jury Report
Looking at Policies Our Schools Use to Find and Place Employees**

Finding #1: *Per the Districts' current CBAs, internal applicants are given priority over external applicants who may be better qualified for the job.*

Mountain View Whisman School District Response: While certificated and classified CBAs give internal applicants opportunities to apply for positions ahead of external applicants, only qualified applicants are placed.

Recommendation #1: *Each Board should revisit this subject in future CBA negotiations to ensure that competency is the determinant factor in the job candidate selection process.*

Mountain View Whisman School District Response: Competency is always a determinant factor in the job candidate selection process, but it is not the only important factor. Other factors include, but are not limited to, the ability to acquire new skills, demonstration of work ethic, and professional standards.

Finding #2: *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.*

Mountain View Whisman School District Response: We do not know whether PAUSD utilizes demonstration lessons as part of its hiring process.

Recommendation #2: *All Districts should consider adopting interview practices like PAUSD, which provide opportunities for applicants to demonstrate their teaching skills.*

Mountain View Whisman School District Response: We agree that demonstration lessons can be an effective component of a hiring process for teachers. We will consider the recommendation to provide opportunities for applicants to demonstrate their teaching skills.

Finding #3: *Twenty-two of the 32 Districts have policies covering the hiring of employee and Board member relatives.*

Mountain View Whisman School District Response: We have no knowledge regarding the policies or practices of other districts regarding this matter.

Recommendation #3: *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.*

Mountain View Whisman School District Response: On August 19, 2010, the Board of Trustees adopted a policy that addresses the employment of relatives and individuals with intimate or personal relationships. A copy of the policy is attached hereto. In addition, to the extent permitted by law, the District will implement a change to its job application to request disclosure of familial relationships.

Finding #4: *Twenty-two of the 32 Districts do not permit employees to be placed in direct reporting relationships to their relatives. The following 10 Districts stated they do not have a written policy regarding the direct supervisory relationship of related employees: [See report for list.]*

Mountain View Whisman School District Response: We have no knowledge regarding the policies or practices of other districts regarding this matter. We disagree with the implication that we permit employees to be placed in direct reporting relationships to their relatives. We agree, however, that at the time of the report, the District did not have a written policy regarding this matter.

Recommendation #4: *The Boards of the Districts listed in Finding 4 should formulate and implement a policy prohibiting direct employee supervision of spouses and other relatives.*

Mountain View Whisman School District Response: The District agrees with this recommendation. On August 19, 2010, the Board adopted a policy that addresses the employment of relatives and individuals with intimate or personal relationships. A copy of the policy is attached hereto.

Finding #5: *The following 18 Districts allow 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: [See report for list.]*

Mountain View Whisman School District Response: We have no knowledge regarding the policies or practices of other districts regarding this matter. Our District was not included on the list, and we agree with this finding.

Recommendation #5: *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.*

Mountain View Whisman School District Response: The Superintendent of our District does not have the authority to override the policy that pertains to the placement of related employees in direct reporting positions. Consequently, a policy of reviewing such decisions is not warranted.

Finding #6: *Fourteen of the 32 Districts are aware of and/or document the number and names of related employees. The following Districts do not document this information: [See report for list.]*

Mountain View Whisman School District Response: We have no knowledge regarding the policies or practices of other districts regarding this matter. Our District was not included on the list, and we agree with this finding.

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

Mountain View Whisman School District Response: We are not listed in Finding 6. Consequently, the recommendation does not apply.

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

Mountain View Whisman School District Response: We have no knowledge regarding the policies or practices of other districts regarding this matter, but acknowledge that we do not ask about familial relationships on our job applications.

Recommendation #7: *All Boards should implement measures to identify familial relationships during the hiring process.*

Mountain View Whisman School District Response: To the extent permitted by law, this recommendation will be implemented.

EMPLOYMENT OF RELATIVES OR PERSONS WITH ROMANTIC OR PERSONAL RELATIONSHIPS

The Governing Board desires to maximize staff and community confidence in district hiring, promotion, and other employment decisions by promoting practices that are free of conflicts of interest or the appearance of impropriety.

(cf. 4030 - *Nondiscrimination in Employment*)

(cf. 9270 - *Conflict of Interest*)

The Board prohibits the appointment or continuing assignment of any person to a position for which his/her relative (or a person with whom he/she has an intimate or romantic relationship) maintains management, supervisory, evaluation, or promotion responsibilities. The Board further prohibits an employee from participating in any decision that singularly applies to any of his/her relatives or to any person with whom he/she has an intimate or romantic relationship.

In the event that an employee marries or enters into an intimate or romantic relationship with a person in a position for which he/she maintains management, supervisory, evaluation, or promotion responsibilities, the Superintendent or designee shall first attempt to reach a collaborative resolution with the parties involved. If a collaborative resolution cannot be reasonably reached, the Superintendent shall have discretion to re-assign one or both of the employees to eliminate any potential conflict of interest. (Re-assignment may result in placement in a lower classification and/or a lower position on the salary schedule.)

In the event that one of the employees is the Superintendent, the specific remedies with respect to the Superintendent shall be defined in the Superintendent's contract. The Superintendent's contract is a public document and a copy of the current agreement shall be available upon request at the District Office.

(cf. 4111/4211/4311 - *Recruitment and Selection*)

(cf. 4115 - *Evaluation/Supervision*)

For purposes of this policy, "*relatives*" includes the individual's spouse, domestic partner, parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, cousins, and the similar family of the individual's spouse or domestic partner.

For the purposes of this policy, an "intimate or romantic relationship" includes dating, sexual contact of any type, or any other similar private activity that might compromise an employee's ability to evaluate his/her partner effectively or impartially.

In addition, the Superintendent or designee may, on a case-by-case basis, refrain from appointing a person to a position in the same department or facility as an employee with whom he/she maintains a personal relationship when that relationship has the potential to create (1) an adverse impact on supervision, safety, security, or morale of other district employees or (2) a conflict of interest for the individuals involved which is greater because of the their relationship than it would be for another person.

All Personnel

**BP 4112.8(b)
4212.8(b)
4312.8(b)**

An employee shall notify his/her supervisor within 30 days of any change in his/her circumstances that may constitute a violation of this policy.

Legal Reference:

EDUCATION CODE

35107 School district employees

FAMILY CODE

297-297.5 Rights, protections, benefits under the law; registered domestic partners

GOVERNMENT CODE

1090-1098 Prohibitions applicable to specified officers

12940 Unlawful employment practices

CODE OF REGULATIONS, TITLE 2

7292.0-7292.6 Marital status discrimination, especially:

7292.5 Employee selection