

AGENDA
Board Audit Committee
9:00 AM
December 11, 2010
Superintendent's Conference Room
East Side Union High School District Education Center
830 North Capitol Avenue
San Jose, CA 95133-1398

In compliance with the Americans with Disabilities Act, if you need special assistance, disability-related modifications or accommodations, including auxiliary aids or services, in order to participate in the public meeting of the Audit Committee, please contact the office of the District Superintendent at (408) 347-5011. Notification 72 hours prior to the Regular Meeting will enable the District to make reasonable arrangements to ensure accommodation and accessibility to this meeting. Upon request, the District shall also make available this agenda and all other public records associated with this meeting in appropriate alternative formats for persons with a disability.

1. **Call to Order/Roll Call**
2. **Introductions**
3. **Adopt Agenda**
4. **Special Order of Business**
Individuals may be permitted to present an item out of order on the agenda to accommodate their schedules.
5. **Public Comments**
Members of the public may address the Audit Committee on any subject not on the agenda; however, provisions of the Brown Act (Government Code 54954.2(a) and .3) preclude any action. As an unagendized item, no response is required from the Audit Committee or district staff and no action can be taken; however, the Board may instruct the Chair to agendize the item for a future meeting.
6. **Approval of Minutes**
Action: Minutes from the October 9, 2010, meeting will be presented for approval.
7. **Discussion/Action: Follow-up of the 2008/09 East Side Union High School District Audit Findings: ASB cash collections and disbursements**
Ahmad Gharaibeh, External Auditor, will update the Committee on his follow-up to ASB cash collections and disbursements issues identified in the 2008/09 external audit.
8. **Discussion/Action: Proposed scope of 2009/10 East Side Union High School District Audit**
Ahmad Gharaibeh, External Auditor, will report on the status of the 2009/10 external audit.
9. **Discussion/Action: FCMAT Report: Update the status of all actions taken in response to the FCMAT Report recommendations**
Dan Moser, Superintendent, will review all actions taken by the Board and the Administration in response to the recommendations included in the FCMAT Report.
10. **Discussion/Action: FCMAT Report: Contracted Services, FCMAT recommendation #6 to the Board: Restore the internal audit function, including funding for an internal auditor position, and operate this function according to industry standards. Issue referred to the Audit Committee for advice per Board action on February 9, 2010.**
Ian Marsh, Internal Auditor, will report on his activities since starting on the job November 22, 2010.
11. **Discussion/Action: Development of Audit Work Plan**
Ian Marsh will report on the development of an Audit Work Plan and the timeline for Board approval.

12. **Discussion/Action: FCMAT Report: Bond Funds – Contracted Services, FCMAT recommendation #2 to the District: Consider a review of all invoices charged to Measure G and Measure E funds to determine that project costs were properly allocated to each Bond Program. Issue referred to Audit Committee for advice per Board action on February 9, 2010.**

Dan Moser, Superintendent, will update the Committee on the actions taken by the administration and the Board since our last meeting.

13. **Discussion/Action: E-RATE Reimbursement for 2008**

Superintendent Dan Moser will brief the Committee on the current status of the E-RATE reimbursement.

14. **Discussion/Action: Audit Committee Appointments**

Frank Biehl will review the terms of Audit Committee members and the procedures for appointment.

15. **Discussion/Action: Establish Next Meeting Date**

16. **Superintendent Communications/Comments**

- Associate Superintendent of Business Services and Administration, Jerry Kurr
- Superintendent, Dan Moser

17. **Audit Committee Member Comments**

Individual Audit Committee members may report on programs, conferences, meetings attended and/or items of interest to the public. An Audit Committee member may wish to express a concern or observation about a topic not appearing on the agenda, or request items to be scheduled on a future agenda.

18. **Adjournment**

FEB 12/5/10

Minutes of Meeting

Unapproved

Board Audit Committee

October 9, 2010

9:00 a.m.

East Side Union High School District

Education Center

Superintendent's Conference Room

830 N. Capitol Avenue San Jose, CA 95133-1398

1. **Call to Order /Roll Call**

Chair Biehl called the meeting to order at 9:00 a.m. Present were Member Berg, Member Juchau, Member Neighbors, Alternate Member Resch. Vice Chair Nguyen was absent (excused absence). Alternate Member Resch will be participating today as a voting member due to Vice Chair Nguyen's absence.

Member Neighbors was excused to leave the meeting at 9:30 a.m.

Staff members in attendance were:

- *Dan Moser*
- *Jerry Kurr*
- *Mary Guillen*

Presenter in attendance:

- *Ahmad Gharaibeh*

Community Members in attendance were:

- *Bob Nuñez, Community Member*
- *Derek Grasty, Community Member*
- *Bill Jakel, CBOC Member*
- *Ian Marsh*

2. **Introduction**

Persons present at the meeting introduced themselves.

3. **Adopt Agenda**

Motion by Member Neighbors, second by Member Berg to adopt the agenda as presented with no changes.

Vote: 5/0, Vice Chair Nguyen absent

4. **Special Order of Business**

Individuals may be permitted to present an item out of order on the agenda to accommodate their schedules.

There was no change to the order of items on the agenda.

5. **Public Comments**

There were no public comments.

6. **Approval of Minutes**

Motion by Member Berg, second by Member Neighbors to approve the minutes of June 19, 2010.

Vote: 5/0, Vice Chair Nguyen absent

7. **Discussion/Action: Follow-Up of the 2008/09 East Side Union High School District Audit Finding: ASB Cash Collections and Disbursements**

Ahmad Gharaibeh, External Auditor, will update the Committee on his follow-up to ASB cash collections and disbursements issues identified in the 2008/09 external audit.

External Auditor Ahmad Gharaibeh explained to the Committee that the information on ASB cash collections is not available. He does not know how much is being collected. The rental facilities monies being blended with student body funds. He also indicated that this could be occurring at other sites. An effort should be made on raising awareness that facilities rental funds are not to be mingled with student body funds.

Discussion took place regarding the centralized facilities rental form.

Chair Biehl asked Interim Superintendent Moser if he could come back to the Committee at their next meeting with an Administrative Regulation on facilities rental/usage.

Member Juchau asked who uses the facilities funds.

Interim Superintendent Moser responded that the District keeps 15% and 85% is allotted through the general fund to the school site renting the facility. If available, he will present what has been reported to the District Office on site facilities rentals.

Member Juchau asked if the facilities rental checks are payable to the school or District.

External Auditor Gharaibeh indicated that the check is made payable to the District, but the student body account is set up under "East Side." The bank accepts the check.

Chair Biehl indicated that he would like to see a sign-off by each of the Principals because they are accountable. The 85% / 15% is very generous. It is not a student body fund.

Member Juchau stated that this is one of the areas that the Internal Auditor should look into.

Mr. Marsh indicated that this is an area that he audited at a previous district unauthorized use of funds.

Chair Biehl indicated that the Committee will wait for administration to come back with recommendations, but the idea is to centralize facilities rentals at the District Office.

External Auditor Gharaibeh also reported that during their special education audit, it was found that there are IEP forms missing. If they are not located, it will be noted in the audit report.

He also mentioned that there is a controls deficiency in the Business Office related to disbursements. They are not reconciling invoice per invoice. Instead, they are reconciling batch totals and not against invoices. This could lead to the possibility of changing a name on an invoice. They are doing a total reconciliation rather than invoice versus check.

Interim Superintendent Moser asked External Auditor Gharaibeh if they found any incidents?

External Auditor Gharaibeh indicated that they found none.

Chair Biehl indicated that this is an area that the Internal Auditor will need to review.

External Auditor Gharaibeh stated that according to the Feds, there are three categories:

- 1 Material weaknesses*
- 2) Significant weaknesses*
- 3) Controls deficiency*

They upload their findings on the web, including ARRA funds and special education findings. There will be a phone call for corrective action and follow-up for years two and three until it is resolved.

Member Juchau asked if there is a penalty on the missing IEPs.

External Auditor Gharaibeh indicated that there is no penalty.

Interim Superintendent Moser stated that IEPS are yearly for every student who requires an IEP. The IEP is completed in October and goes through to next October. The teacher has two to three months to complete their IEPs and that it also requires monitoring by the sites.

Member Berg indicated that teachers are using IEP software, but that is has been difficult to use and they are still trying to work their way through the software complications, which has caused a delay in the submission of IEPs.

Interim Superintendent Moser indicated that a 40-50 page IEP is not uncommon.

Chair Biehl asked External Auditor Gharaibeh to provide a one-page summary on the issues they are working on so that he can make sure they are placed on the following meeting agenda.

8. Discussion/Action: Proposed Scope of 2009/10 East Side Union High School District Audit

Ahmad Gharaibeh, External Auditor, will report on the status of the 2009/10 external audit.

Mr. Gharaibeh shared with the Committee that the final phase is one week from Monday. This is where the closing of the audit begins.

There are significant audit finding coming out relative to retirement liability – recognizing retirement liability on the District’s financial statement(s).

Bruce Berg asked if it was a reporting issue, not a funding mandate.

External Auditor Gharaibeh indicated, “Yes.”

9. Discussion/Action: FCMAT Report: Update the Status of All Actions Taken in Response to the FCMAT Report Recommendations

Dan Moser, Interim Superintendent, will review all actions taken by the Board and the Administration in response to the recommendations included in the FCMAT Report.

Interim Superintendent Moser shared with the Committee that November may be their last meeting the Santa Clara County Office of Education. The area still under discussion is the auditing of Measure G and Measure E invoices by the Internal Auditor. He also indicated that Legal Counsel has been working with Contracts Administrator Donna Bertrand on updating contract documents for compliance. They have worked out language on information bidding: \$15,000 / \$25,000

10. Discussion/Action: FCMAT Report: Contracted Services, FCMAT Recommendation #6 to the Board: Restore the Internal Audit Function, including Funding for an Internal Auditor Position, and Operate this Function according to Industry Standards. Issues referred to the Audit Committee for Advice per Board action on February 9, 2010

Dan Moser, Interim Superintendent, and Frank Biehl, Audit Committee Chair, will update the Committee on the actions taken by the administration and the Board since our last meeting.

Chair Biehl reported that the Internal Auditor job description was approved by the Board of Trustees with one minor change. A screening panel for the position was set-up. The panel consisted of five persons of which two are from the Board Audit Committee: Bruce Berg and David Neighbors.

Candidates were screened by the panel and three were recommended to the Board of Trustees for consideration. Out of the three recommended, one withdrew and two were interviewed by the Board of Trustees.

Mr. Marsh was interviewed and selected as Internal Auditor by the Board of Trustees. His employment contract is still under negotiations and will go to the Board for action at their meeting of October 21, 2010.

11. Discussion/Action: FCMAT Report: Bond Funds – Contracted Services, FCMAT Recommendation #2 to the District: Consider a Review of All Invoices Charged to Measure G and Measure E Funds to Determine that Project Costs were Properly Allocated to Each Bond Program. Issue referred to Audit Committee for Advice per Board action on February 9, 2010.

Dan Moser, Interim Superintendent, will update the Committee on the action taken by the administration and the Board since our last meeting.

Chair Biehl reported that there have been discussions with the Santa Clara County Office of Education and Measure G and Measure E Citizens' Bond Oversight Committee regarding Bond funds.

Interim Superintendent Moser indicated that this will be one of the areas that the Internal Auditor will be auditing.

On another issue related to the cost of Bond funds, Chair Biehl asked if there is a legal opinion on this item.

Interim Superintendent Moser will need to discuss this question with Legal Counsel.

External Auditor Garaibeh indicated that a sampling was done on Measures G and E. He did not find anything that did not comply with Measures G and E.

Interim Superintendent Moser stated that the FCMAT was very broad in their recommendation.

External Auditor Garaibeh asked if anyone is aware of non-compliance or fraud of the Bond programs.

Member Berg mentioned that there might be some ongoing issues with agencies outside of the District.

Chair Biehl indicated that the official recommendation from the Committee was to review every invoice. There was a discussion at the CBOC meeting where it was stated that there are ways to review without looking at all invoices – a sampling. Whatever method is most appropriate -- needs to be done.

Member Juchau asked External Auditor Garaibeh if his sampling was by dollar amounts or invoices.

External Auditor Garaibeh indicated that his sampling was by both methods. They look at the internal controls to make sure that they have procedures to award contracts. They select approximately five bids to see if they have been properly bid and awarded to the lowest responsible contractor.

Member Berg stated that he hopes that the policies and procedures are being followed from this point forward.

Chair Biehl indicated that it would be appropriate for the Internal Auditor, when on board, to prepare a scope of work to take to the Santa Clara County Office of Education and get approval from them.

Associate Superintendent Kurr mentioned that with respect to cost, he asked Bond Counsel to comment. The Attorney General's 2004 opinion stated that any cost for review would be appropriate. Bond Counsel offered to put his conclusion in writing.

Chair Biehl would like the opinion in writing.

12. Discussion/Action: E-RATE Reimbursement for 2008

Interim Superintendent Dan Moser will brief the Committee on the current status of the E-RATE reimbursement.

Interim Superintendent Moser indicated that this is an ongoing item. He shared with the Committee that a lot of work has been done on this item. He has a report from Director Dennis Barbata that they are working on 2008-2009. Every week they receive a new set of questions. The last set was related to the selection of AT&T and if the selection was appropriate. A response was issued by Director Barbata.

Associate Superintendent Kurr indicated that he feels that 75% of the issue has been resolved. The outstanding 25% is relative to the issuance of the contract. Relative to the matter of the contract, the District decided to go to State competitive bidding with CalNet. The E-Rate award that went to the Board is \$1million. The District should be receiving \$750,000. The \$250,000 is the amount in question.

13. Discussion/Action: Establish Next Meeting Date

Chair Biehl suggested that the Committee meet after November 15, but before December 10. After some discussion, Chair Biehl will look at the possibility of December 11 as the meeting date. He will check with Vice Chair Nguyen on his availability.

14. Superintendent Communications/Comments

- Associate Superintendent of Business Services and Administration, Jerry Kurr
Nothing to report.
- Interim Superintendent, Dan Moser
Item 3620, special education costs, deals with mental health services. It also may be an impact to child care services.

15. Audit Committee Member Comments

Individual Audit Committee members may report on programs, conferences, meetings attended and/or items of interest to the public. An Audit Committee member may wish to express a concern or observation about a topic not appearing on the agenda or request items to be scheduled on a future agenda.

Member Juchau stated that he is thrilled about the Internal Auditor.

16. Adjournment

Motion by Member Berg, second by Alternate Member Resch, to adjourn the meeting at 10:32 a.m. The meeting was adjourned by Chair Biehl.

Respectfully submitted,

Frank Biehl, Board Audit Committee Chair