

SANTA CLARA COUNTY BOARD OF EDUCATION  
1290 Ridder Park Drive  
San Jose, California 95131

APPROVED  
Regular Meeting #2033  
Board Room  
February 4, 2009  
5:00 p.m.

1. CALL TO ORDER

The meeting was called to order by President Mann at 5:00 p.m.

a) Roll Call

**Trustees Present:**

Grace Mah, Area 1  
T.N. Ho, Area 2  
Leon Beauchman, Area 3  
Joseph Di Salvo, Area 4  
Anna Song, Area 5  
Craig Mann, Area 6  
Jane Howard, Area 7 (arrived at 6:12 p.m.)

b) Pledge of Allegiance

President Mann asked Dr. Janice Sutphin, recipient of SCCOE's Employee of the Month recognition, to lead the pledge of allegiance.

c) Adoption of Agenda

MOTION #2033-1 by member Di Salvo that the agenda be adopted as submitted. Member Beauchman seconded the motion and it passed 6-1 with member Howard absent.

2. SCCOE EMPLOYEE OF THE MONTH RECOGNITION: JANICE SUTPHIN,  
PSYCHOLOGIST, SPECIAL EDUCATION, CHANDLER TRIPP

Member Song introduced Janice Sutphin, February's Employee of the Month. She noted Janice's contributions and presented a plaque and an engraved pen in recognition of her work and introduced Taura Anderson, Principal at Chandler Tripp School, who spoke about Janice's multi-skills and her strong supportive character. Taura introduced Jeannie Shelton, Special Education Nurse, Chandler Tripp School Cluster, who spoke of Janice's positive attitude and competency. Janice introduced her husband and thanked her colleagues for the nomination.

3. PUBLIC COMMENTS OF PERSONS DESIRING TO ADDRESS THE BOARD OR TO PRESENT PETITIONS

President Mann opened the hearing for public comment.

Spencer Sambor, President of the Association of County Educators (ACE), encouraged the Board to release reserved funds to save jobs and increase the health care cap.

4. CORRESPONDENCE

- Letters to the Board from parents regarding the Deaf/Hard of Hearing Buildings on the Oster Site in the Union School District

5. CONSENT ACTION ITEMS

- a) Request Approval of Minutes of Regular Meeting of January 14, 2009 (#2032)
- b) Approval of County Superintendent's Monthly Expenses
- c) Request Acceptance of Grant Award Notifications
- d) Acceptance of Donations

MOTION #2033-2 by Vice President Song that the Board approve Consent Action Items A through D. Member Mah seconded the motion and it passed 6-1 with member Howard absent.

6. PUBLIC HEARING

a. Public Hearing on the Renewal of the Discovery Charter School

President Mann reviewed the process for the public hearing and opened the hearing for public comment.

Don Bolce, Assistant Director, Center for Educational Planning, provided an overview of staff's review of the petition and answered questions.

The following petitioner from Discovery Charter School gave a presentation on the merits of the petition:

- Steven Fiss, Executive Director and Superintendent

The following individuals spoke in support of Discovery Charter School (DCS):

- Ben Tripousis, parent
- Sarah Brennan, teacher @ DCS

- Tricia Bagnas, teacher @ DCS
- Jenna Bryon, teacher @ DCS
- Debra Martin, parent
- Susan Michels, parent, read Gwen Holtz' (DCS alumni) statement
- Christopher Williams, DCS alumni (submitted in writing)
- Jake Prasa, DCS student
- Rebecca Koshy, DCS student
- Johanna Borst, DCS alumni
- Carla Breunling, parent
- Marta Carillo, DCS Board Member
- Allyssen McDonald, parent

(Board member Howard arrived at the meeting – 6:12 p.m.)

Board members asked clarifying questions from petitioner and Mr. Bolce.

RECESS

The Board broke for recess at 6:24 p.m. and reconvened at 6:35 p.m.

#### 7. STUDY ACTION ITEM

- a. Resolution Approving Behavioral Intervention Plans (Hughes Bills) Mandated Cost Claim Settlement and Waiving Rights to File any Claim Regarding the Hughes Bills Statute and Regulations in the Future

Superintendent Weis provided an overview of the behavioral intervention plans (Hughes Bills) mandated cost claim settlement and waiving rights to file any claim regarding the Hughes Bills statute and regulations in the future. (*Resolution attached*)

MOTION #2033-3 by Vice President Song that the Board approve the resolution of the Behavioral Intervention Plans (Hughes Bills) Mandated Cost Claim Settlement and Waiving Rights to File any Claim Regarding the Hughes bill Statute and Regulations in the Future. Member Howard seconded the motion and it passed unanimously.

The resolution was adopted by the following roll call vote:

AYE: President Mann, Vice President Song and members Beauchman, Ho, Mah, Di Salvo and Howard  
NO: -none-  
ABSTAIN: -none-  
ABSENT: -none-

- b. Resolution Opposing the Governor's 2008-09 Budget Proposal

Superintendent Weis reported that the resolution which opposes the Governor's 2008-2009 budget proposal was requested by the California School Board's Association. Member Ho requested that "*The Legislature and*" be removed from the fourth WHEREAS and that the "*illegally*" be removed from the sixth WHEREAS of the resolution. (*resolution attached*)

MOTION #2033-4 by member Di Salvo that the Board approve the resolution opposing the Governor's 2008-09 budget proposal with the amendments requested by member Ho. Member Beauchman seconded the motion and it passed unanimously.

The resolution was adopted by the following roll call vote:

AYE: President Mann, Vice President Song and members Beauchman, Ho, Mah, Di Salvo and Howard

NO: -none-

ABSTAIN: -none-

ABSENT: -none-

c) Request Approval of the Asian Pacific Islander School Board Members Association

Vice President Song gave a summary of the Asian Pacific Islander School Board Members Association.

MOTION #2033-5 by Vice President Song that the Board approve the Asian Pacific Islander School Board Members Association school district membership for the 2008-2009 year. Member Ho seconded the motion and it passed unanimously.

d) Adopt the Budget Revisions for the Period Ending December 31, 2008

Mr. Doug Coffman, Director of Internal Business Services, provided an overview of the budget revisions for the period ending December 31, 2008.

MOTION #2033-6 by member Ho that the Board adopt the Monthly Financial Report for the Period Ending December 31, 2008. Member Howard seconded the motion and it passed unanimously.

e) Accept the Monthly Financial Report for the Period Ending December 31, 2008

Mr. Coffman reported on the monthly financial report for the period ending December 31, 2008.

MOTION #2033-7 by member Beauchman that the Board accept the monthly financial report for the period ending December 31, 2008. Member Howard seconded the motion and it passed unanimously.

8. INFORMATION / DISCUSSION ITEMS

a) California Voting Rights Act and At-Large Elections

Suzanne Carrig, Senior Research Analyst for the Center for Educational Planning, briefed the Board concerning school district trustee areas and voting methods as related to the California Voters Rights Act (CVRA) and the County Committee on School District

Organization's role. Ms. Carrig and Dick Noack, attorney from Hopkins & Carley Law Firm, answered questions.

b) Board Committee Reports

Anna Song

Warmen Hoven Inclusion Collaborative

- Attended a Warmen Hoven Inclusion Collaborative meeting and brought back some material, which she shared with her fellow board members

Jane Howard

South County Regional Occupational Program (SCROP)

- Reported that she was not able to attend the last SCROP meeting

c) County Board of Education Member Reports

Joseph Di Salvo

- Attended a Service Center Council meeting of the Association of County Educators (ACE)
- Met with Vice President Song regarding ways to better communicate with constituents

Grace Mah

- Attended a Los Altos School District Board meeting – update on an investigation for a Mandarin immersion program
- Attended a Silicon Valley Education Foundation (SVEF) Forum on high school dropouts
- Attended a military families committee at Crittenden School—Mountain View Whisman School District
- Attended State Superintendent Jack O'Connell's Roundtable

Anna Song

- Met with member Di Salvo regarding ways to better communicate with constituents
- Joined Superintendent Weis, Dr. Dritz, Deputy Superintendent, and Mr. Bolce on a visit to Discovery Charter School

Leon Beauchman

- Updated the Board regarding conversations between Bullis Charter School (BCS) and Los Altos School District (LASD) on the possibility of LASD overseeing BCS
- Acknowledged contributions made by SCCOE's Communication Services staff at the inauguration event held at the Mexican Heritage Plaza

- Acknowledged Barbara Boone (in the audience) from the Santa Clara County Alliance of Black Educators
- Announced the upcoming *Black History Month* event at the Mexican Heritage Plaza – February 27

T.N. Ho

- Attended State Superintendent Jack O’Connell’s Roundtable
- Attended a Cupertino Union School District Board meeting – announced the replacement for Pearl Cheng’s seat – Anjali Kausar was appointed

Craig Mann

- Acknowledged Barbara Boone (in the audience) from the Santa Clara County Alliance of Black Educators
- Reported on an anonymous letter which he received regarding the possible fiscal irregularities in the East Side Union High School District

d) County Superintendent’s Report:

*Dr. Weis presented the following information relative to the activities of the Office:*

- Grant proposal to the David & Lucile Packard Foundation. The grant will fund \$150K for SCCOE to lead the countywide preschool planning process.
- Leadership Spotlight: Dr. Charles Weis, Santa Clara County Superintendent, CCSESA Leadership Link, January 2009, Volume II, Issue 1
- Santa Clara County School Boards Associations Annual Legislative Brunch, Saturday, May 7, 9:00 a.m. to 12:00 noon, Mission College’s Hospitality Room
- Supervisorial Districts (Information from SCC Registrar of Voters)
- 2009 State of the Valley Conference – February 20, 8:00 a.m. to 2:00 p.m., Parkside Hall, 180 Park Avenue, San Jose
- Update on the current budget crisis and preliminaries on planned cuts in the Office for this year and next
  
- Attended a Special Education Recognition Award (SERA) Ceremony hosted by the Community Advisory Committee for Special Education (CACSE) – the following staff members received SERA awards: Janice Battaglia, Manager, Inclusion Collaborative; Judy Bugarin, Manager, Parkway Child Development Center; Nancy Crowe, Assessment Coordinator, Inclusion Collaborative; Cathy DiBenedetto, Library Resource Specialist, Learning Multimedia Center.

9. FUTURE AGENDA ITEMS
- Update on Arts Master Plan (March 4 – Aceves)
  - Gang Prevention Efforts (March 18 – Mitchell & Fimiani)
  - High School Dropout Prevention Planning
  - Evaluation for Head Start Program & Standard Kindergarten Readiness (Fimiani & Trujillo)

10. ADJOURNMENT

The meeting was adjourned at 8:00 p.m.

Respectfully submitted,



Dr. Charles Weis, County Superintendent of Schools  
Ex-Officio Secretary

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**RESOLUTION FOR BEHAVIORAL INTERVENTION PLANS (HUGHES BILL)  
MANDATED COST CLAIM SETTLEMENT AND AGREEMENT  
TO WAIVE FUTURE CLAIMS**

**SANTA CLARA COUNTY BOARD OF EDUCATION**

**RESOLUTION NO: 2033-1**

**WHEREAS**, the Commission on State Mandates (“the Commission”), in a test claim known as the Behavioral Intervention Plans [Hughes Bill] Mandated Cost Claim, has determined that, since 1993, there are unfunded state mandates exceeding the federal requirements in the following seven (7) components of the Hughes Bill Statute and Regulations (California Education Code section 56523 and California Code of Regulations, title 5,

sections 3001, subdivisions (c), (d), (e), (f), and (aa), and 3052): special education local plan area (“SELPA”) plan requirements, development and implementation of behavioral intervention plans, functional analysis assessments, modifications and contingent behavioral intervention plans, development and implementation of emergency interventions, prohibited behavioral intervention plans, and due process hearings;

**WHEREAS**, these state mandates remain required components of the Hughes Bill Statute and Regulations;

**WHEREAS**, final claiming instructions for the Behavioral Intervention Plans Mandated Cost Claim were never adopted by the Commission due to various disputes that arose with the State;

**WHEREAS**, the State’s Department of Finance disputes that any of the identified Behavioral Intervention Plans Mandated Cost Claim mandates qualify for state reimbursement because it contends they are required by federal law, and therefore the State has filed a lawsuit with the Sacramento Superior Court, case No. 03CS01432, to contest the Commission’s decision in the Behavioral Intervention Plans Mandated Cost Claim;

**WHEREAS**, the Test Claimants believe that the identified mandates require new programs and increased levels of service in excess of federal law, and are therefore unfunded state mandates, and therefore the Test Claimants oppose the court action filed by the State challenging the Commission’s decision;

**WHEREAS**, this litigation could thwart resolution of these matters for a number of years;

**WHEREAS**, to avoid the cost and uncertainty of further litigation, to alleviate the uncertainty regarding the Hughes Bill Statute and Regulations funding, and to expedite the resolution of this long-pending mandate claim, the State and the Test Claimants (“Parties”) have determined to compromise and settle the claims set forth in the Behavioral Intervention Plans Mandated Cost Claim;

**WHEREAS**, the Parties have negotiated a settlement agreement (“Agreement”), which provides \$520 million as general fund reimbursement for past costs associated with the Hughes Bill Statute and Regulations, allocated as follows:

- \$510 million to school districts based on 2007-08 P-2 average daily attendance (“ADA”) (about \$14.85 per ADA annually for six years, beginning in 2011-12, or for a lesser period at the State’s discretion should the State choose to accelerate payment of such reimbursement);
- \$1.5 million to county offices of education in 2009-10 based on December 2007 county special education pupil count, about \$35.06 per pupil, with no county office of education receiving less than \$5,000;
- \$6 million to SELPAs in 2009-10 based on December 2007 special education pupil count, about \$8.85 per pupil, with no SELPA receiving less than \$10,000; and
- \$2.5 million in 2009-10 for administrative costs incurred in pursuing the Claim;

**WHEREAS**, the settlement further provides \$65 million as a permanent increase to the AB 602 funding base for special education programs and services beginning in 2009-10, resulting in each SELPA’s funding rate increasing by about \$10.92 per ADA, with this amount increasing by the cost of living adjustment and ADA growth in subsequent years;

**WHEREAS**, the Santa Clara County Office of Education, in exchange for the foregoing financial settlement, must waive its right to file any further mandate claims arising from the Hughes Bill Statute and Regulations, or to benefit from any new Hughes Bill Statute and Regulations claims filed, unless the Hughes Bill Statute and Regulations change;

**WHEREAS**, if for some reason the settlement process is not completed, the Waiver will not take effect;

**WHEREAS**, the Governing Board of the Santa Clara County Office of Education has reviewed the Notice to LEAs Re: Pending Settlement of the Behavioral Intervention Plans [Hughes Bill] Mandated Cost Claim and the required Waiver; and

**WHEREAS**, the Santa Clara County Office of Education administrative staff, having reviewed the terms of the pending settlement, recommends that the Governing Board approve the settlement and agree to waive its rights to file mandated cost claims arising from the Hughes Bill Statute and Regulations in the future or to benefit from such claims unless the Hughes Bill Statute and Regulations change;

**NOW THEREFORE, BE IT RESOLVED**, the Governing Board of the Santa Clara County Office of Education approves the terms of the pending settlement of the Behavioral Intervention Plans Mandated Cost Claim, agrees to waive its rights regarding claims as set forth in the attached Waiver, and authorizes the Board President and County Superintendent to sign the required Waiver and to deliver it as requested by no later than February 28, 2009, and to complete any other administrative task necessary to effectuate this decision.

Passed and adopted by the Governing Board of the Santa Clara County Office of Education on February 4, 2009, by the following vote:

Ayes: President Mann, Vice President Song, members Howard, Beauchman, Di Salvo, Ho and Mah  
Noes: none  
Absent: none



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President, Governing Board

School District:  
Santa Clara County Office of Education, California

Attested by:   
Secretary to the Board

**RESOLUTION OPPOSING THE GOVERNOR'S 2008-09 BUDGET PROPOSAL  
SANTA CLARA COUNTY BOARD OF EDUCATION**

**RESOLUTION NO: 2033-2**

**WHEREAS**, California's more than 6 million students deserve the highest quality education; and

**WHEREAS**, The Legislature and Governor already imposed \$2.8 billion in education cuts in September 2008, resulting in significant reduction of essential programs and services to students that are integral to their success; and

**WHEREAS**, These cuts have resulted in teachers layoffs and increased class sizes statewide, not to mention a further erosion of the support system for students provided by thousands of classified and paraprofessional staff that have also been laid off; and

**WHEREAS**, The Governor proposes to cut schools even further in the middle of the current school year, compounded by deep cuts in 2009-10, resulting in districts having \$1,500 less per student; and

**WHEREAS**, Very broad fiscal flexibility is essential for maximum local decision-making and would allow districts to prioritize during the budget crisis; and

**WHEREAS**, The Governor's budget plan also manipulates Proposition 98, the state's minimum school funding law, to permanently cut at least \$7 billion from California's students, in violation of the California Constitution; and

**WHEREAS**, Further budget reductions to education are fundamentally inconsistent with the state's goal of improving student achievement, at a time when our students are making progress toward meeting rigorous state and federal standards; and

**WHEREAS**, The budget problem was not created by our students and fixing it should not come at the expense of their educational progress and success;

**NOW, THEREFORE, BE IT RESOLVED**, that the Santa Clara County Board of Education and the Santa Clara County Office of Education adamantly oppose further cuts to education funding and urge the Legislature and Governor to immediately solve the budget crisis with a balanced approach that includes revenue increases; and

**BE IT FURTHER RESOLVED** that the Santa Clara County Board of Education and the Santa Clara County Office of Education support broad local budget flexibility to help school districts prioritize the resources they have to best serve the needs of their students.

Passed and adopted by the Governing Board of the Santa Clara County Office of Education on February 4, 2009, by the following vote:

Ayes: President Mann, Vice President Song, members Beauchman, Howard, Ho, Mah and Di Salvo

Noes: -none-

Abstain: -none-

Absent: -none-

Signed by:



Charles Weis, Ph.D.  
County Superintendent of Schools



Craig Mann, President  
Santa Clara County Board of Education