

Agenda Item Details

Meeting Jan 20, 2011 - ESUHSD REGULAR BOARD MEETING - 4:00 P.M., DISTRICT OFFICE - BOARD ROOM, 830 N. CAPITOL AVENUE, SAN JOSE, CA 95133

Category 14. ATTACHMENT A - CONSENT CALENDAR

Subject 14.16 Approve Minutes of December 16, 2010, Annual Organizational Meeting/Regular Board Meeting

Access Public

Type Action (Consent)

Recommended Action It is recommended that the Board of Trustees approve the December 16, 2010, Annual Organizational Meeting/Regular Board Meeting minutes as presented.

Public Content

EAST SIDE UNION HIGH SCHOOL DISTRICT**Item: 14.16**

TO: Board of Trustees

FROM: Dan Moser, Superintendent

SUBJECT: Approve Minutes of December 16, 2010, Annual Organizational Meeting/Regular Board Meeting

Attached are the minutes of the December 16, 2010, Annual Organizational Meeting/Regular Board Meeting for review and approval by the Board of Trustees.

FISCAL IMPACT:
None

FUNDING SOURCE:
None

RECOMMENDATION:
It is recommended that the Board of Trustees approve the December 16, 2010, Annual Organizational Meeting/Regular Board meeting minutes as presented.

**EAST SIDE UNION HIGH SCHOOL DISTRICT
BOARD OF TRUSTEES**



APPROVED January 20, 2011

ep. Guitler

**EAST SIDE UNION HIGH SCHOOL DISTRICT
ANNUAL ORGANIZATION MEETING
AND
REGULAR MEETING
OF THE
BOARD OF TRUSTEES
Meeting Held at the Education Center -- Board Room
December 16, 2010
3:15 p.m.**

**BOARD OF TRUSTEES SWEARING-IN CEREMONY
NEWLY ELECTED BOARD MEMBER VAN LE
RE-ELECTED BOARD MEMBERS J. MANUEL HERRERA AND FRANK BIEHL
5:30 P.M.
EAST SIDE UNION HIGH SCHOOL DISTRICT
BOARD ROOM**

1. CALL TO ORDER/ROLL CALL

1.01 Roll Call

The Regular Meeting of the Board of Trustees was called to order at 3:20 p.m. by Member Nguyen. Member Martinez-Roach, Member Le, Member Biehl and Member Herrera were present.

1.02 Announcement and Public Comment regarding Items to be discussed in Closed Session (Government Code 54957.7)

Member Nguyen extended a welcome to everyone, explained the format of the meeting, noted that all Board Meetings are recorded and offered the public to comment on item(s) to be discussed in Closed Session.

There were no public speakers regarding Closed Session items.

1.03 Recess to Closed Session (Open Session will resume at the end of Closed Session in the Board Room at approximately 6:00 p.m.) See item 2 on agenda (Closed Session).

The Board of Trustees recessed to Closed Session.

2. CLOSED SESSION

2.01 Expulsion(s): A-E

Student A:

Motion by Member Martinez-Roach, second by Member Biehl, to approve the expulsion of Student A.

Vote: 5/0

Student B:

Motion by Member Biehl, second by Member Martinez-Roach, to approve the expulsion of Student B as modified.

Vote: 5/0

Student C:

Motion by Member Herrera, second by Member Martinez-Roach, to approve the expulsion of Student C.

Vote: 5/0

Student D:

Motion by Member Biehl, second by Member Herrera, to approve the expulsion of Student D.

Vote: 5/0

Student E:

Motion by Member Herrera, second by Member Le, to approve the expulsion of Student E.

Vote: 5/0

2.02 Public Employment/Public Employee Appointment (Government Code Section 54957)

- *Associate Superintendent of Administration and Business Services*

2.03 Public Employee Discipline/Dismissal/Release (Government Code Section 54957)

2.04 Public Employee Performance Evaluation (Government Code Section 54957)

2.05 Conference with Labor Negotiators (Government Code Section 54957.6)

Agency Designated Representatives:

Dan Moser, Superintendent

Jerry Kurr, Associate Superintendent of Administration and Business Services

Cathy Giammona, Associate Superintendent of Human Resources and Instruction

Vida Branner, Director of Compensation and Classified Employee Relations

Employee Organizations:

American Federation of Teachers (AFT)
California School Employees Association (CSEA)
East Side Teachers Association (ESTA)

2.06 Conference with Legal Counsel – Existing Litigation
Subdivision (a) of Section 54956.9 of the Government Code: Three (3) Cases

- *Kinetics Mechanical Services, Inc. vs. East Side Union High School District, Santa Clara County Superior Court, Case No. 109CV141312*
- *Geraldine Forte vs. East Side Union High School District, U.S. District Court for the Northern District of California, San Jose Division, Case Number CV 10-01368 HRL*
- *Tessa Cavazos v. East Side Union High School District, et al., Santa Clara County Superior Court Case No. 107CV085424*

2.07 Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code:

- *One (1) Potential Case and Two (2) Claim for Damages of J. Portillo and S. Trevino*

Motion by Member Biehl, second by Member Martinez-Roach, to reject the claim for damages of J. Portillo.

Vote: 5/0

Motion by Member Martinez-Roach, second by Member Le, to reject the claim for damages of S. Trevino.

Vote: 5/0

2.08 Conference with Real Property Negotiators

<i>Property:</i>	<i>ESUHSD Educational Center, or portion thereof 830 N. Capitol Avenue San Jose, CA 95133</i>
<i>District Negotiators:</i>	<i>Dan Moser, Superintendent Jerry Kurr, Associate Superintendent of Administration and Business Services Rogelio Ruiz, Legal Counsel Real Estate Representatives Sam Swan, Bob Hunt and Andre Hunt</i>
<i>Negotiating Parties:</i>	<i>ESUHSD, Santa Clara Development Company, and Other Parties To Be Determined</i>
<i>Under Negotiation:</i>	<i>Price and Terms</i>

OPEN SESSION AT APPROXIMATELY 6:30 P.M. – EDUCATION CENTER BOARD ROOM

3. PLEDGE OF ALLEGIANCE

4. WELCOME AND EXPLANATION TO AUDIENCE

Information explaining Board meeting procedures and how citizens can address the Board will be read. Written information is located near the entrance to the Board Room.

Member Nguyen extended a welcome to everyone, explained the format of the meeting and noted that all Board Meetings are recorded.

5. ANNUAL ORGANIZATIONAL MEETING (ACTION ITEMS)

5.01 Nomination and Election of Board Officers

5.01.01 President

Motion by Member Biehl, second by Member Herrera, to nominate Member Lan Nguyen as Board President.

Vote: 5/0

5.01.02 Vice President

Motion by Member Nguyen, second by Member Le, to nominate Member Frank Biehl as Board Vice President.

Vote: 5/0

Motion by Member Martinez-Roach to nominate Member Martinez-Roach as Board Vice President.

Motion withdrawn.

5.01.03 Clerk

Motion by Member Nguyen, second by Member Biehl, to nominate Member Van Le as Board Clerk.

Vote: 3/0 (Members Nguyen, Biehl and Le voting Yes.)

Motion by Member Herrera to nominate Member Martinez-Roach as Board Clerk.

Motion failed.

5.02 Appointment of Board Secretary

Motion by Member Biehl, second by Member Nguyen, to appoint Superintendent Dan Moser as Board Secretary.

Vote: 5/0

5.03 Nomination and Election of Alternate Representative to MetroED Board

Motion by Member Biel, second by Member Nguyen, to nominate Member Herrera as the alternate representative to the MetroED Board.

Vote: 5/0

5.04 Appoint Two Board Members to Board's Standing Audit Committee

- **Chairperson**

Motion by Member Nguyen, second by Member Le, to nominate Member Biehl as Board Audit Committee Chairperson.

Vote: 5/0

- **Vice Chairperson**

Motion by Member Herrera, second by Member Le, to nominate Member Martinez-Roach as Board Audit Committee Vice Chairperson.

Vote: 5/0

5.05 Nomination of One Member of the Board of Trustees to Vote in the Election for Members of the Santa Clara County Committee of School District Organization

Motion by Member Nguyen to nominate Member Martinez-Roach as the Board Member to represent East Side Union High School District to vote in the election for members of the Santa Clara County Committee on School District Organization.

Vote: 5/0

5.06 Nomination and Election of Representative to Santa Clara County School Boards Association

Motion by Member Martinez-Roach to nominate Member Van Le as the East Side Union High School District representative to the Santa Clara County School Boards Association.

Vote: 5/0

5.07 Adopt Resolution #2010/2011-19 Approving Authorized Signatures

Motion by Member Biehl, second by Member Herrera, to adopt Resolution #2010/2011-19 Approving Authorized Signatures.

Vote: 5/0

5.08 Develop and Approve Schedule of Regular Board Meetings and Annual Organizational Meeting for 2011

Motion by Member Biehl, second by Member Martinez-Roach to approve the schedule of Regular Board Meetings and Annual Organizational Board Meeting as amended.

- *June 2011 Board meetings are June 16 and June 28; June 21 not selected as a meeting date*
- *Board Retreat will be held on January 29, 2011; February 5 not selected as a retreat date*

Vote: 5/0

6. CONSIDERATION OF PROPOSED AMENDMENTS TO AGENDA

For consideration by the Board of Trustees.

Request by Superintendent Moser to pull items 10.06 and 10.07.

Motion by Member Martinez-Roach, second by Vice President Biehl, to pull items 10.06 and 10.07.

Vote: 5/0

7. BOARD SPECIAL RECOGNITION(S)

7.01 Jerry Kurr, Associate Superintendent of Administration and Business Services

8. STUDENT BOARD LIAISONS

No items on calendar under this section.

9. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD OF TRUSTEES

Persons wishing to address the Board must fill out a gold request form, which is located at the entrance of the Board Room.

Speakers:

- *Armando Morales, School Food Advocacy*
- *Manuel Madrigal, School Food Advocacy*
- *Marisa Hanson, First Time Ending Semester in December / FTE ESTA*

10. SUPERINTENDENT/BOARD OF TRUSTEES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

10.01 Presentation Update on Hispanic Youth Institute - Dr. Carlos Santiago, CEO of Hispanic College Fund, and Ray Ruiz, President of Community Development Resources, Inc., and National Hispanic University Board Member

Presentation/update on Hispanic Youth Institute by Dr. Carlos Santiago, CEO of Hispanic College Fund, and Ray Ruiz, President of Community Development Resources, Inc., and National Hispanic University Board Member.

10.02 Board Audit Committee Update and Accept Board Audit Committee Minutes of October 9, 2010 - Frank Biehl, Audit Committee Chair and Lan Nguyen, Audit Committee Vice Chair

Frank Biehl, Audit Committee Chairperson

I have included in your packet the approved minutes of the October 9, 2010, Audit Committee meeting. They are extensive and give you a very good idea of the work the Committee has been working on.

We met again on December 11 and at that meeting we received a report from the External Auditor who will be presenting the external audit for the last fiscal year to this Board at our January meeting for acceptance. The Internal Auditor, in addition, at our January meeting will be presenting his recommended work plan for the Board's approval.

We also have two community appointments to the Audit Committee that the terms start February 1st. One is a two-year term public member. We stagger the terms for the Charter. One member drew a short-term and only served for one year. He is interested in serving again, but my recommendation is that we send out a press release noticing that we have this vacancy and that anyone can apply to serve who meets the qualifications within the Charter. We follow the same plan as we did last year. In addition, we appoint an alternate to a one-year term. I would work with the new Vice Chair and the Administration to make sure that the press release goes out in December.

The October 9, 2010, Board Audit Committee Minutes of October 9, 2010, were accepted by the Board of Trustees.

10.03 Accept Statement of Votes and Certificate of Election Results from the Santa Clara County Registrar of Voters Office and Declare the Totals to be the Final Results of the Election - Dan Moser, Superintendent

Motion by Member Martinez-Roach, second by Vice President Biehl, to accept the statement of votes and certificate of election results from the Santa Clara County Registrar of Voters Office and Declare the Totals to be the final results of the election.

Vote: 5/0

10.04 Approve Board President's Attendance and Lawful Expenses to CSBA's Board Presidents Workshop - Dan Moser, Superintendent

Motion by Vice President Biehl, second by Member Martinez-Roach, to approve Board President's attendance and lawful expenses to CSBA's Board Presidents Workshop.

Vote: 5/0

10.05 Receive First Reading of Board By Law #9100 Organization – Dan Moser, Superintendent

Received first reading of Board By Law #9100 Organization. Item to be brought back after Board Retreat for second reading.

10.06 Adopt Resolution #2010/2011-21 of Intention to Exchange Real Property - Dan Moser, Superintendent

Item pulled.

10.07 Approve Real Property Exchange Agreement – Dan Moser, Superintendent

Item pulled.

10.08 Extension of Agreement for Program Management Services (Measure "G") Between Seville Group, Inc. and East Side Union High School District - Dan Moser, Superintendent

Motion by Vice President Biehl, second by Member Martinez-Roach, to approve the extension of agreement for program management services (Measure "G") between Seville Group, Inc., and East Side Union High School District.

Vote: 5/0

11. INSTRUCTIONAL SERVICES/STUDENT SERVICES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

11.01 Adopt Resolution #2010/2011-20 In Support of Full State Funding of County Mental Health Services for Children with Disabilities - Cathy Giammona, Associate Superintendent, Human Resources and Instruction

Motion by Member Martinez-Roach, second by Member Herrera, to adopt Resolution #2010/2011-20 In Support of Full State Funding of County Mental Health Services for Children with Disabilities.

Vote: 5/0

11.02 Receive/Action/Discussion SCCOE 2010 Williams Settlement Annual Report – Cathy Giammona, Associate Superintendent, Human Resources and Instruction

Motion by Member Herrera, second by Vice President Biehl, to receive the SCCOE 2010 Williams Settlement Annual Report.

Vote: 5/0

12. HUMAN RESOURCES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

No items on calendar under this section.

13. BUSINESS SERVICES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

13.01 Approve First Interim Financial Report for 2010/2011 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Vice President Biehl, second by Clerk Le, to approve the First Interim Financial Report for 2010/2011.

Vote: 5/0

13.02 Approve the Master Business Relationship Agreement with East Side Union High School District and Metropolitan Education District for 2010/11 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Member Herrera, second by Vice President Biehl, to approve the Master Business Relationship Agreement with East Side Union High School District and Metropolitan Education District for 2010-2011.

Vote: 5/0

13.03 Acceptance of Donations, Grants and Awards - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Member Martinez-Roach, second by Member Herrera, to accept the donations, grants and awards as presented.

Vote: 5/0

13.04 Approve Contracts for Professional Services at or below \$50,000 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Member Herrera, second by Clerk Le, to approve the contracts for professional services at or below \$50,000 as presented (copy attached).

Vote: 5/0

13.05 Approve Contracts for Professional Services over \$50,000 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Vice President Biehl, second by President Nguyen, to approve the contracts for professional services over \$50,000 as presented (copy attached).

Vote: 4/1, Member Martinez-Roach voted No

13.06 Discuss/Receive Electrical Energy Usage and Cost for Phase I Solar Project – Jerry Kurr, Associate Superintendent of Administration and Business Services

Motion by Member Herrera, second by Clerk Le, to receive the electrical energy/usage and cost for Phase I Solar Project report.

Vote: 5/0

14. FACILITIES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

14.01 Overview of Residential and Commercial Development within the District and Impact Fees - Jerry Kurr, Associate Superintendent of Administration and Business Services, and June Francis Rono, Ph.D., Director of Facilities and Planning

Presentation by June Francis Rono, Ph.D., Director of Facilities and Planning.

15. ATTACHMENT A – CONSENT CALENDAR ITEMS

Items 15.03, 15.07 and 15.09 were pulled from the consent calendar for discussion. Motion by Member Herrera, second by Clerk Le, to approve the remainder of the consent calendar.

Vote: 5/0

15.01 Ratify/Approve Classified Personnel Actions Presented December 16, 2010

15.02 Ratify/Approve Certificated Personnel Actions Presented December 16, 2010

15.04 Approve School Field Trips

15.05 Approve Award of Bid

15.06 Approve Budget Transfers Presented December 16, 2010

15.08 Approve Change Orders to Purchase Orders Presented December 16, 2010

15.10 Accept Warrant Register for the Month of November 2010

15.11 Approve Change Order #1 for James Lick High School, Demolition of Existing Child Care Center Project (PARC Services, Inc.)

15.12 Approve Change Order #1 for James Lick High School, Demolition of Existing Building #500 Project (PARC Services, Inc.)

15.13 Approve Minutes of November 18, 2010, Regular Board Meeting

Items pulled for discussion from the Consent Calendar for discussion/consideration.

15.03 Ratify/Approve Student Aide Personnel Actions Presented December 16, 2010

Member Biehl left room; recused himself from vote as it involves his son.

Patricia Martinez-Roach, Board Member

I have a question. Under condition number 1, I know there is a legal opinion regarding dependent children. The question I have for the attorney for the record: Does this mean any dependent citizens of a Board Member could work for the District? Member Biehl needed to disclose the fact that his sibling is a minor, which he did not do before he left. The disclosure must be noted in the District's official record. The Board's approval is on good faith by a majority vote.

Rogelio Ruiz, Legal Counsel

By way of background, I have provided to the Board a copy of an opinion dated today regarding an issue that arose at the last meeting and that is that the administration was proposing to hire Kevin Biehl, who is Member Biehl's son, as a Student Aide at Mt. Pleasant High School. In light of the issues and concerns that were expressed there, I was asked whether the Political Reform Act or the Government Code absolutely prevented or prohibited the District from entering into that kind of an arrangement. I've provided an opinion that says that under normal circumstances, under the strict language of the statute, the answer would be "yes," except for the statute also contains for an exception that defines a remote interest to include the interest of the parent, here Member Biehl, in the earnings of his or her minor child for personal services. Before the Board can take any action, the existence of that relationship had to be disclosed to this Board and what I advised Superintendent and Member Biehl was that I ask that this letter be made a part of the official record to not only constitute the disclosure, but also my opinion that that fact that Member Biehl's son is a minor child, which Member Biehl has represented to me. In this case, that fits within the exception and, therefore, the Board may approve that part-time employment by his son as a Student Aide at Mt. Pleasant High School if it so desires. There is nothing in the statute that requires Member Biehl from recusing himself. I did advise him and the Superintendent that I thought it would be a good idea if he recused himself and removed himself from the room on any discussion on this matter. My only other comment would be that, if the Board approves this, that this letter be made a part of the official record by being attached to the minutes that will be approved by this Board at the subsequent meeting.

Lastly, to address Member Martinez-Roach's comment is the exception doesn't apply to dependents. It applies only to minor children and there is a difference. In this case, again, I have been informed, and it is my understanding that his son, Kevin, is the subject of this is 16 years old and is legally still a minor and will be a minor through the limited employment period. That is defined under law as a remote interest and so it excludes it.

Dan Moser, Superintendent

It is funded under Century 21 funds and Goodwill is the LEA. This is the second year for the grant.

Rogelio Ruiz, Legal Counsel

The agreement by Goodwill -- which Goodwill funds these programs. Under the Government Code and Political Reform Act, the issue is whether Member Biehl has a financial interest in that contract and he does not. He does not have an interest in Goodwill itself. He would have to have some interest in Goodwill or some interest in the contract where he is going to receive money as a result of the contract that would disqualify not only him from taking part, but potentially the Board from taking any action to approve that contract. That does not exist in this case. The connection comes because his son...those monies come straight to the District and then the District uses those monies to fund these programs. The issue that we have here is that now the District's funds, which they receive through Goodwill, will be used in part to hire his son as a Student Aide. Without this exception in the law because his son lives with him, that would have given rise to a conflict of interest and probably this Board could not have approved that. The purpose of my letter was to point out that there is a very specific exception as to those principles-- those conflicts -- that apply only to minor children in this instance.

Patricia Martinez-Roach, Board Member

For example, let's say I have a dependent child in the same situation who is disabled for example what does the law say about that?

Rogelio Ruiz, Legal Counsel

Is the child a minor?

Patricia Martinez-Roach, Board Member

No.

Rogelio Ruiz, Legal Counsel

Then that would present a conflict for this Board to hire. The rules are actually not as... there is not one rule that applies to every situation. I will give you another example. If a person is elected to a Board, and that person has a spouse who is currently an employee of the District at the time of the election, that person can still sit on the Board and still make employment decisions mainly with respect to a collective bargaining agreement without being in violation of the conflict of interest rules. However, if a person is elected to a Board and, thereafter, that spouse applies to the District for a job, the District cannot take that action. That is very clear in the law. Depending on the nature of the relationship and the timing of the events, those will all have potentially an impact on the conflict analysis.

Patricia Martinez-Roach, Board Member

To summarize it, the fact that we approved the Goodwill contract is not a conflict of interest according to the law.

Rogelio Ruiz, Legal Counsel

That is correct.

Motion by Member Herrera, second by Clerk Le, to ratify/approve the student aide personnel actions presented December 16, 2010.

The opinion letter dated December 16, 2010, from Legal Counsel Rogelio Ruiz will be entered into the record and attached to the minutes of December 16, 2010.

Vote: 3/0, Member Martinez-Roach abstained from Vote; Member Biehl recused himself/left the room as it involves his son.

15.07 Approve Purchase Orders Presented December 16, 2010

Patricia Martinez-Roach, Board Member

I wanted to point out for the record the \$200,000 on legal fees for this month.

Motion by Member Martinez-Roach, second by Member Herrera, to approve the purchase orders as presented on December 16, 2010.

Vote: 5/0

15.09 Approve Memoranda of Understanding

Patricia Martinez-Roach, Board Member

I am going to be voting no on this one because I did not approve the Summit Public Schools Charter.

Motion by Member Herrera, second by Clerk Le, to approve the memoranda of understanding as presented.

Vote: 4/1, Member Martinez-Roach voted No

16. WRITTEN REPORTS/RECOMMENDATIONS

16.01 Receive Quarterly Report on the County of Santa Clara Treasury Investment Portfolio Status as of September 30, 2010

Report received.

16.02 Receive Developer Fees Report for 2009/2010

Report received.

17. BOARD OF TRUSTEES/SUPERINTENDENT COMMUNICATIONS/COMMENTS

17.01 Board of Trustees

J. Manuel Herrera, Board Member

Happy Holidays!

Frank Biehl, Board Vice President

I submitted for the record a copy of my activities to the California School Boards Association Delegate Assembly Meeting and also the California School Boards Association Conference. I ask that it be included in the record. This is my report. Typically when I go to a Delegate Assembly meeting or a School Boards Association Meeting or any other meeting that my expenses are covered, I provide the District with a brief report and ask that it be included in the record.

MetroED:

We had plenty of discussion about MetroED tonight, but the one thing I would like to say is that our Board completed the evaluation of Superintendent Paul Hay and he received a 5 out of 5 overall evaluation from the Board. It is a very detailed evaluation and we are very pleased with the work he is doing and extended his contract. He is with us for up to three additional years.

Van Le, Board Clerk

I attended the CSBA Conference. It was a very good conference. I learned a lot. They talked about the first 100 days as a new Board Member.

I also provided Superintendent Moser information regarding a couple of grants from State Farm Insurance.

I believe this is going to be a good year for me. I am learning.

I hope you all have a good holiday!

Patricia Martinez-Roach, Board Member

I attended the CSBA Conference. There was a workshop that I attended that raised a red flag. At the Latino Caucus Breakfast it was stated that the Board of Education is quietly trying to change the graduation requirements. It is an important matter that we should be looking at because this could impact our A-G requirements.

I noticed that the Consent Calendar had items that were added, such as the warrants and a lot of the Business items. They were deliberately taken out years ago because of the FCMAT recommendations for transparency and making sure we had those... and, in fact, I think Rogelio gave a legal opinion that they were supposed to be out in the open. I am a little bit surprised that they were put back in Consent, because I am only going to pull them out and I am just wondering why this happened. I think this should have been a Board decision, not just one person or the Superintendent. We should have some discussion. If we want to have those items in Consent, we should all agree on that.

Lan Nguyen, Board President

After serving on the Board for six years, the recent CSBA Conference was the first time that I saw my two Board Member, Patricia Martinez-Roach and Manuel Herrera, at a conference. That was a pleasant surprise. It was nice to see Board Members at the conference.

Happy holidays!

17.02 Dan Moser, Superintendent

There was an event today that took place at Silver Creek High School. It is important to accent that particular event because I believe that in many of our high schools similar programs are taking place. I had a youngster who is a recipient of the Mercury News Holiday Wish List Program. This young lady had wished for a motorized scooter. The student suffers from severe cerebral palsy. This scooter makes it possible for her to get around campus much easier. The presentation was through a partnership with Walgreens, as well as many members of the Silver Creek community, parent groups, and students. Before an audience of a couple hundred youngsters, it was very moving. The family was there to receive the gift. It shows what is taking place this time of year. Many of our schools and students are indeed learning the lessons of what it is to give to others and they are very charitable.

18. REPORT CLOSED SESSION ACTION(S)

Attorney will report on Closed Session action item(s).

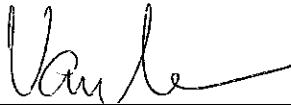
See section 2.0 for reporting out of Closed Session items.

19. ADJOURNMENT

President adjourns the meeting.

President Nguyen adjourned the meeting at 10:25 p.m.

Respectfully submitted,



Board Clerk

Agenda Item Details

Meeting	Dec 16, 2010 - ESUHSD ANNUAL ORGANIZATIONAL & REGULAR BOARD MEETING - 3:15 P.M., DISTRICT OFFICE - BOARD ROOM, 830 N. CAPITOL AVENUE, SAN JOSE, CA 95133
Category	13. BUSINESS SERVICES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION
Subject	13.04 Approve Contracts for Professional Services at or below \$50,000 - Jerry Kurr, Associate Superintendent of Administration and Business Services
Access	Public
Type	Action, Discussion
Recommended Action	It is recommended that the Board of Trustees approve the contracts for professional services as listed in the attachment and to delegate authority to the Superintendent or designee to amend said contracts and purchase orders on an as needed basis, including funding.

Public Content**EAST SIDE UNION HIGH SCHOOL DISTRICT****Item: 13.04**

TO: Board of Trustees

FROM: Dan Moser, Superintendent

PREPARED BY: Jerry Kurr, Associate Superintendent of Administration and Business Services

SUBJECT: Approve Contracts for Professional Services at or below \$50,000

The attached list of Contracts for Professional Services at or below \$50,000, are being recommended for Board approval and to delegate authority to the Superintendent or designee to amend said contracts and purchase orders on an as needed basis, including funding.

FISCAL IMPACT:
As indicated in the attachment

FUNDING SOURCE:
As indicated in the attachment

RECOMMENDATION:
It is recommended that the Board of Trustees approve the contracts for professional services as listed in the attachment and to delegate authority to the Superintendent or designee to amend said contracts and purchase orders on an as needed basis, including funding.

[13.04_Contracts Under 50k.pdf \(32 KB\)](#)

Administrative Content**Executive Content**

East Side Union High School District

Approved**Board of Trustees****December 16, 2010**


Item: 13.04

EAST SIDE UNION HIGH SCHOOL DISTRICT PROFESSIONAL CONTRACT SERVICES at or Below \$50,000 Board Meeting of December 16, 2010

A. SCHOOL SITES/EDUCATION CENTER

	Contractor Name	Reviewed By	Contract Period	Cost/Funding	School/Dept. Manager	Purpose
1	Apahgea Learning, Inc.	T. Marquez C. Giammona D. Bertrand	July 1, 2010 – June 30, 2011	\$4,500.00 Billing Grants/Goodwill	Mt. Pleasant Teresa Marquez	Provide differentiated instruction programming license for 60 students and professional development and support.
2	Challenge Day	M. Brazil J. Casel C. Giammona D. Bertrand	November 23, 2010 – June 30, 2011	\$3,300.00 EIA	Oak Grove Martha Brazil	Vendor shall supply services, people and materials required to conduct a one day program on February 1, 2011.
3	Greenhouse Academy	C. Hersom C. Giammona D. Bertrand	June 14, 2010 – July 15, 2011	\$39,874.76 Tuition/Special Education	Special Services Carole Hersom	Greenhouse Academy is a non public school (NPS) offering such services to meet the unique needs of this student. It was determined that ESUHSD cannot meet the student's educational needs and that Greenhouse Academy's unique program is appropriate for that individual student. Selection Process Not applicable. Greenhouse Academy was selected due to Santa Clara County Mental Health placing this student in residential placement in Santa Rosa, CA. This is the school which provides the educational services for students with severe emotional disturbances. Since this student is a resident of our District, the District is responsible for the educational component.
4	Leader Services	C. Hersom C. Giammona D. Bertrand	July 1, 2010 – June 30, 2011	\$19,000.00 Medi-Cal Reimbursement	Special Services Carole Hersom	For up to 9% of recovered Medi-Cal billing, Leader Services will provide training, do consultations, toll free telephone support, input data in a timely manner and provide reports both monthly and quarterly as needed. No solicitation process was done for this service.
5	National Student Clearinghouse	V. Chiala C. Giammona D. Bertrand	July 1, 2010 – June 30, 2011	\$425.00 Small Learning Communities	W.C. Overfelt Vito Chiala	To provide follow-up study report on 2009 graduates.

6	Notre Dame De Namur University	C. Giammona D. Bertrand	December 16, 2010 – June 30, 2011	\$120 per semester per teacher (Revenue contract)	Education Center/District Wide Cathy Giammona	Approve Contract to accept and supervise Student/Intern Teachers and Administrative Interns at High Schools within ESUHSD.
7	Sacramento County Office of Education	R. Ibarra C. Giammona D. Bertrand	July 19, 2010 – July 23, 2010	\$5,250.00 Professional Development	Education Center/ Professional Development Robert Ibarra	Registration fees for 7 ESUHSD participants to attend AB472 Read 180 training.
8	Santa Clara County Office of Education	C. Giammona D. Moser D. Bertrand	July 1, 2010 – June 30, 2011	\$135.00 per day; not-to-exceed 3 days (revenue contract)	District Wide Cathy Giammona	Santa Clara County Office of Education (SCCOE) will reimburse ESUHSD for the total substitute cost for one teacher up to a total of three (3) days.
9	Santa Clara County Office of Education	C. Giammona D. Moser D. Bertrand	For the entire term of the SELPA policy	\$0.00	Independence Grettel Castro-Stanley Santa Teresa John Duran Silver Creek Thelma Boac	East Side Union High School District (ESUHSD) Administration is requesting authorization from the Board of Trustees to enter into an SELPA Special Education Housing Policy Agreement with the Santa Clara County Office of Education (SCCOE) for the provision of certain facilities to be used for the education of students in accordance with the SELPA Budget Allocation Plan and the SELPA Housing Plan. ESUHSD agrees to provide SCCOE certain facilities at Independence, Santa Teresa and Silver Creek High Schools. ESUHSD is responsible for all repairs, maintenance, utilities, and any other items as described in the subject agreement. SCCOE shall be responsible for the costs of repairs/ replacement of any property of facilities of the ESUHSD that may be lost, damaged, or stolen as a result of the use of ESUHSD's premises, except for those losses which are a result of, or to the extent they are increased by, ESUHSD's failure to keep the premises in good repair as provided in Repair and Maintenance.

10	U.S. Security Associates, Inc. (previously known as Acufacts)	M. Cage J. Kurr D. Bertrand	July 1, 2010 – June 30, 2011 (extended term)	\$50,000 (Increase amount) Operations/ Plant Security	Education Center/Information Technology Mac Cage	On June 22, 2010 the Board approved a contract with Acufacts (now known as US Securities) for the provision of security services for all ESUHSD sites. Administration is requesting an extension to the term and increase in funds to cover the extension. ESUHSD Administration is currently working on a formal solicitation process. This extension is needed to continue with the services on an as needed basis.
11	Victor M. Tapia	C. Hersom C. Giammona D. Bertrand	October 14, 2010	\$2,405.00 Health	Special Services Carole Hersom	Provide services for CPR and First Aid Training for District Nurses, Health Clerks, 1:1 IEP Paraeducators, and Post Senior Staff.

Agenda Item Details

Meeting Dec 16, 2010 - ESUHSD ANNUAL ORGANIZATIONAL & REGULAR BOARD MEETING - 3:15 P.M., DISTRICT OFFICE - BOARD ROOM, 830 N. CAPITOL AVENUE, SAN JOSE, CA 95133

Category 13. BUSINESS SERVICES - OPERATIONAL ITEMS/BOARD DISCUSSION AND/OR ACTION

Subject 13.05 Approve Contracts for Professional Services over \$50,000 - Jerry Kurr, Associate Superintendent of Administration and Business Services

Access Public

Type Action, Discussion

Recommended Action It is recommended that the Board of Trustees approve the contract for professional services as listed and to delegate authority to the Superintendent or designee to amend said contract and purchase orders on an as needed basis, including funding.

Public Content**EAST SIDE UNION HIGH SCHOOL DISTRICT****Item: 13.05**

TO: Board of Trustees

FROM: Dan Moser, Superintendent

PREPARED BY: Jerry Kurr, Associate Superintendent of Administration and Business Services

SUBJECT: Approve Contract for Professional Services over \$50,000

The Contract for Professional Services over \$50,000 listed below is being recommended for Board approval and to delegate authority to the Superintendent or designee to amend said contract and purchase orders on an as needed basis, including funding.

1. Intrepid Electronic Systems

Reviewed by:	Contract Period	Fiscal Impact/ Funding Source	School/Department/ Manager
Mac Cage Jerry Kurr Donna Bertrand	July 1, 2010 – June 30, 2011 (term modified)	\$75,000.00 (increased amount)	District Wide/Information Technology Mac Cage

East Side Union High School District (ESUHSD) Administration is requesting authorization from the Board of Trustees to approve change order #2 to Intrepid Electronic System's Contract/Purchase Order for the provision of maintenance services to the fire alarm system at all ESUHSD sites.

On June 22, 2010, the Board approved a contract with Intrepid for the maintenance of the fire alarm systems for all ESUHSD sites; at the November 18, 2010, Board meeting change order #1, was approved to increase the contract. Administration is requesting another extension to the term and increase in funds to cover the extension. ESUHSD has been experiencing more fire alarm issue. ESUHSD Administration is currently working on a formal solicitation process. This extension is needed to continue with the services on an as needed basis.

Original contract amount \$10,000.00, plus change order #1 \$15,000.00, plus change order #2 \$75,000.00, for a total Contract/Purchase Order amount of \$100,000.00.

RECOMMENDATION

It is recommended that the Board of Trustees approve change order #2, to Intrepid Electronic System's Contract/Purchase Order for the provision of maintenance services to the fire alarm system at all ESUHSD sites for the extended term through June 30, 2010, and to delegate authority to the Superintendent or designee to amend said contract and purchase orders on an as needed basis, including funding.

East Side Union High School District

Approved**Board of Trustees****December 16, 2010** **Administrative Content**



December 16, 2010

DIRECT: (408) 494-0905 ext. 209
E-MAIL: rruiz@rehonroberts.com

Mr. Dan Moser
Superintendent
East Side Union High School District
830 N. Capitol Avenue
San Jose, CA 95133

Re: Board Member Frank Biehl; Potential Conflict Issues

Dear Mr. Moser:

The District has proposed to hire student Kevin Biehl as a "Student Aide" in the ASSETS Program at Mt. Pleasant High School. The hiring is one out of approximately 69 Student Aide positions being filled by the District. The position is part-time, for approximately 5 hours per week, and will be paid with restricted funds. Kevin Biehl is the son of Board Member Frank Biehl. I understand that Kevin Biehl is 16 years old, and is a dependent of Frank Biehl and Mr. Biehl's wife and resides in Mr. Biehl's household. I also understand that Frank Biehl had no part in the staff's decision to hire Kevin Biehl. The matter is on the Consent Calendar (Item 15.03) for approval at the Regular Board Meeting of December 16, 2010.

In light of those facts, a question has arisen as to whether the Board may approve Kevin Biehl's part-time employment under the State's conflict of interest laws.

Government Code section 1090 provides in relevant part:

"Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members."

Government Code section 1091(a) provides in part:

"An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract and if the fact of that interest is disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest." (Emphasis added.)

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Rehon & Roberts

A Professional Corporation

Mr. Dan Moser
Superintendent
East Side Union High School District
December 16, 2010
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The term "remote interest" is defined in Section 1091(b), and includes within its definition: "That of a parent in the earnings of his or her minor child for personal services". (Section 1091(b)(4).)

In light of these provisions the question which arises is whether the facts fit within the exception in 1091(b)(4). Since, as I understand, Kevin Biehl is a minor, the "remote interest" exception in Section 1091(b)(4) applies, and therefore the Board may approve Kevin Biehl's part-time Student Aide employment, provided the Board complies with the requirements set forth in Section 1090(a), including:

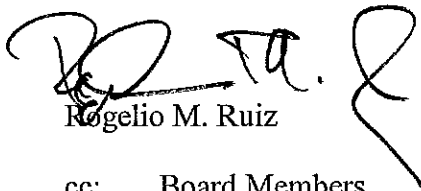
- (1) Member Biehl must disclose the fact that Kevin Biehl is his minor son;
- (2) That disclosure must be noted in the District's official records (e.g., Board minutes); and
- (3) The Board's approval is "in good faith" by a majority vote, not including Frank Biehl's vote.

In light of these requirements, I recommend that at the appropriate time during the December 16 meeting, Item 15.03 be pulled from the Consent Calendar for separate vote by the Board, and that a copy of this letter be made a copy of the District's official records and be attached to the minutes for the December 16, 2010, Board Meeting to be approved by the Board at a future Board meeting. I also recommend that Member Biehl recuse himself from the Board Room and from any discussion and vote regarding the proposed part-time employment of his son as part of that agenda item.

Please feel free to contact me if you have any questions or need any clarification.

Sincerely,

REHON & ROBERTS
A Professional Corporation


Rogelio M. Ruiz

cc: Board Members

Date: December 16, 2010

To: East Side Union High School District Board

From: Frank Biehl, Board Member

Sub: Report of my activities at:
California School Board Delegate Assembly Meeting, December 1 – 2, 2010
California School Board Association Annual Conference, December 2 - 4, 2010

Delegate Assembly Meeting Highlights included the following:

1. Breakfast meeting with Santa Clara County Delegation
2. Hispanic, Director-at-Large meeting
3. Election of President-Elect: Jill Williams, San Francisco Unified
4. Election of Vice President: Cindy Marks, Modesto City Schools District
5. Election of Director-at-Large, Hispanic: Susan Heredia, Natomas Unified School District
6. Election of Director-at Large, Asian/Pacific Islander, Dana Tom, PaloAlto Unified School District
7. Elected to 2011 Nomination Committee, George Sanchez, Franklin McKinley School District

Annual Education Conference activities included attending the following:

1. First General Session; Pedro Noguera, Challenging Racial Inequality in Our Schools
2. Small Group Discussion Session; Challenging Racial Inequality in Our Schools, Pedro Noguera
3. Met with CSBA Representatives to discuss "Agenda online and Gamut online."
4. Construction Trades Dinner
5. California Latino School Boards Association and the California Coalition of Black School Board Members Joint Breakfast
6. Met with two CSBA Directors to discuss "CSBA Equity Study"
7. Legislative Network Luncheon
8. Second General Session; Ian Jukes, Future Shock
9. Informal dinner with State Superintendent of Instruction Elect, Tom Torlakson
10. Third General Session: State of the State