

San Joaquin County Grand Jury



Manteca Unified Board of Trustees: Board Behavior Creates Conflict

2014-2015 Case No. 1417

Summary

After the November, 2014 election, Manteca Unified School District (MUSD) changed ... drastically. Long-time incumbents were replaced by two unknown candidates, Ashley Drain and Alexander Bronson. The election of Sam Fant two years earlier began a transition away from a Board of Trustees largely made up of long-time Manteca Unified residents. During the 2012 election Deborah Romero was voted into office and has since been elected President of the MUSD Board of Trustees (Board). The remaining three trustees have served MUSD as follows: Evelyn Moore for 17 years, Nancy Teicheira for 13, and Mike Seelye for 11.

The newer trustees and the long-time members clashed almost immediately, and as learned during this investigation, these conflicts had toxic effects on District operations. After receiving multiple complaints, the 2014-2015 San Joaquin County Civil Grand Jury began an investigation into MUSD Board behavior and its negative impact on the District.

Among the findings uncovered during the investigation:

- Behavior of some Board members created an atmosphere of fear among employees at many schools and at the District office
- Coercion by some trustees caused established Board policies and procedures, including safeguards, to be circumvented by some administrators
- Interference of some Board members with employees' duties, violated Board policies and Bylaws.

- Spending for legal services directly related to Board members' behavior skyrocketed
- At least two Board members exercised perceived power inappropriately although all trustees acknowledged that a single Board member has no individual power

Among the Grand Jury's recommendations:

- By September 30, 2015, a policy should be adopted by the MUSD Board of Trustees to accomplish the following: When a Board member or an administrator becomes aware of any improper behavior by any Board member, it will be immediately shared with the Superintendent and all Board members.
- By September 30, 2015, the MUSD Board should adopt a policy that calls for immediate action when a trustee violates Board by-laws. This would include public discussion at the next board meeting, and/or moving to censure the trustee found to be in violation.

Glossary

Ralph M. Brown Act

Also known as the Brown Act, state laws governing open and closed meetings for public bodies

GECAC

Give Every Child a Chance, a private organization that provides tutoring and after-school programs at District sites

Background

Manteca Unified School District serves more than 23,000 students and is the third largest public school district in San Joaquin County. It is located in the county's southeastern area and its students live in Manteca, Lathrop, Stockton, French Camp, and pockets of unincorporated county areas. MUSD currently has 20 elementary schools, five comprehensive high schools, three alternative education sites, one adult education program, and one program that includes career academies and independent study opportunities.

District trustees must reside in one of seven trustee areas. Until the passage in November 2014 of Measure I, trustees were elected at-large. Measure I changed that. Going forward, trustees will be elected from newly drawn trustee areas, in which candidates must reside.

Superintendent Jason Messer has led MUSD for seven years, promoted after holding several other Manteca Unified central administrative positions. A long-time educator, he is invested in the District and would like to remain there for the remainder of his career. The chain of command in Manteca Unified is typical of many school districts. The superintendent reports to the Board; the deputy

superintendent and senior directors report to the Superintendent; and site principals report to senior directors.

For many years Manteca Unified was viewed as a district with stability as its hallmark. The community of Manteca strongly identified with its school system, and many long-time residents worked there. With the addition of expanding communities in the late 1980s in Lathrop and Stockton's Weston Ranch the small town feel of Manteca Unified began to change. Many Bay Area workers found commuting more desirable than unmanageable house payments, and they found more affordable home prices in Manteca, Lathrop, and Weston Ranch.

In 2010, the District suffered a severe decline in funding, tied to both the Great Recession and the collapse in the housing market, causing MUSD class sizes to increase. Despite these challenges, the District continued to graduate a high percentage of its students, 92.8 percent in 2013-14, the highest of any large school district in the county.

Board members occasionally had public disagreements, but the conflicts were resolved in a professional manner. This was, in part, because they shared a common belief: the trustees' role was to develop policies and assign financial resources to improve the learning of all students throughout the district. This long-time, non-controversial way of doing business began to change ... drastically.

In the November 2012 election Sam Fant, listed himself on the ballot as an educator. He won the election, receiving 50.9 percent of the vote. When elected, he was Stockton Planning Commission chairman and a member of the San Joaquin County Fair Board. A self-avowed politician, Sam Fant would soon demonstrate a different style of boardsmanship than his colleagues. Mr. Fant worked quietly, but forcefully, to get what he wanted. His proposals for change were largely focused on the Weston Ranch area of the District. Some of his ideas received a friendly reception from Board members. Others did not. After all, he was only one vote of seven. That, too, would change.

The two board members elected in November of 2014 also identified themselves as educators on the ballot. It is known throughout the Manteca Unified community that Mr. Fant has stated that he helped them with their campaigns. He later said that he did no more than endorse them. Trustees Drain and Bronson frequently voted as Mr. Fant did, which has enlarged his powerbase. While Mr. Fant operates in a relatively low-key manner, Ashley Drain, one of the two newly-elected trustees, does not. Her exchanges with District employees and community members have caused an outcry among the public, and a scurry by administrators to assist her in order to modify her behavior. Her pronouncements are particularly suitable fodder for the local press, and her frequent, outspoken posts on social media are thought by many to be unseemly for an elected official.

It is in this chaotic atmosphere that the 2014-2015 Grand Jury began its investigation. Jurors found countless instances of unusual Board behavior, some of which are outlined below.

Reasons for Investigation

The Grand Jury received multiple complaints relating to the actions of MUSD Board members. One complainant alleged the possibility of election fraud and perjury by two Board members when stating

their residency on papers filed for the 2014 election. Another complaint described an incident when one Board member allegedly interfered with the discipline of a student at Weston Ranch High School (WRHS). The third complaint was lodged against a board member when pictures from an employee's Facebook account were displayed at the January 27, 2015 Board meeting.

The Grand Jury discovered that a complaint had been filed with the California Secretary of State's Office regarding the election issues. That being the appropriate venue for the complaint, the Grand Jury chose not to pursue that issue. Subsequently, the Secretary of State's Office did investigate the complaint and referred the matter to the San Joaquin County District Attorney's Office. Multiple felony charges were filed against the two trustees, Alexander Bronson and Ashley Drain, on April 23, 2015. Mr. Bronson resigned from the Board of Trustee position on May 11, 2015.

Initial interviews began in March 2015 and revealed there were major problems plaguing MUSD, largely as a result of the behavior of Board members, and particularly increasing since the November 2014 election. Numerous local media reports indicated that recent actions taken by some Board members had riled many constituents, especially in the Weston Ranch community. Subsequent interviews made it clear that numerous District employees were fearful of some trustees. Board meetings had become contentious. Administrators were compelled to spend inordinate amounts of time dealing with Board members' demands, especially demands coming from Ms. Drain and Mr. Fant. These two Board members knew that a single board member has no more power than any citizen, however, they used perceived power to inappropriately achieve their ends.

The combination of formal complaints, frequent negative media reports, and early Grand Jury interviews revealed disturbing problems, prompting this investigation.

Method of Investigation

Materials Reviewed

- Various newspaper articles from the *Manteca Bulletin* and *The Record*
- California Education Code
- California Penal Code
- MUSD By-laws
- MUSD agendas and minutes
- Various documents, internal emails, and financial records obtained under the Freedom of Information Act (FOIA)
- Contract with James French
- Invoices from James French
- Sign-in sheets from various schools
- California Department of Education data
- San Joaquin County Registrar of Voters' documents
- Various pages on the California School Board Association web site
- Security videos taken at Weston Ranch High School (WRHS)

Interviews Conducted (25)

- All MUSD Board members
- Seven District and site administrators
- Several classified employees
- Several community members
- GECAC staff members

Sites Visited

- Manteca Unified District Office
- August Knodt Elementary School
- Weston Ranch High School
- Attended Board meetings

Facts, Findings, and Recommendations

Discussion

1.0 Fact

The Grand Jury investigation found many instances of inappropriate trustee behavior, including:

A. Exercise class established contrary to normal procedures

In recent years some Board Members have by-passed the accepted chain of command, communicating directly with personnel in the District office and at various school sites. This was done for a variety of subjective reasons: to strengthen an effort to remove an administrator, to inappropriately intervene in disciplinary actions of administrators, or to push for a favorite program.

The normal process for a trustee to advocate a program for MUSD begins with a conversation between the trustee and the superintendent. The superintendent or a designated administrator investigates the request and determines the appropriateness and the feasibility. Would this initiative benefit students? Would it be safe? Would it create liabilities for the District? Would the benefits justify the costs? These were among the questions that needed to be answered. When done properly this process would take much longer to come before the District trustees for action.

Trustee Fant has pushed for programs in his area that includes most of the Weston Ranch. One of the programs Mr. Fant insisted on was an adult exercise program at August Knodt Elementary School. A significant number of adults exercised regularly at the public park next to the school, and Mr. Fant, for unknown reasons, wanted them to use the school for their "Zumba-like" workouts. In the winter 2013, he broached the subject with various administrators. Concerns were raised about having unknown adults on campus, fingerprinting issues, and participant and student safety. These exercises were quite energetic, and injuries could occur. To solve some of these issues the activity was to be "programized." This meant that the District would place it in a category that made it a District program, and any liability

would be assumed by MUSD. One issue that could not be resolved was fingerprinting. At the time, no participant was willing to complete the background process. This delayed the program start-up for about one year. The reason this background process is in place is to vet the issues before implementation to insure the program's success.

The Grand Jury reviewed a series of emails about the formation of the program as a result of the Freedom of Information Act demands. The emails were compiled by the District's Information Technology Department after it received requests for information found on the District server related to a variety of issues. After the Grand Jury analyzed these documents, it became clear that the normal process for creating a new program was not followed. Sam Fant, according to emails, made it clear to many people that this program was his. Rather than dealing only with Superintendent Messer, he made demands of many employees either in person, via email, or over the phone. One email was particularly direct:

I have been contacted by multiple people that, the community program that I have been working hard on is being sabotaged by staff in our district ... If there is any scare tactics or facts that are blown out of proportion in order to see to it that this program fails, it will be EXTREMELY DISAPPOINTING! And I am going to want the Facts on why things miraculously fell apart.

Mr. Fant was known to tell administrators on many occasions that their job was to do what he told them. The Grand Jury found that he would repeatedly say to staff, "This is what I want. Your job is to figure out how to make it happen", even after concerns about safety, cost, and liability were discussed with him. When the issue of possible injury in the August Knodt exercise program was raised, he said that the District will make this a Manteca Unified program, so that there will be no facilities use requirements and no need for insurance. "Manteca Unified has deep pockets, let us get sued," he said according to emails examined by the Grand Jury.

In February 2015, the Fitness, Aerobic, Nutrition, Training (F.A.N.T.) program began at August Knodt Elementary School, operating Monday through Friday, 9 to 10 a.m. As a safeguard, no adults in the program were to have contact with students, as only a few leaders had been fingerprinted. An analysis of attendees revealed that about 20 percent of the participants were not August Knodt parents. They were to only be in the cafeteria, and not enter the campus. During a Grand Jury visit to August Knodt, adults were seen entering the campus through the cafeteria doors where they could come into contact with students.

The Grand Jury did not attempt to determine whether the F.A.N.T. program was effective. Jurors recognize there is a benefit for adults to embrace a healthy lifestyle. This episode, however, is one of many examples of normal processes being by-passed as a result of individual trustee coercion. The examination of the emails show excessive amount of time consumed by many employees in order to satisfy Mr. Fant, much of it spent smoothing over misunderstandings and making sure that Mr. Fant did not get upset. The examination of emails also showed that administrators bowed to the pressures brought on by Mr. Fant resulting in established procedures to be ignored. The fact that the trustee dealt directly with so many employees working at a variety of levels was highly unusual in the experience of many in MUSD. It also was disruptive.

B. Trustee assumes control of a District program

Weston Ranch, an isolated area in the City of Stockton served by MUSD, has few after-school activities. In the spring of 2014, a program was piloted at Weston Ranch High School, an idea originating with Trustee Fant, and supported by most of the other trustees. A pilot after-school program, serving 50 or 60 students began. It was operated by the award-winning Give Every Child a Chance organization (GECAC), which began in Manteca in 1998. GECAC currently serves more than 4,000 children at almost 50 sites in many school districts in the Central Valley.

(<http://www.gecac.net/historicaltimeline.html>).

Ashley Drain, not a trustee at the time, worked for GECAC in the WRHS after-school program until April 2014. At that time, according to a series of emails, she became defiant with a supervisor, telling him that the after-school program was not Principal Jose Fregoso's program, and it was not GECAC's program; it was Sam Fant's program, and she would take orders from him. The Grand Jury found when the GECAC Chief Executive Officer (CEO) called Ms. Drain to discuss her exchange with her supervisor, Ms. Drain hung up on her and called Mr. Fant. After a series of conversations and meetings, Ms. Drain was dismissed by the CEO.

The GECAC program CEO and its employees expressed concerns about the behavior of Mr. Fant, particularly the way he interacted with Principal Fregoso. He was heard giving orders to Mr. Fregoso and using many profanities in the process.

Ultimately, the pilot program at WRHS was successful, and the Board directed Superintendent Messer to find \$125,000 to expand it. In the fall of 2014 a full-fledged, GECAC after-school program began at the high school. While the program was successful, GECAC officials decided not to continue at WRHS effective with the 2015-16 school year, mainly because of their interactions with Mr. Fant. They will continue to operate after-school programs at the elementary schools in Weston Ranch.

C. WRHS principal ousted

The Grand Jury found that Trustee Fant spent many hours at Weston Ranch High School. Usually he did not check in at the office, as is normal practice, and often pulled teachers out of their classrooms during instruction time to discuss Principal Jose Fregoso's performance. Beginning in December 2014, Mr. Fant was often seen at WRHS accompanied by Ms. Drain, the newly-elected trustee.

A January 30, 2015 Manteca Bulletin story, "Two trustees trying to remove administrator?", described a vote taken in closed session during the January 27th Board meeting. The administrator being considered for possible dismissal as stated on the closed session agenda was known to be Mr. Fregoso. As reported, Mr. Fant moved for the dismissal. Only one other trustee, Ms. Drain, joined in favor. The motion did not pass.

Many community members expressed support for Mr. Fregoso at a subsequent Board meeting and through newspaper letters to the editor. Over the next few weeks, negotiations occurred between the

District and Mr. Fregoso. At the March 3, 2015 Board meeting it was announced that Mr. Fregoso would be leaving the District at the end of the school year. Mr. Fregoso accepted an offer of a full year's salary with benefits, costing the District about \$150,000. Were it not for the efforts of Trustees Fant and Drain, Mr. Fregoso would have remained at WRHS. The Grand Jury also learned that a climate of fear among many District employees was created because of the way Mr. Fregoso was ousted.

D. Trustee interferes with discipline

A highly publicized incident at WRHS occurred a few days after Ms. Drain's election. She intervened in a disciplinary matter involving a student who happened to be in her emotional development after-school activity conducted privately in her home. The student relayed her version of the incident, and Trustee Drain drove her to the high school where, according to her statement to the Manteca Bulletin, she expressed her "... severe disdain for the poor choices this school is making on behalf of our students." In the same article she was described as accusing Principal Fregoso of being apathetic to the plight of the school's minority students. "Weston Ranch does not have a supportive staff or a supportive principal", she was quoted as saying. Although Ms. Drain was not the parent or guardian of the student, she sent the student to class, refusing to let the vice-principal follow appropriate discipline procedures. In reference to the news article about this incident, Ms. Drain stated on her Facebook page, "I don't play by the rules that are counterproductive to the Well Being of my students ... As long as it isn't illegal ... by ANY means necessary." This incident was one of at least two in which Trustee Drain interfered with student discipline at Weston Ranch High School.

The second of these incidents occurred on January 20, 2015. A campus monitor was restraining a male student who was trying to fight with a female student. Ms. Drain was on the campus with James French. Mr. French began yelling at the campus monitor to stop. As Mr. French had no visitor's badge, he was asked by the principal to identify himself. He replied that he was with Ashley Drain. When asked if he had checked into the office before entering, he said he had. The accepted practice is for all visitors to sign-in at the office and receive a badge. This security measure is necessary to make sure administrators know who is on their site. It was discovered that Mr. French had not checked in at the office. When the principal checked into the vice-principal's office where the male student had been sent, he found the student in the office talking with Ms. Drain. She was asked to leave the office. She did not have the required parental permission to speak with the student.

E. Consultant hired without background check

This would not be the last time that Mr. French would be at WRHS. He was a friend of Trustee Drain, having officiated at her marriage four years earlier. At the request of Ms. Drain, Mr. French was awarded a \$6,000 Standard Vendor Contract, an agreement to work with students who are at-risk of coming under the influence of gangs. Mr. French has publicly stated that he is a former gang member, and he served 23 years in state prison for gang-affiliated armed robbery, a felony. He could not pass the legally-required background check for all adults who work with students. For this reason the contract with MUSD required him to check in at the office and be accompanied by a certificated employee at all times while on campus. It could not be verified that he followed these requirements on every visit to the

campus. The Grand Jury learned that there were times that he was seen on the WRHS campus unaccompanied and without a visitor badge.

The process for bringing Mr. French to the campus was also outside of normal procedures. At no time was the principal involved or even informed about the consultant until his encounter with Mr. French and Ms. Drain on the WRHS campus. According to the invoices submitted to the District, Mr. French had been on campus before January 20, 2015, however Principal Fregoso was not aware of it at that time.

As in other aspects of this investigation, the Grand Jury did not focus on the value of Mr. French's services. Jurors realize that some value may be had from persons sharing difficult life experiences with students.

The contract for Mr. French was approved by the Board on February 10, 2015, and was funded from a general fund account. OG Consulting, Mr. French's organization, was to be paid \$300 per hour for student assemblies, \$175 per hour for work with small groups, and \$250 per hour for staff development, not to exceed \$6,000. As of May 20, 2015, Mr. French had billed the District \$6,000 and been paid \$4,550. The District was able to provide five parental permission slips allowing Mr. French to work with individual students. In addition to the few students Mr. French counseled, he worked with a few parents and consulted with a few staff members.

During the Board discussion regarding the approval of the contract for Mr. French's services, Trustee Nancy Teicheira expressed concerns. She asked if the District's attorney had reviewed the contract and inquired about liability. According to Board minutes, Superintendent Messer said that "Risk Management has reviewed the contract, and has the ability to waive the fingerprinting, because he is employed at UOP. Mr. Messer clarified the liability piece comes under the classification of guest instructor and that a certificated staff member will be with him at all times." The Board agreed to table public discussion and take it up in closed session. After the 19-minute closed meeting, the Board unanimously approved the contract in open session.

The Grand Jury was not able to verify Mr. French's employment with the University of the Pacific and learned later the District also could not verify his employment at UOP. Additionally, it was learned that Mr. French does not always check in at the WRHS office and is not always accompanied by a certificated staff member.

F. Trustee gives principal candidate after-hours tour at Weston Ranch High School

On Monday, April 13, 2015, an off-duty campus security monitor opened the door to WRHS at about 5 p.m. Entering along with the campus monitor was Trustee Fant and an unidentified (at the time) woman. They were taken to offices, the teacher's lounge, the library, and a special education classroom among other locations. Later it was learned that the woman was considering whether to apply for the principal position at WRHS, later applying for the job and becoming one of three finalists. Mr. Fant did not share this activity with site administrators, other Board members, or the Superintendent.

It is not unusual for applicants for such positions to tour school sites, sometimes after hours. Such tours are conducted by District or site administrators. It is inappropriate for trustees -- who will make the ultimate hiring decision -- to conduct such tours.

The normal process for hiring principals in MUSD includes a first round interview with eight persons representing administration, teachers, classified employees, parents, students, and others. The three finalists are then interviewed by the Superintendent and three District trustees, selected by the Board president. After learning about the special treatment given the candidate by Mr. Fant, the process was changed. After the first round, which was completed before the changes were made, three finalists were interviewed by the Superintendent, and he put his selection in a sealed envelope. At a special Board meeting on May 11, 2015, six trustees interviewed the candidates (earlier in the day Trustee Bronson had tendered his resignation and did not attend). The woman given the tour by Mr. Fant and the campus monitor was selected as the new WRHS principal on a 5-1 vote. It should be noted that Trustee Fant had made it known to numerous persons that he would select the new principal at WRHS, and the principal would be African-American.

An additional issue with this after-hours visit was the concern about the entering of offices and classrooms by a Board member and a stranger, especially a room used for special education where sensitive confidential student files are stored. It was learned that some locks were changed after this episode, and that many staff members were angered at what they considered an invasion of privacy. Normally any visitor would be accompanied by an administrator.

G. Investigation into employee complaint filed against trustee

An employee who works in a school office filed a formal complaint against Trustee Fant claiming that he had created a hostile workplace. Some of the employee's personal Facebook pages were distributed and displayed at the January 27th Board meeting. After determining that the Facebook entries had not been uploaded with District property, the District enlisted an attorney to investigate the employee's complaint. The attorney found that a hostile workplace was not created in the legal sense, because the conduct was not due to the employee being in a protected legal category. The attorney presented a summary of findings as follows:

- A. Sam Fant showed pictures from [REDACTED] Facebook page to Dennis Wyatt of the Manteca Bulletin in advance of the Board meeting on January 27, 2015.*
- B. Sam Fant was aware that a television reporter was going to attend the January 27, 2015 Board meeting and so informed Dennis Wyatt of the Manteca Bulletin in advance of the Board meeting.*
- C. Sam Fant left the Board meeting for an interval of time on January 27, 2015, when the Board meeting was ongoing in order to give an interview to Fox 40 news.*

On Thursday, May 14, 2015, a special Board meeting was held. On the previous Tuesday the regularly scheduled meeting could not be completed due to technical difficulties related to the posting of the agenda. Two action items on the agenda were related to the investigation and the actions of Sam Fant:

- 1. Consider and Discuss Resolution Employee Facebook Complaint Against Board Member*

2. Consider Appointment of Board Committee to Review and Discuss a Censure Resolution Regarding Employee Facebook Complaint

The attorney who conducted the investigation discussed the findings. After a lengthy and acrimonious discussion, the Board voted to appoint a committee to investigate the beginning of the process to censure Sam Fant. Mr. Fant and Ms. Drain voted against the motion. The remaining four trustees voted for it. President Romero appointed Ms. Drain, Ms. Teicheira, and herself to the committee.

H. Junior Cougars banquet was scheduled, canceled and held anyway

The Weston Ranch Junior Cougars are a non-District football team for young children. Sam Fant is the current vice-president of its Board of Directors. On December 1, 2014, he came to the District Facilities Use Clerk and requested the use of facilities at Weston Ranch High School for a football banquet on Saturday, December 6, 2014. The normal lead time for approval is four weeks. Four days later Mr. Fant came to the clerk and cancelled the event. He said that they couldn't pull off the event fast enough. The clerk informed the site.

Normally a custodian unlocks the facility for such events. However, on the date originally scheduled for the event, the Grand Jury learned that, a campus security monitor opened the facility, and the banquet was held. The Junior Cougars' costs for the banquet (custodial, etc.) were reduced, because the proper forms were not fully filled out, verifying the custodian's time.

This incident raised another important issue: The address of the high school was listed on the application form as the Cougars' address. This, too, is unusual and problematic. Insurance follows the address. If there had been an accident, the District could have been held liable, even though the Cougars have insurance and an official address.

MUSD has since changed its procedures. In the future every facility user will need to have a printed permit, and the custodian will need to see that permit before allowing the user access to facilities. Also, rather than letting facilities users pay in arrears, they must pay one week in advance. If they haven't, they won't be allowed to use facilities eliminating the problems with insufficient funds checks that have occurred in the past.

I. Trustees presence interferes with administrators' work

Trustees spend an extraordinary amount of time in administrators' offices. They often arrive unannounced, and sometimes engage in conversations that at times seem of little importance to District operations. Many administrators find it difficult to complete their work, because some trustees sometimes spend hours in their offices. During these visits necessary interaction with staff is impossible. This meant some administrators spend most of their weekends catching up.

J. Trustee insults Weston Ranch school staff

After Trustee Drain learned that she was to be charged with voter and welfare fraud, she went straight to Facebook and blasted the District. She particularly angered the Weston Ranch community when she called WRHS a “ghetto school”, and she stated that Weston Ranch schools are “dumping grounds for poor teachers”. Manteca teachers, already frustrated with contract negotiations, came to the May 12th Board meeting wearing t-shirts emblazoned with the words “I Have a Voice/The Ranch by Choice”. Other Facebook exchanges by Ms. Drain have created controversy spilling over into Board meetings and the press. Two days after learning about the felony charges against her, Ms. Drain ceased posting updates to Facebook.

On May 12, 2015, Trustee Drain was served with a petition to recall her from her position as a trustee. At the same Board meeting it was announced that Trustee Alexander Bronson had submitted his resignation.

Findings

F1.1 Coercion by some trustees caused established Board policies and procedures, including safeguards, to be circumvented by some administrators

F1.2 Public statements by some trustees have caused anger and disruption in MUSD

F1.3 Some Board members interfered with employees’ duties, violating Board policies and by-laws

F1.4 Behavior by some Board members has made employees fearful in the workplace

F1.5 Administrators have been spending inordinate amounts of time dealing with issues involving trustees, making it difficult for them to complete necessary District work

Recommendations

R1.1 By September 30, 2015 a policy should be adopted by the MUSD Board of Trustees to accomplish the following: When a Board member or an administrator becomes aware of any improper behavior by any Board member, it will be immediately shared with the Superintendent and all Board members.

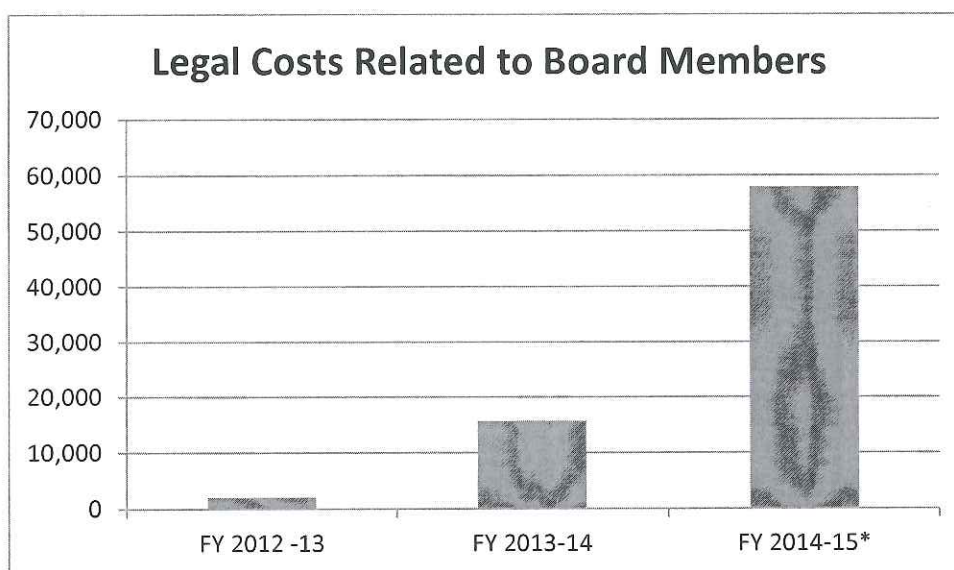
R1.2 By September 30, 2015, the MUSD Board should adopt a policy that calls for immediate action when a trustee violates District by-laws. This would include public discussion at the earliest possible Board meeting, and/or moving to censure the trustee found to be in violation.

2.0 Fact

Dramatically escalating legal costs

Spending for legal services increased dramatically as a result of the behaviors described above and other matters related to trustees. Some of the issues causing increased legal costs include several investigations, questions about residency, use of technology in meetings, by-laws changes, a study session regarding conflict of interest and appropriate governance, recall election processes, advice about appearing before the Grand Jury, negotiations with WRHS principal, and legal ramifications of alleged criminal misconduct.

During the 2012-2013 fiscal year the district spent just over \$2,000 for legal services relating to the Board of Trustees. Those costs have increased dramatically in recent months as the chart below illustrates, largely because of Board behavior issues. For the current fiscal year through March 31, 2015, the District has spent \$57,926.21 in legal fees related to Board behavior.



*Cost through March 31, 2015

Because of the events leading to the departure of Principal Fregoso, it is not unreasonable to include the cost of buying-out the principal's contract with the unnecessary costs the District has incurred as a result of Board behavior. Salary and benefits for Mr. Fregoso cost taxpayers about \$150,000. This figure combined with the legal costs described above exceeds \$200,000. If the recall moves forward, the costs will increase even more.

Findings

F2.1 Costs for legal services related to Board members' behavior has increased during the first nine months of the current fiscal year nearly 30 times what it was two years earlier

F2.2 The departure of the Weston Ranch High School principal added an unnecessary cost to the District

3.0 Fact

Board and staff training

In December, soon after Trustees Drain and Bronson were elected, they were given an option to attend training held by the California School Board Association (CSBA) in San Francisco. Mr. Bronson was not able to attend due to conflicts with work. Ms. Drain was scheduled to go, but when she arrived to check in at her hotel, she found it unacceptable. She returned home, and did not attend the training. The hotel has since been removed from the CSBA list of conference hotels. Other, more senior board members have not attended training for some time.

On January 13, 2015, a Board study session was held with the District's attorneys. The subjects included the following: an ethics overview, role of the board, Brown Act basics, and transparency in government. Sub-topics explored the issues of the use of technology during meetings, agreement on district spokesperson, and the power of an individual board member.

At the February 10, 2015, Board meeting training was an agenda item. After discussion the District voted to sponsor each trustee's attendance at one eight-hour CSBA training session per year. Mr. Bronson suggested the training be mandatory. His proposal was not included in the motion.

The Grand Jury learned that no administrators have received orientation on interacting with Board members. As a result, numerous incidents occurred during the last few months that allowed policies and procedures to be circumvented because staff did not understand their responsibilities.

Findings

F3.1 Only a few trustees have attended school board training in recent years preventing some trustees from having a common understanding of their role and responsibilities

F3.2 A lack of understanding by staff of the role of Board members has caused serious problems

Recommendations

R3.1 Newly elected Board members are strongly urged to participate in new board training offered by CSBA or other organizations

R3.2 All Board members are strongly urged to participate in annual board training offered by CSBA or other organizations to keep them current with educational trends and changing legislation

R3.3 Administrators should review Board by-laws and share with their staff those sections dealing with Board governance

4.0 Fact

Board by-laws updates expedited because of Board behavior

MUSD Board by-laws were scheduled to be updated over the next calendar year, however, it became necessary to place some by-laws on a fast track. The by-laws dealing with the Board of Trustees were placed ahead of other updates, because it was evident that some board members did not have a thorough understanding of them, and were not following them. Updates or additions of the following by-laws were placed on the February 10, 2015, agenda for adoption (See Appendix):

- 9000, Role of the Board
- 9005, Governance Standards, including:
 - *Act with dignity, and understand the implications of demeanor and behavior.*
 - *Keep confidential matters confidential.*
 - *Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent.*
 - *Understand that authority rests with the Board as a whole and not with individuals.*
- 9010, Public Statements, including:
 - *All public statements authorized to be made on behalf of the Board shall be made by the Board President, or if appropriate, by the Superintendent or other designated representative.*
- 9011, Disclosure of Confidential/Privileged Information
- 9012, Board Member Electronic Communication

By the March 3, 2015, Board meeting all of these new and revised by-laws were adopted.

Finding

F4.1 Board by-laws Sections 9000, 9005, 9010, and 9011 were violated by the Board members as described in this report.

F4.2 By-laws changes dealing with the Board were added or updated as a result of Board member behavior

Conclusion

The Grand Jury found that inappropriate and disrespectful behavior by Board members has been the greatest challenge for Manteca Unified School District in many years. Disrespect for each other, for employees, and for community members has created a toxic climate. Additionally, administrators at all levels have been pressured to cut corners and ignore important policies and procedures, leading some to question their judgment. As a result, some employees are actively seeking work elsewhere.

In the past Manteca Unified School District has generally served its students successfully. However, that effort may be jeopardized by the exceedingly disturbing actions described in this report. These actions must stop. If they are not stopped, the District risks further undermining its credibility with the community it serves and also risks losing some of the people who have been responsible for the District's successes. Both would severely stymie District progress.

School boards have been in existence for centuries, and have a rich tradition of serving as upholders of the beliefs and values of the community they represent. Roles and responsibilities are part of that tradition. When school board members operate with respect for their appropriate roles and responsibilities, education can be strong, and great things can happen, especially for students. When Board members and administrators ignore agreed upon rules and policies, it can be as damaging as breaking the law. If trustees behave inappropriately with no regard or respect for established norms, the educational system can be seriously damaged, harming taxpayers, employees and, most importantly, students.

Disclaimers

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

Response Requirements

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

The Board of Trustees of the Manteca Unified School District shall respond to each Finding and Recommendation contained in this report.

Mail or hand deliver a hard copy of the response to:

Honorable Lesley Holland, Presiding Judge
San Joaquin County Superior Court
P.O. Box 201022
Stockton, CA 95201

Also, please email the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at grandjury@sjcourts.org

Appendices

1. MUSD By-law 9000 b "Role of the Board"
2. MUSD By-law 9005 "Governance Standards"
3. MUSD By-law 9010 "Public Statements"
4. MUSD By-law 9011 "Disclosure of Confidential/Privileged Information"
5. MUSD By-law 9012 a "Board Member Electronic Communications"
6. MUSD By-law 9210 "Qualifications"
7. MUSD By-law 9222 "Removal"

BYLAW

NO. 9000 (a)

MANTECA UNIFIED SCHOOL DISTRICT

ROLE OF THE BOARD

The Governing Board has been elected by the community to provide leadership and citizen oversight of the District. The Board shall ensure that the District is responsive to the values, beliefs, and priorities of the community.

The Board shall work with the Superintendent to fulfill its major responsibilities, which include:

- 1) Setting the direction for the District through a process that involves the community parents/guardians, students, and staff and is focused on student learning and achievement.
- 2) Establishing an effective and efficient organizational structure for the District by:
 - a. Employing the Superintendent.
 - b. Overseeing the development and adoption of policies.
 - c. Establishing academic expectations and adopting the curriculum and instructional materials.
 - d. Establishing budget priorities and adopting the budget.
 - e. Providing safe, adequate facilities that support the District's instructional program.
 - f. Setting parameters for negotiations with employee organizations and ratifying collective bargaining agreements.
- 3) Providing support to the Superintendent and staff as they carry out the Board's direction by:
 - a. Establishing and adhering to standards of responsible governance.
 - b. Making decisions and providing resources that support district priorities and goals.
 - c. Upholding Board policies.
 - d. Being knowledgeable about District programs and efforts in order to serve as effective spokespersons.
- 4) Ensuring accountability to the public for the performance of the District's schools by:
 - a. Evaluating the Superintendent and setting policy.
 - b. Monitoring and evaluating the effectiveness of policies.
 - c. Serving as a judicial (hearing) and appeals body in accordance with law, Board policies, and negotiated agreements.
 - d. Monitoring student achievement and program effectiveness and requiring program changes as necessary.
 - e. Monitoring and adjusting District finances.
 - f. Monitoring the collective bargaining process.
- 5) Providing community leadership and advocacy on behalf of students, the District's educational program, and public education in order to build support within the local community and at the state and national levels.

BYLAW

NO. 9000 (b)

MANTECA UNIFIED SCHOOL DISTRICT

The Board is authorized to establish and finance any program or activity that is not in conflict with, inconsistent with, or preempted by law.

LEGAL REFERENCE

Education Code

- 5304 Duties of governing board (re school district elections)
- 12500-12405 Authority to participate in federal programs
- 17565-17592 Board duties re property maintenance and control
- 33319.5 Implementation of authority of local agencies
- 35000 District name
- 35010 Control of district; prescription and enforcement of rules
- 35020-35046 Officers and agents
- 35100-35351 Governing boards, especially
- 35160-35185 Powers and duties
- 35291 Rules

MANAGEMENT RESOURCES

CSBA Publications

Maximizing School Board Governance

Professional Governance Standards, November 2000

School Board Leadership: The Role and Function of California's School Boards, 1996

National School Boards Association Publications

The Key Work of School Boards, 2000

Websites

CSBA: <http://www.csba.org>

CSBA Governance Institute: <http://www.csba.org/gi>

National School Boards Association: <http://www.nsba.org>

Date Adopted: December 14, 2004

Date Revised:

**MANTECA UNIFIED
SCHOOL DISTRICT**

GOVERNANCE STANDARDS

The Manteca Unified School District Governing Board believes that its primary responsibility is to act in the best of every student in the District. The Board also has major commitments to parents/guardians, all members of the community, employees, the state of California, laws pertaining to public education, and established policies of the District. To maximize Board effectiveness and public confidence in district governance, Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.

The Board expects its members to work with each other and the Superintendent to ensure that a high-quality education is provided to each student. Each individual Board member shall:

- 1) Keep learning and achievement for all students as the primary focus.
- 2) Value, support and advocate for public education.
- 3) Recognize and respect differences of perspective and style on the Board and among staff, students, parents and the community.
- 4) Act with dignity, and understand the implications of demeanor and behavior.
- 5) Keep confidential matters confidential.
- 6) Participate in professional development and commit the time and energy necessary to be an informed and effective leader.
- 7) Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent and staff.
- 8) Ensure opportunities for the diverse range of views in the community to inform Board deliberations.

LEGAL REFERENCEEducation Code

35010 Power of governing board to adopt rules for its own governance

35160 Board authority to act in any manner not conflicting with law

35164 Actions by majority vote

Government Code

1090 Financial interest in contract

1098 Disclosure of confidential information

1125-1129 Incompatible activities

54950-54963 The Ralph M. Brown Act

87300-87313 Conflict of interest code

Management Resources**CSBA PUBLICATIONS**

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardsmanship, 1996

WEB SITES

CSBA: <http://www.csba.org>

Board Adopted:

BYLAW

NO. 9010 (a)

MANTECA UNIFIED SCHOOL DISTRICT

PUBLIC STATEMENTS

The Governing Board of the Manteca Unified School District recognizes the responsibility of Board members in their role as community leaders to participate in public disclosure on matters of civic or community interest, include those involving the District, and their right to freely express their personal views. However, to ensure communication of a consistent, unified message regarding District issues, Board members are expected to respect the authority of the Board to choose its representatives to communicate its positions and to abide by established protocols.

All public statements authorized to be made on behalf of the Board shall be made by the Board President, or if appropriate, by the Superintendent or other designated representative.

When speaking for the District, the Board encourages its spokesperson to exercise restraint and tact and to communicate the message in a manner that promotes public confidence in the Board's leadership.

The Board and District spokespersons shall not disclose confidential information or information received in closed session except when authorized by a majority of the Board.

When speaking to community groups, members of the public, or the media, individual Board members should recognize that their statements may be perceived as reflecting the views and positions of the Board. Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Board.

In addition, the Board encourages members who participate on social networking sites, blogs, or other discussion or informational sites to conduct themselves in a respectful, courteous, and professional manner and to model good behaviors for district students and the community. Such electronic communications are subject to the same standards and protocols established for other forms of communication, and the disclosure requirements of the California Public Records Act may likewise apply to them.

LEGAL REFERENCE

Education Code

35010 Control of district; prescription and enforcement of rules

Government Code

6250-6270 California Public Records Act

54960 Actions to stop or prevent violation of meeting provisions

54963 Confidential information in closed session

MANAGEMENT RESOURCES

Websites

CSBA: <http://www.csba.org>

Board Adopted:

BYLAW

NO. 9011

MANTECA UNIFIED SCHOOL DISTRICT

DISCLOSURE OF CONFIDENTIAL/PRIVILEGED INFORMATION

The Governing Board of Manteca Unified School District recognizes the importance of maintaining the confidentiality of information acquired as part of a Board member's official duties. Confidential/privileged information shall be released only to the extent authorized by law.

Disclosure of Closed Session Information

A Board member shall not disclose confidential information acquired during a closed session to a person not entitled to receive such information, unless a majority of the Board has authorized its disclosure.

Confidential information means a communication made in a closed session that is specifically related to the basis for the Board to meet lawfully in closed session.

The Board shall not take any action set forth in Government Code 549563(c) against any person for disclosing confidential information (as defined above) nor shall the disclosure be considered a violation of Government Code 54963 when the person is:

- 1) Making a confidential inquiry or complaint to the district attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a Board action that has been the subject of deliberation during a closed session.
- 2) Expressing an opinion concerning the propriety or legality of a Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.
- 3) Disclosing information that is not confidential.

Other Disclosures

A Board member shall not disclose, for pecuniary gain, confidential information acquired in the course of his/her official duties. Confidential information includes information that is not a public record subject to disclosure, or information that may have a material financial effect on the Board member.

Disclosures excepted from this prohibition are those made to law enforcement officials or to the joint legislative audit committee when reporting on improper governmental activities.

LEGAL REFERENCE

Education Code

35010 Power of governing board to adopt rules for its own governance

35146 Closed session

EVIDENCE CODE

1040 Privilege for official information

BYLAW

NO. 9011

MANTECA UNIFIED SCHOOL DISTRICT

GOVERNMENT CODE

- 1098 Public officials and employees re confidential information
- 3549.1 Meeting and negotiating in public educational employment
- 6250-6270 Inspection of public records
- 95950-56963 Brown Act, especially:
 - 54956.8 Open meeting laws
 - 54956.9 Closed meeting for pending litigation
 - 54957 Closed session: "employee" defined; exclusion of witnesses
 - 54957.1 Subsequent public report and roll call vote; employee matters in closed session
 - 54957.5 Public records
 - 54957.6 closed session; representatives with employee organization
 - 54957.7 Reasons for closed session
- 54963 Confidential Information in closed session

ATTORNEY GENERAL

- 80 Ops.Cal.Atty.Gen.231 (1997)

Board Adopted:

**MANTECA UNIFIED
SCHOOL DISTRICT**

BOARD MEMBER ELECTRONIC COMMUNICATIONS

The Governing Board recognizes that electronic communication among Board members and between Board members, district administration, and members of the public is an efficient and convenient way to communicate and expedite the exchange of information and to help keep the community informed about the goals, programs, and achievements of the district and its schools. Board members shall exercise caution so as to ensure that electronic communications are not used as a means for the Board to deliberate outside of an agendaized Board meeting.

A majority of the Board shall not, outside of an authorized meeting, use a series of electronic communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

Examples of permissible electronic communications concerning district business include, but are not limited to, dissemination of Board meeting agendas and agenda packets, reports of activities from the Superintendent, and reminders regarding meeting times, dates, and places.

Board members shall make every effort to ensure that their electronic communications conform to the same standards and protocols established for other forms of communication. A Board member may respond, as appropriate, to an electronic communication received from a member of the community and should make clear that his/her response does not necessarily reflect the views of the Board as a whole. Any complaint or request for information should be forwarded to the Superintendent in accordance with Board bylaws and protocols so that the issue may receive proper consideration and be handled through the appropriate district process. As appropriate, communication received from the press shall be forwarded to the designated district spokesperson.

In order to minimize the risk of improper disclosure, Board members shall avoid reference to confidential information and information acquired during closed session.

Board members may use electronic communications to discuss matters other than district business with each other, regardless of the number of members participating in the discussion.

Like other writings concerning district business, a Board member's electronic communication may be subject to disclosure under the California Public Records Act.

As all communications during a public Board meeting are subject to the California Public Records Act, Board members will not use electronic communication devices during Board meetings to communicate either internally or externally.

(cf. 1340 - Access to District Records)

BYLAW

NO. 9012 (b)

MANTECA UNIFIED SCHOOL DISTRICT

Legal Reference:

EDUCATION CODE

35140 Time and place of meetings

35145 Public meetings

35145.5 Agenda; public participation; regulations

35147 Open meeting law exceptions and applications

GOVERNMENT CODE

11135 State programs and activities, discrimination

54950-54963 The Ralph M. Brown Act, especially:

Date Adopted: August 20, 2013

BYLAW

NO. 9210

MANTECA UNIFIED SCHOOL DISTRICT

QUALIFICATIONS

Each member of the Board shall meet the following qualifications.

1. He or she shall be 18 years of age or older, a citizen of the state, a resident of the School District, a resident of the trustee area from which he or she is to be elected as described under the San Joaquin County Board of Supervisors' Order No. R-65-528, dated June 15, 1965, and filed under Instrument No. 30984 of the County Recorder's Office, a registered voter, and not disqualified by the Constitution or laws of the state from holding civil office. (Education Code 35107, 72103)
2. He or she shall not have a vested interest in any contract of the Board. (Education Code 35230, 72530; Government Code 13)
3. He or she shall, before entering the duties of his or her office, take and subscribe the oaths prescribed by statute. (California Constitution Article XX3; Government Code 1360-1369)

Legal Reference: Education Code
35107, 72103, 35230, 72530

Government Code
13, 1360-1369

San Joaquin County Board of Supervisors' Order No. R-65-528

Date Adopted: March 30, 2004

BYLAW**NO. 9222****MANTECA UNIFIED
SCHOOL DISTRICT**

REMOVAL

A Board member may be removed from the Board by death, resignation, recall, or termination of District or area residency. Also, removal may be effected by grand jury indictment and subsequent conviction by the court and pronounced judgment that the defendant be removed from office for willful and corrupt misconduct. Such judgment shall be entered upon the minutes and the causes of removal shall be assigned therein. (Education Code 5090, 35233, 72533; Government Code 1770, 3060 et seq., 3072)

Legal Reference: Education Code
5050 et seq.
5090, 35233, 72533

Government Code
1770, 3060 et seq., 3072

Date Adopted: March 30, 2004