

**AMADOR COUNTY UNIFIED SCHOOL DISTRICT
AMADOR COUNTY OFFICE OF EDUCATION
INVESTIGATION
SPECIAL REPORT**

**AMADOR CIVIL GRAND JURY
2017 – 2018
SPECIAL REPORT – OCTOBER 2017**

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AUTHORITY

California Penal Code 933.5 states that the Civil Grand Jury may at any time examine the books and records of any special purpose assessing or taxing district located wholly or partly in the county, and may investigate and report upon the method or system of performing duties of such district (including School Districts and County Offices of Education).

Introduction

The 2016-2017 Amador County Civil Grand Jury received complaints regarding inappropriate business and personal practices within the Amador County Unified School District (ACUSD) and the Amador County Office of Education (ACOE). This complaint investigation was not able to be completed by the 2016-2017 Grand Jury by the end of its term. The 2017-2018 Grand Jury picked up the investigation and is reporting herein. The complaints included concerns regarding a lack of financial oversight within the school district; failure to track ACUSD expenditures from purchase to intended recipient; lack of accountability for misconduct of ACUSD officials; lack of training on ethics, including conflict of interest; failure to follow applicable ACUSD Board Policies and Procedures; and a questionable job offer/contract between the ACOE and a now former employee.

The above listed complaints and concerns surfaced following the arrest of a high ranking ACUSD official for alleged misconduct. This official will herein be referred to as Employee A. The Grand Jury (GJ) reviewed the existing policies and procedures to verify what measures were in place to prevent potential conflict of interest and/or misappropriation of funds. The GJ reviewed relevant sections of Education Code, Government Code and other regulations. The GJ reviewed transcripts of previous interviews of several current and former officials and employees of ACUSD and ACOE, including the former ACUSD Board President, the former Amador County Superintendent, the Assistant Superintendent of Business Services, the Executive Director of Personnel, the Director of Fiscal Services, and a former Administrative Assistant.

The Grand Jury's method of investigation also included a thorough review of ACUSD and ACOE School Board Policies, Bylaws, and Administrative regulations. The GJ reviewed Board agendas and minutes of Board meetings for the time period of 2014 - 2017.

PURCHASING

The GJ asked several witnesses to explain the procedure(s) for requesting, authorizing and receiving purchases made for ACUSD. In general, items needed by specific school sites would be ordered by that school's administration and processed through their budget. Primary curriculum was considered a large standardized purchase that would need prior approval and adoption by the Board of Trustees prior to any purchases being made. Supplementary curriculum could be ordered, authorized and received by the Assistant Superintendent of Curriculum and Instruction without board approval. The final authorization for such purchases would be made by the Superintendent. Once the purchases had been made, the

Business Office would make any necessary payments to the publisher, vendor, etc. The Business Office would verify the validity of the vendor and create a “W9” (verification of authenticity as a valid vendor). The Business Office would also verify adequacy of budgeted funds for the existing purchase. Most of the items that were ordered would be shipped to the warehouse, which is located at Ione Junior High, and from there delivered out to the school sites.

There was very little supervision or consultation among administrators or with teachers in purchasing much of the supplementary materials. In many cases Employee A made purchases of her own materials for personal profit. A witness testified that she was uncomfortable with some of Employee A’s questionable purchase orders, but she kept silent for fear of retaliation. Often inappropriate amounts (too much) of materials were ordered as well as unwanted/unused materials. Some of the purchases were delivered directly to the District Office and not to the warehouse. The Business Office was not able to, or did not, adequately verify that the correct material had been delivered prior to the account being rectified. In at least one case material was ordered from an unauthorized/unverified vendor. The Director of Fiscal Services was then directed by Employee A to disregard the order; that it had been cancelled and the material had been returned. There was no further information received regarding the existence of that vendor. Purchases of materials authored and/or published by Employee A were approved by the Superintendent, at the time, as early as 2012.

CREDIT CARDS

The cabinet level members of the ACUSD and ACOE administration (Superintendent, Assistant Superintendent of Curriculum and Instruction, Assistant Superintendent of Business Services, and Executive Director of Personnel) are issued district credit cards. These credit cards are typically used for travel, training, and electronic/online purchasing. The limits on these cards appear to be \$10,000. There is confusion and disagreement over who was responsible for oversight and approval of credit card purchases.

AUDITS

The ACUSD and ACOE have mandatory annual audits. At no time did the responsible administrators and board members tell the auditor about the allegations of inappropriate behavior by Employee A (who has since pleaded guilty of one charge of felonious conflict of interest). It would be reasonable to expect that an effective auditor should have discovered an inappropriate purchasing practice that happened over a period of several years or at least questioned such practices. The same auditor had been reviewing the district’s books for many years. Until this year, neither Board officials nor district administrators made any effort to obtain a different auditor.

Neither Board officials nor the responsible business administrators of the district at that time appeared to take any responsibility for allowing, or not realizing, years of inappropriate and illegal business practices.

ETHICS/CONFLICT OF INTEREST

Ethics training for Administrators and other District personnel has not occurred in several years, if ever. The general understanding for the definition of conflict of interest was that if an employee has personal gain or profit from their position, it is a conflict of interest.

In 2016, the ACUSD/ACOE hosted an ethics training course for board members taught by a law firm. The ethics training included information on conflict of interest. Several of the witnesses, who we spoke with, attended this training. They had direct access to legal experts who could give opinions, advice or directions regarding conflict of interest cases.

BOARD AND DISTRICT AWARENESS OF POTENTIALLY ILLEGAL ACTIVITY and RESPONSE

In late June of 2015, the former Board President was made aware of concerns from an attorney, representing a vendor, regarding suspicious orders placed by Employee A. The former Board President received a total of two letters, an email and a phone call from the attorney representing the vendor.

Upon receiving the information, the former Board President had two to three private conversations with Employee A without involving the rest of the Board. After these private discussions, the Board President responded back to the vendor's attorney. He stated that Employee A had been disciplined and the problem of suspicious orders had been taken care of. It was not until the District Attorney began pursuing legal charges did the rest of the Board, the administration at the time, or the central office staff, become aware of the alleged illegal activities by Employee A.

Employee A was promoted to "Interim District Superintendent" (with a \$2,000/month stipend) around the time the former Board President was informed of the potentially illegal purchases. Employee A was later demoted to a lesser position.

During the District Attorney's investigation, Employee A was offered a promotion to a newly created position of County Deputy Superintendent of Schools for the annual salary of \$150,000. This county position was offered by the ACOE Superintendent at the time but was never authorized by the County Board and subsequently was not actually filled.

SUMMARY

Witness testimony indicated that they had never personally witnessed a situation like this in the course of their career and had never heard of an employee being disciplined, demoted and then offered a promotion and raise while facing criminal charges.

Testimony was received regarding the serious, ongoing dysfunction between the Board and the Administration. Communication and better procedures and practices between the parties could have offered explanations as to why the above problems were allowed to continue and weren't thoroughly investigated internally at the inception.

VIOLATION OF SCHOOL DISTRICT BOARD POLICY /ADMINISTRATIVE REGULATION / BOARD BYLAW

The ACOE and District have been organized and administered separately since approximately 2015 when disputes between the Board and the County Superintendent resulted in the County Superintendent no longer being employed as the District Superintendent. An interim Superintendent was employed to supervise the School District as an employee of the School Board. The County Superintendent, as an elected official, continued to direct the ACOE. Employees of the ACOE were hired and directed by the County Superintendent until mid 2017. Employees of the District were under the direction of the Interim Superintendents and employed by the District under the authority of the School Board.

The Board is guided by an extensive body of Board Bylaws(BB), which govern the activities and behavior of the school Board, and guide many school operations. These Bylaws are contained in Section “9000’s” of the ACUSD / ACOE Board Policies. The School Board adopts Board Policies (BP) and Administrative Regulations (AR) that govern and direct all school activities and operations. Business operations are primarily governed, controlled and directed by BP/AR section “3000’s”. Personnel activities and operations are governed, controlled and directed primarily by BP/AR section “4000’s”.

ACUSD / ACOE Board Policies, Administrative Regulations and Board Bylaws can be accessed at: <http://gamutonline.net/PolicyCategoryList/2107/>, and clicking “ok”. If the Gamut sign-in boxes are blank, type “Amador” for the user name and “public1” for the password.

These policies and regulations can also be accessed through the ACUSD/ACOE website at: <http://www.amadorcoe.org/>

1. Board Bylaw 9270 – Conflict of Interest

The Grand Jury found that the Board, the former County Superintendent and the Interim Superintendent (Employee A) each failed to enforce BB 9270. The Assistant Superintendent of Curriculum and Instruction/Interim Superintendent (both titles belonged to Employee A at different times) was allowed to publish her own instructional material and authorize purchases of the same material by the District. Neither the Board nor the superintendents reviewed the designated employees’ Form 700’s (Conflict of interest forms). Employee A’s Form 700, for several years (2012 – 2016), failed to disclose possible or actual conflicts of interest. BB 9270 is out of date and has not been updated as required by Government Code 87300. Employees, even in designated positions, were not aware of the letter or intent of conflict of interest provisions as set out in Government Code and this Bylaw.

Board Bylaw 9270 – Conflict of Interest, in part, states that:

“ The district’s conflict of interest code shall comprise the terms of the California Code of regulations, Title 2, Section 18730 and any amendments to it adopted by the fair Political Practices Commission, together with a district attachment specifying designated positions and the specific types of disclosure statements required for each position. ”

“The board shall review the appropriate district conflict of interest code in even-numbered years and send the code reviewing body either an amended code or, by October 1 of that year, a statement to the effect that no change is necessary (government Code 87306.5)”.

“Designated employees of the district, including Board members, shall adhere to the financial disclosure requirements of the district’s conflict of interest code adopted pursuant to the provisions of government code 87300.”

“Financial Interest

Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as Board members or designated employees (Government Code 1090)”

“If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed and made part of the board’s official minutes. In the case of a designated employee, this announcement shall be made in writing and submitted to the Board. (2CCR 18700)”

“DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

Persons occupying the following positions are designated employees in Category 1

- Governing Board Members*
- Superintendent of Schools*
- Assistant / Associate Superintendent*
- Purchasing Agent*

Designated persons in this category must report:

- a. *Investments or business positions or income from sources which:*
 - 1. *Are engaged in the acquisition or disposal of real property within the district*
 - 2. *Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the types used by the district or*
 - 3. *Manufacture or sell supplies, books, machinery or equipment of the type used by the district “*

Government Code 87300, Political Reform; Lobbyists; Conflicts of Interest, Conflict of interest Code, states that:

“Every agency shall adopt and promulgate a Conflict of interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.”

Government Code 87103, Political reform; Lobbyists; Conflicts of interest, General Prohibition, states that:

“A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

(a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.”

1. Board Policy 3300 – Expenditures / Expending

All expenditures were approved by the former Superintendent and the Board without sufficient review. Neither the Board nor the former Superintendent provided adequate fiduciary review of District expenditures to notice improprieties.

Board Policy 3300 - Expenditures / Expending in part states that:

“All transactions entered into by the Superintendent or designee on behalf of the Board shall be reviewed by the Board every 60 days. (education Code 17605)...”

“The board shall not recognize obligations incurred contrary to Board Policy and Administrative Regulations.”

1. Board Policy 3310 – Purchasing Procedures

The former Superintendent failed to assure purchasing procedures were maintained. Effective ethical purchasing procedures were not in place which allowed Employee A to purchase her own materials and personally profit from those purchases. Those purchases were not investigated by anyone. These purchases at times were ordered for the school sites without their knowledge or request. At times, more materials were ordered than could be used by the sites.

Board Policy 3310 – Purchasing Procedures in part states that:

“The Superintendent or designee shall maintain purchasing procedures in order that maximum value is received by the district and that records are kept in accordance with law.”

1. Board Policy 3315 – Relations with vendors

Employee A selected and ordered materials for which she was the vendor, author and/or publisher. These purchases were approved by the former Superintendent and the School Board.

Board Policy 3315 – Relations with vendors, in part, states that:

“District employees who work for or serve as consultants for potential vendors shall not participate in evaluating any equipment, materials or services of that vendor or its competitors.”

Education Code 60071, in part, states that:

“No publisher or manufacturer of instructional materials, nor any of his representatives, shall offer or give any emolument, money, or other valuable thing, or any inducement, to any school official to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material.”

1. Board policy 4235, 4135, 4335 – Soliciting and Selling

Employee A, with the knowledge and approval of the former Superintendent, did sell to the District and buy for the District, merchandise, books, and other material for personal profit.

Board Policy 4235, 4135, 4335 – Soliciting and Selling, in part, states that:

“Employees shall not solicit district staff, students or their families with the intent to sell general merchandise, books, equipment or services for personal profit.”

1. Administrative Regulation 4218 – Dismissal / Suspension / Disciplinary Action

When notified by the attorney of an outside distributor of the materials in question, the former Board President met privately with Employee A. The former Board President did not properly notify the rest of the Board nor arrange for an investigation by anyone other than himself. Action was not taken by the school district. At the time criminal charges were being processed, the County Superintendent offered the individual a contract for a new position as Deputy Superintendent of Schools, at a salary of \$150,000 to be effective May 24, 2016. The contract did not meet the normal contract standards of the Education Code for “Superintendents”, the standards set by the Association of California School Administrators (ACSA) nor the standards set by the California School Boards Association (CSBA)

Administrative Regulation 4218 – Dismissal / Suspension / Disciplinary Action, in part states that:

“3. Investigation Period

- a. *Investigation*
- b. *Notification of Investigation and Opportunity to be Heard*

The employee shall be notified that an investigation of the matter is being conducted and of the nature of the recommendation for personnel action that shall be made should charges be brought concerning the matter. The employee shall be given an opportunity to be heard, either orally or in writing, regarding the matter. The individual conducting a meeting at which the employee is given an opportunity to be heard shall not be the direct supervisor of the employee.”

1. Board Policy 6161.11 – Supplementary Instructional Materials

Employee A, on more than one occasion, purchased supplemental materials on her own without consultation with site administrators or teachers. This resulted in unused and overstocked instructional materials.

Board Policy 6161.11 – Supplementary Instructional Materials, in part, states that:

“Teachers shall carefully preview all supplementary instructional materials in order to ensure that, in their professional judgement, the materials are:

1. *Directly related to the course of study in which they are being used*
2. *Appropriate for students’ ages and maturity levels*

Supplementary instructional materials must be consistent with criteria developed for the selection and evaluation of other instructional materials. If the teacher believes that the materials may be in conflict with district criteria, the teacher shall confer with the principal of designee before using them.”

1. Absence of Board Policies, Administrative Regulations and Board Bylaws

There are no Board Policies, Administrative Regulations, Bylaws or written procedures establishing or addressing the use of District or ACOE Credit Cards nor employee contracts.

9. Outdated Board Policies, Administrative Regulations and Board Bylaws

Nearly all ACUSD / ACOE Board Policies, Administrative Regulations and Board Bylaws are outdated. They have not been revised or updated as recommended by the CSBA for many years. CSBA provides excellent guidance, support and recommends specific revisions and updates to districts and COEs at least three times a year.

REVIEW OF ACUSD/ACOE RESPONSE TO 2016 GRAND JURY RECOMMENDATIONS

The 2016-2017 Grand Jury, and subsequently the 2017-2018 Grand Jury, were charged with the responsibility of following up on the 2015-2016 Grand jury's recommendations for the ACUSD/ACOE (2015-2016 R16). After thoroughly reviewing the formal and informal responses to these recommendations, it is the Grand Jury's opinion that the ACUSD/ACOE School Board adequately responded to most of the fifteen recommendations made by the 2015-2016 Grand Jury. Eight of the fifteen recommendations (2016 - R1, R7, R8, R9, R10, R11, R13 AND R14) were adequately responded to with no further action needed.

The following six recommendations (2016 – R2, R3, R4, R6, R12 and R15) were in the process of implementation. One recommendation (2016 – R5) was not addressed by the Board's response.

PROGRESS

Two new Trustees have been elected to the School Board. A new District Superintendent has been hired and has been appointed to the vacated position of County Superintendent. A new Assistant Superintendent of Business Services has been appointed. These changes provide an opportunity for the School District to reorganize and create a healthy school culture focused on providing the best learning environment for county students, the best work environment for staff, and a fiscally responsible public entity.

FINDINGS

- F1 A District employee acknowledged discomfort in expressing concerns about inappropriate business activities with those in supervisory positions.
- F2 The former Board President, on at least one occasion, did act as an individual rather than speaking for the entire School Board, thus violating Board Policy.
- F3 The former Board President did not appropriately notify the Board of the potential misuse of funds.
- F4 Neither the Superintendent nor the School Board provided adequate fiduciary oversight to see nor stop inappropriate purchases from taking place.
- F5 There are no written policies, guidelines or procedures for the use of Credit Cards.
- F6 The Board Policy on Conflict of Interest was not followed.
- F7 No one at the District or ACOE reviews Form 700's (Conflict of Interest Statement).
- F8 Most of the ACUSD / ACOE Board Policies, Administrative Regulations and Board Bylaws are outdated. They have not been revised or updated as recommended by CSBA.
- F9 The Assistant Superintendent did not accurately complete Form 700.
- F10 Many purchases were made for materials not requested by teachers or sites. Often more materials were purchased than could be used.
- F11 As early as 2012 the former County Superintendent was aware of remuneration for material authored and/or published by a district employee.
- F12 The former Assistant Superintendent/Interim Superintendent purchased materials from which she personally profited.
- F13 The issue of potentially inappropriate purchasing was formally brought to the District's attention on June 10, 2015 by attorneys representing an outside provider of teacher made materials.
- F14 There are inadequate checks and balances in the business office to prevent fraud like behaviors and incidents.
- F15 Ethics training has not been provided for all ACUSD / ACOE employees.
- F16 The District has eliminated the position of Purchasing Agent.

- F17 An individual under criminal investigation was offered a promotion, in the form of a contract, to serve as Deputy County Superintendent for \$150,000 a year effective May 24, 2016.
- F18 Certificated employees (teachers and credentialed administrators) and classified managers are not given contracts for their positions.
- F19 The District's auditors did not report finding the inappropriate purchases in their annual review of District books and procedures in the years 2012 – 2015.
- F20 The District's auditors, in their exit interviews with the Assistant Superintendent of Business Services, the Superintendent and the Board President, were not made aware of possible improprieties, specifically in the years 2012 – 2015.
- F21 Until recently, the District has used the same auditors for approximately 10 consecutive years.
- F22 Two new School Board members have been elected since this investigation began.
- F23 The County Superintendent has resigned and been replaced by appointment of the District Superintendent to that position. This restores the previous school organization to have the County Superintendent and District Superintendent as one individual. At the end of the elected term, the position County Superintendent of Schools will be filled by the election process.
- F24 The Assistant Superintendent of Business Services has been replaced.
- F25 The District satisfactorily responded to most, but not all, of the 2015-2016 Grand Jury recommendations.

RECOMMENDATIONS

- R1 The District / ACOE should develop an efficient system for approving supplemental instructional materials. This system should require input from appropriate teachers and should also provide opportunity for input from parents and community members. (Finding 10)
- R2 All District / ACOE employees should be given ethics training. (Findings 6, 7, 9, 11, 12)
- R3 The District/ACOE should establish an atmosphere and process that allows and encourages employees to contact District leadership above their immediate supervisor of concerns with inappropriate or illegal behavior with immunity from retaliation. (Finding 1)
- R4 All certificated employees and classified managers should be on a contract. These contracts should be reviewed by the District's legal counsel to assure their appropriateness. (Finding 18)
- R5 The Association of California School Administrators (ACSA) Personnel Committee should be contracted to audit all procedures and functions of the personnel department. Their recommendations should be fully implemented as soon as possible. (Findings 15, 18)
- R6 There should be clear guidelines for Credit Card authorization and use. The District /ACOE should lower credit card limits. (Finding 5)
- R7 The District should reorganize the business office to assure that at least one individual has the specific responsibility of verifying vendors and the appropriateness of purchases. (Findings 10, 14, 16)
- R8 The Fiscal Crisis and Management Assistance Team (FCMAT) should be hired to do a comprehensive audit of the business office. Their training and recommendations should be fully implemented as soon as possible. (Findings 4, 8, 19, 20)
- R9 BB 9270 – Conflict of Interest should be reviewed, revised, and implemented. (Findings 6, 8)
- R10 The Board should establish a procedure of changing auditors at least every 5 years. (Findings 4, 19, 20, 21)
- R11 The District should contract with the California Association of School Boards (CSBA) to provide expert outside leadership and facilitation in updating all Board Policies, Administrative Regulations and Board Bylaws. (Finding 9)
- R12 The 2017-2018 Grand Jury should follow up on the completion/implementation of the following recommendations from the 2015-2016 Grand Jury Report. (Finding 28)

R13-1 Board Bylaw 9400 – Board self-evaluation should be revised to make the Board Self-evaluation process more effective

R13-2 Board Bylaw 9400 – Board Self Evaluation should be revised to state that the Board shall complete a group self-evaluation process.

R13-3 The Board self-evaluation form which the Board adopts should only contain SMART goals, i.e. goals that are specific, measurable, attainable, relevant, and time-bound.

R13-4 The Board self-evaluation form should continue to have a section for “Board Goals”.
(Finding 25)

R13 The 2017-2018 Amador County Civil Grand Jury should continue to follow up to assure satisfactory response to all of the above recommendations.

Request for Response

Responses to findings and Recommendations in this report are required by law in accordance with California PC 933(c).

From the following elected officials:

- Amador County Unified School District Board of Trustees is required to respond no later than 90 days after the Grand Jury submits a Final Report.
- Amador County Office of Education Board of Trustees is required to respond no later than 90 days after the Grand Jury submits a Final Report.
- Amador County Office of Education Superintendent is required to respond no later than 90 days after the Grand Jury submits a Final Report.

Address response to:

- The Presiding Judge
Amador County Superior Court
500 Argonaut Lane
Jackson, California 95642

GLOSSARY OF TERMS

ACOE	Amador County Office of Education
ACSA	Association of California School Administrators
ACUSD	Amador County Unified School District
AR	Administrative Regulations
BB	Board Bylaws
BP	Board Policies
COE	County Office of Education
CSBA	California School Boards Association
FCMAT	Fiscal Crisis and Management Assistance Team
GJ	Grand Jury