



MT. DIABLO UNIFIED SCHOOL DISTRICT  
James W. Dent Education Center  
1936 Carlotta Drive  
Concord, CA 94519-1397

BOARD OF EDUCATION  
Gary L. Eberhart, President  
Paul P. Strange, Vice President  
Linda K. Mayo  
Sherry Whitmarsh  
Richard W. Allen

**BOARD OF EDUCATION**

SUPERINTENDENT  
Gary McHenry

**AGENDA**

Tuesday, January 13, 2009  
Closed Session 5:00 p.m.  
Regular Session 7:30 p.m.

**LOCATION: Monte Gardens Elementary  
3841 Larkspur Drive, Concord**

ASSOCIATE SUPERINTENDENT  
Alan Young, Ed.D., Educational Services

ASSISTANT SUPERINTENDENTS  
Mildred Browne, Ed.D., Special Education  
Rose Lock, Elementary Education  
Richard C. Nicoll, Ph.D., Administrative Services  
Gail Isserman, Personnel Services  
Gregory J. Rolan, Esq., General Counsel

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**WELCOME**

- \* **Addressing the Board** -- To assure an orderly meeting and an equal opportunity for each speaker, persons wishing to address the Board must fill out a speaker card. Cards are available at the meeting and must be turned in to the president of the Board prior to the beginning of the meeting. In the interest of time, speakers are limited to three minutes each, or a total of thirty minutes for all speakers. If there are multiple speakers on any one subject, the public comment period may be moved to the end of the meeting.
- \* **Meeting Ending Time** -- Adjournment time will be no later than 11:00 p.m. for all regular and special meetings unless extended to a specific time as determined by a majority of the Board.
- \* **Record Keeping** -- For accuracy, all regular meetings of the Board of Education are recorded electronically. Recordings are kept on file for a period of no less than thirty days.
- \* **Closed Session** -- The Board of Education may meet in closed session for discussion of labor negotiations, student discipline, personnel matters, litigation, and other matters as provided for under California state law.
- \* **Radio** -- For the convenience of the public, Board meetings are broadcast during the school year over the Clayton Valley High School radio station KVHS (90.5 FM) starting at 7:30 p.m.

*Any writings or documents that are public records and are provided to a majority of the governing board regarding an open session item on this agenda will be made available for public inspection in the District Superintendent's office located at 1936 Carlotta Drive, Concord, California during normal business hours.*

**FUTURE MEETING DATE(S):**

January 27, 2009	7:30 p.m.	Regular Board Meeting
February 10, 2009	7:30 p.m.	Regular Board Meeting
February 24, 2009	7:30 p.m.	Regular Board Meeting

**\*\*Note: Calendar of Future Board and Committee Meetings Attached\*\***

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**CALL TO ORDER – 5:00 p.m.**

1. **ANNOUNCEMENT:** In closed session, the Board will consider the items listed on the closed session agenda that follows.

2. **PUBLIC COMMENT** – The public may address the Board concerning items that are scheduled for discussion during closed session only. These presentations are limited to three minutes each, or a total of thirty minutes for all speakers.

3. **ADJOURN TO CLOSED SESSION**  
**CLOSED SESSION**

1. Negotiations - The Board may discuss negotiations or provide direction to its representatives regarding represented employees, pursuant to the EERA (Govt. Code Section 3549.1)  
Agency negotiators: Gail Isserman, Julie Braun-Martin and Dorothy Epps.  
Agencies: MDEA, CSEA, Local One M & O, Local One CST, MDSPA, and Supervisory.
2. Expulsions(3)/Readmissions(2) - Review Administrative Hearing Panel recommendations regarding student expulsions and readmissions.
3. Existing Litigation  
Heathorn v. Mt. Diablo Unified School District
4. Anticipated Litigation
5. Conference with Real Property Negotiator
6. Public Employee Discipline/Dismissal/Release/Complaint  
One certificated employee.
7. Superintendent's Evaluation
8. General Counsel's Evaluation

**RECONVENE OPEN SESSION – 7:30 p.m.**

1. **PRELIMINARY BUSINESS**

- Pledge of Allegiance
- Roll Call

2. **REPORT OF CLOSED SESSION – January 13, 2009**

- Topics
- Negotiations
  - Expulsions/Readmissions
  - Existing Litigation
  - Anticipated Litigation
  - Real Estate
  - Public Employee Discipline/Dismissal/Release/Complaint
  - Superintendent's Evaluation
  - General Counsel's Evaluation

3. **CONSENT AGENDA**

Items listed under Consent Agenda are considered routine and will be approved/adopted by a single motion. There will be no separate discussion of these items; however, any item may be removed from the consent agenda upon the request of any member of the Board and acted upon separately.

- 3.1 Minutes of the meetings of November 12 and November 25, 2008.

- 3.2 Certificated Personnel

- 3.2.1 Leaves of Absence, Resignations, Retirements, Employment

- 3.2.2 Resolution 08/09-33 Provisional Internship Permit (PIP) Request(s)

All requests for a PIP must be presented to the Governing Board of a public school district for approval. Every PIP request that is submitted to the Commission on Teacher Credentialing must also include verification that a notice of intent to employ the named applicant in the identified position has been made public.

### 3.2.3 Assembly Bill 948 – STRS Post-Retirement Earnings Limitation

Legislation was enacted which authorizes STRS to grant an exemption from the post-retirement earnings limitation of up to two years for members retired from service who are appointed as a trustee, administrator or fiscal advisor. STRS may grant post-retirement earnings limitations for up to one-half of the full-time equivalent for the position.

## 3.3 Classified Personnel

### 3.3.1 Leaves of Absence, Resignations, Retirements, Employment

#### 3.3.2 Increase and Combine Hours for a Site Technology Support Technician II Position at Glenbrook and Oak Grove Middle Schools for 2008-09 School Year

Glenbrook Middle School requests that an existing 19.5 hour/week, 10 month/year Site Technology Support Technician II position be increased to 20 hour/week, 10 month/year.

Oak Grove Middle School requests that an existing (vacant) 16 hour/week, 10 month/year Site Technology Support Technician II position be combined with Glenbrook's position for a total of 36 hour/week, 10 month year position. There is no impact to the General Fund. The increased cost for fiscal year 2008-09 is: Glenbrook - \$5,250; Oak Grove - \$3,884. Funding Source: Title I – Part A for both sites.

#### 3.3.3 Increase in Work Year for a Food Service Supervisor Position

Food and Nutrition Services requests that an existing 11 month, 8 hour Food Services Supervisor position be increased to a 12 month year. There is no impact to the General Fund. The increased cost to the Food Service Budget for fiscal year 2009-10 will be \$7,090.

#### 3.3.4 Creation of Two (2) Part-Time Instructional Assistant Positions at Bel Air Elementary

Bel Air Elementary requests the creation of two (2) part-time 17.5 hour/week, school day only, Instructional Assistant positions to assist English Learners. There is no impact to the General Fund. The annual cost for fiscal year 2008-09 will be \$11,772 and a full year \$19,618. Funding Source: Title I – Parent Involvement

#### 3.3.5 Creation of Four (4) Part-Time Instructional Assistant Positions at Mt. Diablo Elementary School

Mt. Diablo Elementary requests the creation of four (4) part-time, 10 hour/week, school day only, Instructional Assistant positions to support their Kindergarten classrooms. There is no impact to the General Fund. The positions will be funded by Mt. Diablo Elementary Parent Faculty Club at a total cost of \$20,755.

#### 3.3.6 Eliminate Two (2) Vacant Special Education Assistant Positions and Create Two (2) Health Assistant/LVN Positions

This change will reduce the contracted services budget by 19.14% for school year 2008-2009 and 41.14% for school year 2009-2010. The total impact for fiscal year 2008-2009 is a savings of \$403.07 to budgets 1700 and 3122 and an approximate \$33,600 to restricted funds 5046. Funding Source: General Purpose/Special Education

## 3.4 Fiscal Transactions for November 2008

## 3.5 Contract with Convergence Solutions for Maintenance of District's Measure C Phone Systems and Voice Mail

Contract with Convergence Solutions in the amount of \$52,050 for maintenance on Measure C phone systems and voice mail. Funding Source: General Fund Program 5275

- 3.6 Request to Use Proposition 55 Funding to Supplement Budget for the Construction of Quality Education Investment Act (QEIA) Classrooms  
On October 9, 2007 and February 12, 2008 respectively, the Board of Education awarded contracts for the design and construction of four (4) classrooms to be constructed at Meadow Homes and Cambridge elementary schools and Mt. Diablo High School. While all individual contracts, including the revised design and construction contracts were completed at or below approved contract values, the aggregate construction costs for this project exceeded available QEIA funding by \$104,752. Funding Source: Proposition 55 Funding
- 3.7 Award of Bids  
3.7.1 Award of Bid 1533 to River View Construction, Inc. in the amount of \$257,690 to provide the football bleacher repairs at Clayton Valley High School. Funding Source: Proposition 55  
3.7.2 Award of Bid 1535 to Sedge Electric in the amount of \$89,000 to provide interim housing to support Phase IIB at Olympic High School and Pleasant Hill Education Center. Funding Source: Proposition 55
- 3.8 Final Change Orders  
3.8.1 Final Change Order to Bid 1490, Contract C-866 Meehleis Modular Buildings, Inc. in the amount of \$1,145 for new restroom facilities at Sequoia Middle School and Mt. Diablo Elementary School. Funding Source: Measure A  
3.8.2 Final Change Order to Purchase Order 49951/CMAS Contract No. 3-08-70-0163X – Nexus Integrations Services in the amount of \$3,517.75 credit, for the installation of new PBX Systems for Strandwood and Silverwood elementary schools and Diablo View Middle School. Funding Source: Measure C
- 3.9 Notices of Completion  
3.9.1 Notice of Completion to Purchase Order 49598, Request for Quotation 1503, to Kel Tec Builders, Inc. in the amount of \$74,923, who provided the door replacement at Pleasant Hill Education Center. Funding Source: Deferred Maintenance  
3.9.2 Notice of Completion to Purchase Order 49951 to Nexus IS in the amount of \$97,062.25 who provided the PBX systems for Silverwood and Strandwood elementary schools; and Diablo View Middle School. Funding Source: Measure C  
3.9.3 Notice of Completion to Contract C-866, Bid 1490 to Meehleis Modular Buildings, Inc. in the amount of \$567,363, who provided the prefabricated modular building restrooms at Mt. Diablo Elementary School; and Sequoia Middle School. Funding Source: Measure A  
3.9.4 Notice of Completion to Contract C-868, Bid 1492 to Taber Construction, Inc. in the amount of \$6,658,379.87, who removed existing mechanical systems and provided new heating, ventilation and air conditioning systems at Bel Air and Rio Vista elementary schools; Oak Grove Middle School; and Concord High School. Funding Source: Proposition 55
- 3.10 Contract with the Marine Science Institute to Provide the Discovery Voyage Program Aboard the Research Vessel Brownlee  
Contract with the Marine Science Institute in the amount of \$37,800 to provide the Discovery Voyage Program aboard the research vessel Brownlee to the 5th grade students for the 2008-2009 school year. Funding Source: General Purpose – Budget Code 3947 (money is already budgeted)
- 3.11 Contract Amendment for Jack Schreder and Associates  
Staff recommends that the contract be increased by \$10,000 to secure the continuing assistance provided by Jack Schreder and Associates. Funding Source: Contract Services

- 3.12 Special Education Memorandum of Understanding for Eagle Peak Charter School  
Eagle Peak staff worked with legal counsel to develop a plan for the delivery of special education services to students enrolled at Eagle Peak with special needs. Fiscal Impact: For the 2008-09 school year, Eagle Peak Montessori Charter School has agreed to pay \$732.12 for each student enrolled on April 1 each year. These costs are reviewed each year.
- 3.13 Agreement with the Contra Costa County Office of Education (CCCOE) to Serve Special Education Students in the Court Schools  
Contra Costa County Office of Education is requesting Mt. Diablo Unified School District contribute to the cost of serving special education students in the Court Schools operated by the Contra Costa Office of Education. The total impact for fiscal year 2008-09 is \$59,350 and is already a budgeted expense in the 2008-09 budget. Funding Source: General Purpose/Special Education
- 3.14 Memorandum of Understanding (MOU) with Contra Costa Office of Education Regional Occupational Program in Support of the Serendipity Restaurant at Mt. Diablo High School  
Staff requests approval to enter into an MOU between Mt. Diablo Unified School District and Contra Costa County Office of Education Regional Occupational Program (ROP) to support Serendipity Restaurant, in the amount of \$10,000 (yearly contribution). Funding Source: Contra Costa County Office of Education ROP
- 3.15 Independent Audit Services Contract  
Request approval of the 2008-2009 independent auditing services contract with Perry-Smith, plus amendment. Fiscal Impact: \$85,300 (\$75,300 is already budgeted). Funding Source: Unrestricted General Fund
- 3.16 Resolution 08/09-36 Regarding Accounting of Development Fees for the 2007-2008 Fiscal Year  
Annually, the Board of Education is required by Government Code to adopt a resolution regarding the accounting for Development Fees collected and placed into the Capital Facilities fund. There is no impact to the General Fund.

#### **4. RECOGNITIONS**

#### **5. BOARD FORUM**

This item is here for the Board of Education to discuss any issues of concern.

5.1 Committee Minutes

5.2 Board Reports (time limit – 3 minutes)

5.3 Issues of Concern

#### **6. PUBLIC COMMENT**

The public may address the Board regarding any item within the jurisdiction of the Board of Education of the Mt. Diablo Unified School District that is not on this agenda. These presentations are limited to three minutes each, or a total of thirty minutes for all speakers. If there are multiple speakers on any one subject, the public comment period may be moved to the end of the meeting.

#### **7. COMMUNICATIONS**

7.1 Organizations

At regular board meetings, a single spokesperson of each recognized organization may make a brief presentation following the Consent Agenda. Items are limited to those which are informational.

#### **8. REPORTS/INFORMATION – None**

#### **9. SUPERINTENDENT'S REPORT**

**10. BUSINESS**

Action 10.1 Appointment of Administrator, Special Education – Special Day Class  
Interviews have been conducted and a candidate selected to fill the position of Administrator, Special Education – Special Day Class.

Recommendation  
Approve appointment as recommended.

Action 10.2 Appointment of Parent Liaison  
Interviews have been conducted and a candidate selected to fill the position of Parent Liaison.

Recommendation  
Approve appointment as recommended.

Action 10.3 Appointment of Coordinator, Student/Community Services 9-12  
Interviews have been conducted and a candidate selected to fill the position of Coordinator, Student/Community Services 9-12.

Recommendation  
Approve appointment as presented.

Action 10.4 Appointment of Summer Programs Administrators  
Interviews have been conducted and candidates selected to fill the administrative positions for summer programs 2009.

Recommendation  
Approve appointments as presented.

Public Hearing & Action 10.5 Public Hearing and Plan of Action to Reduce Expenses  
The Board of Education has to consider budget reductions to erase a revenue expenditure gap of over \$6.6 million in the 2009-10 school year.

Fiscal Impact: \$3,585,162 2009-2010  
\$ 142,413 2010-2011

Funding Source: Unrestricted and restricted General Fund.

Recommendation  
Hold public hearing.  
Add items to the list.  
Remove items from the list.  
Approve the following items: 7, 8, 9, 11(a), 22, 28, 31, 32, 38(a),  
57, 59, 60, 61, 62, 63, 64, 65

Action 10.6 Clarify Timeline for Budget Reduction Items Approved on December 16, 2008  
On December 16, the Board of Education approved a number of budget reduction items. It was not clear whether the items were approved for the 2008 or 2009 school year. Reductions of the following positions as soon as possible would result in an additional one-time savings of approximately \$100,000. Items 27, 29(a), 39, 46, 47, 48, 49, and 50.

Recommendation  
Approve of elimination of positions effective 2008-2009.

- Action 10.7 Consider Establishment of Priorities for the 2008-2009 School Years and Beyond Recommendation  
The Board of Education needs to prioritize for the 2008 and 2009 years and beyond. The most critical issues are budget reductions and a decision regarding a parcel tax initiative.
- Recommendation  
Discuss and prioritize items. Provide direction to the Superintendent.
- Action 10.8 Resolution 08/09-34 Behavioral Intervention Plans (Hughes Bill) Mandated Cost Claim Settlement and Waiving Rights to File any Claim Regarding the Hughes Bill Statute and Regulations in the Future  
The settlement will bring the District approximately \$14.85 per 2007-08 ADA annually for the six-year period beginning 2011-12 through 2016-17.
- Fiscal Impact: Increase unrestricted general fund revenue by six one-time payments of \$498,272.84 in fiscal years 2011-12 through 2016-17. One time increase to Special Education revenue of \$35,984.16 in 2009-10. Ongoing increase to Special Education revenue (District AB602 Revenue) of \$366,263.60 beginning in 2009-10. Funding Source: Mandated Cost Settlement
- Recommendation  
Adopt resolution as presented and authorize the Superintendent to submit a waiver on the District's behalf.
- Action 10.9 Annual Audit Report for Fiscal Year 2007-08  
The Board's Audit Committee met with the auditor from Perry-Smith & Co. and reviewed the audit for fiscal year 2007-08. There were audit findings and recommendations regarding fixed assets, student body funds, time certifications, Proposition 20 lottery funds, instructional materials and attendance accounting. District staff has reviewed these findings and recommendations and provided a written response to each finding.
- Recommendation  
Accept Audit Report as presented.
- Action 10.10 Consider Reorganization of the Office of General Counsel  
The reorganization would involve revision of the General Counsel job description. Also, the restructuring entails the addition of an Associate General Counsel position. The addition of this position should significantly decrease our reliance on outside contracted legal services. Fiscal Impact: \$147,500 to \$260,000 in initial savings. Funding Source: General Fund
- Recommendation  
Information and possible action.
- Action 10.11 Contract for Legal Services with Fagen Friedman & Fulfrost  
The District intends to proceed with this contract on an interim basis to determine the financial and legal value of the service provided. Fiscal Impact: The amount has yet to be determined; however, it is already budgeted.
- Recommendation  
Approve as recommended.

Action 10.12 Resolution 08/09-35 Authorizing Emergency Contracts to Relocate a Gas Line at Valhalla Elementary School

Public Contract 22050 provides exception to the bid requirements contained in Public Contract Code 22002, when the Governing Board determines that an emergency will not permit a delay resulting from a competitive solicitation of bids, and that the action is necessary to respond to the emergency.

Recommendation

Adopt resolution as presented.

Action 10.13 Award of Bid 1534 – Taber Construction, Inc.

Award of bid 1534 to Taber Construction, Inc. in the amount of \$5,340,950 to provide the removal of existing mechanical systems and provide new heating and air conditioning at Fair Oaks and Shore Acres elementary schools; Pleasant Hill Middle School; and Olympic High School. Funding Source: Proposition 55

Recommendation

Approve as presented.

Action 10.14 Award of Bid 1532 – Valair-CSD Northern California

Award of bid 1532 to Valair-CSD Northern California in the amount of \$1,925,916 to provide heating, ventilating, and air conditioning equipment at Fair Oaks and Shore Acres elementary schools; Pleasant Hill Middle School and Olympic High School. Funding Source: Proposition 55

Recommendation

Approve as presented.

Information 10.15 Adoption of the AP Art History Course of Study

A committee of secondary teachers and a retired administrator, acting as a Curriculum Specialist, developed the AP Art History course of study.

Recommendation

This is being presented as information only and will be returned for action.

**11. ADJOURNMENT**

**12. CLOSED SESSION** - Items not completed during the first closed session will be carried over to this closed session.

<b>JANUARY 2009</b>			
Community Advisory Committee	January	5	7:00 p.m.
Parent Advisory Council	January	7	7:00 p.m.
Regular Board Meeting	January	13	7:30 p.m.
Safe and Drug Free Schools Task Force	January	22	3:30 p.m.
Regular Board Meeting	January	27	7:30 p.m.
Budget Advisory Committee	January	29	5:00 p.m.
<b>FEBRUARY 2009</b>			
Community Advisory Committee	February	2	7:00 p.m.
Parent Advisory Council	February	4	7:00 p.m.
Regular Board Meeting	February	10	7:30 p.m.
Regular Board Meeting	February	24	7:30 p.m.
<b>MARCH 2009</b>			
Community Advisory Committee	March	2	7:00 p.m.
Parent Advisory Council	March	4	7:00 p.m.
Measure C Advisory Council	March	5	7:00 p.m.
Regular Board Meeting	March	10	7:30 p.m.
Budget Advisory Committee	March	12	5:00 p.m.
Safe and Drug Free Schools Task Force	March	19	3:30 p.m.
Regular Board Meeting	March	24	7:30 p.m.

Note: This is being provided for information only.  
Please call 682-8000 ext. 4000 to confirm meeting dates, times and locations.