

Responses of the
Ukiah Unified School District
Superintendent
to the
Mendocino County Grand Jury Report 2011-12
Issued by the Grand Jury May 17, 2012
"Ukiah Unified School District: A House Divided"
June 13, 2012

Findings

1. Mendocino County Office of Education reported that financial decisions and expenditures conformed to State regulations.

RESPONSE OF THE SUPERINTENDENT:

Agree.

2. With a threat of 2012-11 mid-year cuts, reduction of costs was a prudent decision. However, there was inadequate information or explanation of changes in financial practice given to employees.

RESPONSE OF THE SUPERINTENDENT:

Agree and disagree. The Superintendent agrees that, with the threat of 2012-11 mid-year cuts, reduction of costs was a prudent decision.

The Superintendent disagrees however that inadequate information or explanation was provided to employees. The Superintendent is unaware of any requests at the time from employees seeking additional or different information. The Superintendent directed the initiation of a variety of mechanisms to provide information and explanation. These approaches involved public and internal meetings and communications to provide employees and other stakeholders multiple sources and venues for information and shared decision making. For example:

- **Formation of the Budget Advisory Committee (BAC), comprising certificated and classified employees, administrators, parents and other members of the community.**
- **Monthly public Fiscal Reports.**
- **Memoranda regarding the fiscal crisis and the District's responses, distributed monthly to all employees.**

- **District Leadership Team Meetings, at which responses to the fiscal crisis were discussed and planned.**
 - **Meetings between administrators and bargaining unit leaders.**
3. The reserves for 2010-2011 were \$6,585,532.80, which is higher than the 3% required by the State. Considering the District's monthly payroll is over \$3.6 million, the State required 3% reserve would cover less than two months of payroll.

RESPONSE OF THE SUPERINTENDENT:

Agree with fact that reserves would cover less than two months of payroll; however disagree with some of the figures in this finding. The 3% Reserve for Economic Uncertainty required by the State is currently \$1,402,562.

In addition, a separate Board Reserve is also set at 3%, currently \$1,402,562. In 2008, with the decline of the state economy and revenue volatility, the Board unanimously passed a revision to Board Policy 601, setting forth the requirement of this Board Reserve as part of its efforts to mitigate the impacts of significantly reduced state funding.

The State-mandated Reserve for Economic Uncertainty and the Board Reserve, together, would be insufficient to cover an average monthly payroll, which is \$3,490,845.

The District's Fund 17 Special Reserve is currently in the amount of \$3,780,407. Therefore total reserves are, on an accrual basis, currently in fact \$6,585,532. However, total reserves are different than total cash available. Currently the District has \$3,780,407 in cash available in Fund 17.

4. Late budgets and some fiscal errors were a result of inconsistent handling by fiscal staff.

RESPONSE OF THE SUPERINTENDENT:

Agree and disagree. The Fiscal Department was at one time challenged by rapidly changing conditions including high staff turnover and a lack of consistent leadership. Some late budgets and fiscal errors were because of

this inconsistency. In recognition of these issues, the Board of Trustees determined to allocate the resources necessary to hire an experienced Chief Business Official.

5. In 2010, a Chief Business Officer (CBO) was hired, who produced timely, understandable budgets, and assigned charges to appropriate categories.

RESPONSE OF THE SUPERINTENDENT:

Agree.

6. The CBO instituted a policy of prior approval of purchase orders by the Fiscal Office, a practice that had not been routinely followed in the past. This was done without adequate explanation.

RESPONSE OF THE SUPERINTENDENT:

Agree and disagree. There was always a policy of prior approval of purchase orders by the Fiscal Office, but the procedure was tightened up by the new CBO. There previously had been no requirement that approval of purchase orders be tied to identification of the actual funding within the account code from which the purchase was being requested. The changes instituted in 2010 required such identification of funding source prior to approval; in the event there was insufficient funding, then a budget transfer was required to ensure revenue was not being overspent. Information regarding the changed procedures was communicated to the District Leadership Team and also to secretarial staff in back-to-school trainings, both orally and in written format. Throughout the 2011/12 year further memos and flow-charts were provided to site administration and secretaries to reinforce and clarify the process.

7. Staff and Community members reported that the current Superintendent had a "top-down" style of management, appeared to be threatened by challenges to her decisions, and used extensive legal consultation before replying to requests for information.

RESPONSE OF THE SUPERINTENDENT:

Disagree. The Superintendent's leadership style was consultative, but in the end she, appropriately, took responsibility for her decisions. She regularly consulted with the Leadership Team, but at the end of the day someone has to make a final decision and that obligation properly belongs to the Superintendent position. While many styles of leadership are successful, the Superintendent's style of leadership was not inappropriate.

The finding that witnesses reported that the Superintendent appeared to be threatened by challenges to her decisions is a statement of others' apparently unsubstantiated perceptions, to which the Superintendent cannot respond. Like all seasoned school administrators, the Superintendent throughout her career has dealt with challenges to her decisions; that is the nature of being in management.

Finally, as to the finding that witnesses reported there was extensive legal consultation, it is unclear whether the qualifier "extensive" is meant critically. Given the highly regulated nature of public education and the myriad legal issues underlying many important school district decisions, consultation with legal counsel ahead of time is vital to controlling costs and risks in the future.

8. The Superintendent did not sufficiently involve principals, teachers, and other staff in decision-making processes.

RESPONSE OF THE SUPERINTENDENT:

Disagree. While there can always be varying levels of inclusion of stakeholders in decision making, the Superintendent did include principals, teachers and other staff in her decision-making processes. Means for inclusion included the following consultative teams and committees many of which included certificated and classified staff: District School Leadership Team; Budget Advisory Committee; District Assistance and Intervention Team; 7-11 Committee; Boundary Committee; Curriculum Selection Committee; Administrative Leadership Team; AERIES Committee (student information); Title VII Committee; DELAC (District English Learner Advisory Committee); Textbook Adoption Committee; Technology

Committee; School Site Councils; RTI Committees; Common Core Committee; Report Card Committee; and many others.

9. In the face of community and staff opposition, Administration and the Board of Trustees proceeded with planning for the building of a new District Office.

RESPONSE OF THE SUPERINTENDENT:

Agree that some community members and staff opposed the building of the new District Service Center. However there can often be opposition to important decisions by public bodies; that does not necessarily dictate the outcome of the decision. A governing board must act with its best assessment of the needs of the enterprise. Here, a unanimous vote of the Board of Trustees approved the use of Redevelopment Fund monies for a new central District Service Center. Such funds can only be used in the redevelopment area, thus excluding many of the District's existing school sites.

The current District Offices, housed now in a former mortuary, are inadequate, poorly designed for current uses, and present significant maintenance, security and safety issues. There is also insufficient space for all central office District personnel in the current building; complicating and making inefficient the required interactions among central District personnel. Additionally, the public meeting space is inappropriate.

The discussion and planning for a new District Service Center, capable (unlike now) of housing all District central office staff, has been in the works since 1994. First Measure A funds and then Measure H funds provided the means to modernize school sites and also to build a central District Service Center, although such funds were used exclusively for school sites and never for a central District Service Center. Since 1994 approximately \$100 million in Measure A and Measure H funds have been spent on local school sites. Redevelopment monies were dedicated to the new centralized District Service Center. The District anticipates that, similar to the results achieved by the County and the City when they consolidated their offices into centralized locations, there will be greatly enhanced effectiveness, safety, and convenience for the public once the new facility is completed.

10. Community members and District staff voiced concerns that serious school repairs needed to be made before a new District Office was considered. The official school repair list includes the following

- Eagle Peak: \$136,500
- Calpella: \$490,200
- Ukiah High School: \$7,770,000
- Pomolita: \$1,175,000
- Frank Zeek: \$729,000
- Yokayo: \$358,000
- Oak Manor: \$759,400
- Nokomis: \$322,000
- Grace Hudson: \$127,000

RESPONSE OF THE SUPERINTENDENT:

Agree and disagree. Agree that concerns were voiced, but disagree that the funding sources applicable to the District Service Center can instead be applied to the projects on this list. Since 1994, approximately \$100 million has been spent for renovations at all school sites in the District; much of the remaining and ongoing work to be done as listed on the UUSD Capital Facility Needs list is playground and paving/resurfacing work.

Redevelopment Funds, which are supporting the new District Service Center, are not available for the vast majority of the school sites, which are outside the city redevelopment area.

The Board has instituted a long term capital rationing approach to maintenance, prioritized by safety needs. Unfortunately because of deferred payment of state funds, the District cannot undertake all projects at once. There may be additional funding to support this work from the anticipated lifting of the suspension of the State deferred maintenance program.

The approximately \$7 million earmarked for the work at the High School has already been allocated from renovation funds. The High School work needed to be done is supported by Measure U funds, which cannot and will not be used for the District Service Center.

11. There was confusion over mandated leave days:
- Administration took 5 days in 2009-2010
 - UTA took 5 leave days in the following year.
 - CSEA did not agree to take any leave days.

RESPONSE OF THE SUPERINTENDENT:

Disagree that there was any confusion on the part of the Board or Superintendent, and regret that there may have been confusion on the part of the public. Agree that there were differing results for the different groups.

12. Prior to the 2007 school year, grievances were resolved at the school level, with only one grievance reaching the District level.

RESPONSE OF THE SUPERINTENDENT:

Agree that it always makes best sense to resolve disputes at the lowest possible level. The Superintendent is without information as to all grievances filed before the 2007 school year.

13. During the period 2007-2009, there were only four grievances, all resolved with the UTA. However, during the period 2009-2011, there were 28 grievances, some of which ended up in arbitration. Both grievance and arbitration procedures are very expensive.

RESPONSE OF THE SUPERINTENDENT:

Agree and disagree. The Superintendent agrees that incidence of grievances increased in recent years. The Superintendent also agrees that grievance and arbitration procedures are expensive. The Superintendent regrets that the parties involved found it hard to come to resolutions without multiple instances of invoking the grievance procedure.

However, the Superintendent disagrees that some grievances ended in arbitration. From 2007 to the present, no UTA or CSEA grievances were resolved through arbitration. All were either settled at a low level, or, over

the last year, fully and finally resolved through a mutually-agreed upon mediation process.

The Superintendent also disagrees that recent grievances could have been resolved at the school level, as the many of the recent grievances, including those regarding the Health Plan, were not filed at the school level; they were instead filed by the unions at the District level to begin with.

As indicated in responses to the next several findings, the parties have successfully resolved all such disputes, without having to go to hearing at an arbitration. The Superintendent is gratified that the District and the Employee Organizations are now working in a more cooperative fashion.

14. Prior to the 2010 budget, legal fees and the cost of an administrative assistant's time had never been charged to the health plan.

RESPONSE OF THE SUPERINTENDENT:

Agree. This Finding and related Findings all refer to a series of disputes regarding the Self-Funded Health Plan, each of which has now been mutually, amicably, and completely resolved.

15. Administration conformed to Health Insurance Portability and Accountability Act (HIPAA) regulations. However, this did not excuse the District Administration from providing more information to the District Health Committee regarding legal fees charged to the health plan.

RESPONSE OF THE SUPERINTENDENT:

Disagree that HIPAA was an excuse for not providing more information to the Health Committee regarding legal fees charged to the plan. This Finding and related Findings all refer to a series of disputes regarding the Self-Funded Health Plan, each of which has now been mutually, amicably, and completely resolved.

16. Differences over selecting a health plan administrator and charges to health plan participants resulted in multiple grievances, some of which were resolved by mediation. One is currently in arbitration.

RESPONSE OF THE SUPERINTENDENT:

Agree that there were multiple grievances, all filed at the District level, regarding the Health Plan. Disagree that one is currently in arbitration. This Finding and related Findings all refer to a series of disputes regarding the Self-Funded Health Plan, each of which has now been mutually, amicably, and completely resolved.

17. Language in the UTA and CSEA contracts states that the Health Committee was authorized to "...negotiate a contract with consultant and adjudicate problem claims." However, employee contracts did not clearly state that the Board of Trustees had the final fiduciary responsibility for contracts.

RESPONSE OF THE SUPERINTENDENT:

Agree. It is not the labor contracts but instead the Health Plan document which explicitly provides that the District is the fiduciary and has principal responsibility for the management and administration of the Plan. This Finding and related Findings all refer to a series of disputes regarding the Self-Funded Health Plan, each of which has now been mutually, amicably, and completely resolved.

18. Administrative legal fees were \$899,000 in the past four years.

RESPONSE OF THE SUPERINTENDENT:

Disagree. This figure appears to represent five years of legal fees, not four. In addition, of this amount, approximately \$194,000 has been submitted for reimbursement by the State as mandated costs.

19. The District instituted an expensive energy saving program without seeking available free local programs or researching other, less-expensive programs.

RESPONSE OF THE SUPERINTENDENT:

Agree that the focus of the District was on thoroughly vetting Energy Education, Inc. (EEI). EEI provided a proven track record, and a very high level of expertise and experience in achieving energy savings in the public school district environment. Through their staff, programs, software and on-site presence, EEI has helped the District significantly reduce its energy consumption costs. Additionally, EEI has helped the District improve the local environment, model good citizenship to our students, and teach and inspire for career goals.

20. The basic energy saving contract costs to date have been \$379,900 and the District is still liable for two additional payments of \$157,000 each. The Superintendent reported to the Board considerable savings from the program. However, the GJ reviewed documents showing no such savings from the first three years.

RESPONSE OF THE SUPERINTENDENT:

Disagree. There is only one remaining year on the EEI contract, at \$157,200. Contract costs are offset by the savings achieved by the District. From the beginning of the EEI contract in the 2009-10 school year, through the end of March 2012, through its work with EEI the District has achieved a net savings to the general fund of \$139,354. This represents real savings in utility costs, resulting in significant ongoing energy savings and new energy-efficient practices. With the improved techniques and awareness from working with EEI, the District will continue to save on energy into the future, long after contract payments to EEI have ceased.

21. District Trustees who have an immediate family member employed by the District are not allowed to participate in discussions or to vote on fiscal matters affecting employees. However, Education Code section 35107 clearly allows Trustees to discuss and vote on matters affecting a class of employees rather than a unique individual.

RESPONSE OF THE SUPERINTENDENT:

Agree and disagree. A serious concern was expressed in the past to Board members about voting on action items when they had spouses in the bargaining unit. Members of governing boards of public school districts are required by law to abstain from voting on personnel matters that uniquely affect their relatives. However, during the time in question an opinion of the Fair Political Practices Commission (FPPC) clarified that if a Trustee is voting on a matter which does not uniquely affect the spouse, this prohibition does not apply. This question is now resolved and no longer a problem.

22. Several Trustees have served many years on the Board and exhibit limited understanding of the fiscal operations of the District.

RESPONSE OF THE SUPERINTENDENT:

Disagree that long-term Board members have only limited understanding of public school fiscal matters. Agree that school finance is highly complex and changing. All Board members support ongoing training in fiscal operations of the District. Fiscal issues are one of the most important aspects of a school board member's duties.

23. Public expression at meetings has been limited to the beginning of the agenda, without the Trustees responding.

RESPONSE OF THE SUPERINTENDENT:

Agree that the time for public comment has been placed at the beginning of the Board meetings, as in many other public agencies. The Board meetings, however, are not public forums but instead are business meetings of the school district to which the public is invited.

24. The GJ heard testimony from many community members that the Superintendent, by maintaining a primary residence in Southern California, was not committed to the community.

RESPONSE OF THE SUPERINTENDENT:

Disagree. The Superintendent is without information to agree or disagree whether such testimony was heard by the GJ, and disagrees that maintaining a residence in Southern California indicated a lack of commitment to the UUSD community. It is not uncommon for superintendents to maintain residences elsewhere than the district where they work, and in fact it is against the law to require residency within the District boundaries.

The Superintendent's maintaining a residence in Ukiah, her residing here for the vast majority of each year she has been employed by the District, her long hours spent on UUSD business, and her proven devotion to the success of the students of the District all show great commitment to the UUSD community.

Recommendations

1. Trustees be trained in fiscal oversight and financial management. (Finding 22)

RESPONSE OF THE SUPERINTENDENT:

This recommendation of additional fiscal oversight and financial management training will be implemented within the next six months.

2. Public expression at Board meetings should be held at the end of each item on the agenda, and the Board should be encouraged to respond. (Finding 23)

RESPONSE OF THE SUPERINTENDENT:

Within the next six months the Board will be implementing changes to its public meeting agenda structure. While the Board is considering some changes to the placement of public comment on the agenda, input after an item has been heard is believed to be not as productive as input before an item is acted upon. Nor is it always productive for the meeting, nor fair to

the other members of the public, for the Board members to respond to each public comment.

3. Teachers and other staff members be included in planning major changes to educational programs, processes or procedures. (Finding 8)

RESPONSE OF THE SUPERINTENDENT:

Already implemented (see examples in Response to Finding 8) and ongoing.

4. Reasons for major changes be adequately communicated to personnel affected by those changes. (Findings 2, 6, 8,10, 14-16, 23)

RESPONSE OF THE SUPERINTENDENT:

Already implemented (see examples in Response to Findings listed), and ongoing. The Board Trustees will also request the new Superintendent always ensure adequate communications about major changes are given to affected staff.

5. Administrators and unions be encouraged to develop a mutually respectful working relationship. (Findings 7-9, 11-13, 15, 16)

RESPONSE OF THE SUPERINTENDENT:

Already implemented. The Board has encouraged administrators and unions to develop a mutually respectful working relationship. The recent successes in amicably resolving numerous disputes and recent labor negotiations demonstrate the ongoing success in this endeavor.

6. The health committee portion of the contracts for UTA/CSEA be amended to give clarity to designation of responsibility and authority. (Finding 17)

RESPONSE OF THE SUPERINTENDENT:

This recommendation cannot be implemented by one party to a contract. Labor negotiations are governed by detailed requirements of public notice, good faith bargaining, and appropriate procedures prior to changing terms

and conditions of employment. This topic may be given consideration by the parties in bargaining.

7. The contracts for UTA/CSEA be amended to allow mediation before arbitration if grievances cannot be resolved at the local level. (Finding 18)

RESPONSE OF THE SUPERINTENDENT:

This recommendation cannot be implemented by one party to a contract. Labor negotiations are governed by detailed requirements of public notice, good faith bargaining, and appropriate procedures prior to changing terms and conditions of employment. This topic has been raised and discussed in detail in the current round of bargaining.

8. Trustees monitor, analyze, and approve legal expenditures of the District administration. (Finding 18)

RESPONSE OF THE SUPERINTENDENT:

Already implemented. The Board is periodically updated and consulted on all significant expenditures for legal services. Attorneys providing legal services to the District are conscientious about costs.

9. In the future, the Trustees should first seek out local, free programs, prior to committing to under-researched and expensive contracts that ignore or leave out a bidding process. (Findings 19, 20)

RESPONSE OF THE SUPERINTENDENT:

Already implemented. The Board takes very seriously all issues of costs versus benefits in the provision of services by outside entities, and is as judicious as possible in expending funds. It is important to retain outside expertise for necessary services when such expertise does not exist among District staff.

10. District legal staff consult with other districts to discover how board members, who have a spouse employed by a district, handle discussion and voting on fiscal matters. (Finding 21)

RESPONSE OF THE SUPERINTENDENT:

The Board has already implemented the approach recommended by the FPPC, as described in the Response to Finding 21. This approach is satisfactory to the Trustees including those who have spouses or other relatives employed by the District. Accordingly, the Superintendent finds it unnecessary to direct legal staff to consult with other districts on this.

11. In the selection of a future Superintendent of Schools, the Board select a candidate who is willing to make their home in the community. (Finding 24)

RESPONSE OF THE SUPERINTENDENT:

The Board cannot legally require a Superintendent of Schools or any other District employee to reside within District boundaries. However, a new Superintendent, who happens to be an area resident, has already been selected.

12. Children's needs and safety (e.g. the asphalt at Pomolita school) be paramount in all administrative and Trustee decisions. (Findings 9, 10)

RESPONSE OF THE SUPERINTENDENT:

Already implemented; the Board and Superintendent prioritize children's needs and safety in all their decision making, while at the same time prioritizing uses for limited funds, and applying funds which can only be used for certain purposes, to such purposes.

13. Completing all school repairs take priority over the planning and construction of a new District Office. (Findings 9,10)

RESPONSE OF THE SUPERINTENDENT:

This recommendation cannot be implemented in its literal terms, because the new District Services Center is already well underway and school sites always have some repairs, even minor ones, which can be undertaken. The District has since the mid-1990's spent approximately \$100 Million on

renovation of the individual school sites, and continues to allocate and prioritize limited, available monies for needed repairs. Funds available for the District Services Center are not automatically available for the school sites, and in fact cannot be spent outside the redevelopment area.