

Berkeley Unified School District
Personnel Commission Special Meeting Minutes

January 12, 2017 – 4:30 pm

1. Call to Order

The meeting was called to order at 4:30 pm.

2. Roll Call & Establishment of Quorum

Chairperson Carter, Vice-Chairperson Goldstein and Commissioner Ortiz were present and a quorum was established.

3. Public Comments

Stewart Weinberg, Attorney representing Local 6192, commented that he has no recollection of cases not using a hearing officer. Paula Phillips, BCCE President, commented that she believes there have been violations of the WRIT agreement between the Union and the District. She is concerned that some provisional assignments are not filled from an eligibility list.

4. Approval & Adoption of Agenda

A motion was made by Vice-Chairperson Goldstein to approve the agenda, Commissioner Ortiz seconded the motion. Approved, 3-0

5. Discussion Items

a) Discussion of Appeal Hearing Process

Vice-Chairperson Goldstein commented that she would like to hear advice from both sides about the process. Josh Stevens, Attorney at Fagan Freeman and Fulfroost, commented that he is not here to represent the District, but would be able to independently and impartially advise the Commission, and that he has reviewed the letter from Secretary Rogosin and was in favor of using a hearing officer to conduct the hearing.

Mr. Weinberg said that because Mr. Stevens firm advises the District, it would be a conflict of interest to have him advise the Commission at the appeal hearing. President Phillip's said that the Union thinks that Mr. Stevens should not represent the Commission because he also represents the District.

Mr. Stevens recommends that each side should be allowed to call as many witnesses as they deem necessary. Mr. Stevens added that the other piece that concerns him is allowing testimony 'by declaration', because a declaration "never just states what happened but also what the writer feels and thinks about what occurred." Mr. Weinberg said he did not disagree with anything Mr. Stevens said, but added that he is not trying to undermine the effort to have formal stipulations.

Javetta Cleveland, Deputy Superintendent, commented that she supports having a hearing officer assist with the hearing.

6. Closed Session (1 matter) Government Code § 54954.5

a) Employee Discipline and Legal Matters

The Personnel Commission met in closed session to discuss a matter related to the termination and subsequent appeal hearing of a classified employee (2016-1-AH).

7. Report from Closed Session

The Commission came out of closed session at 6:13pm. Chairperson Carter reiterated that the Commission has agreed to engage an advisor to assist the Commission in conducting the appeal hearing and to expedite the process

of hearing the appeal. He added that there is no limit on the number of relevant witnesses called. The Personnel Commission empowered Chairperson Carter to select the hearing officer after all of the Commissioners had a chance to review resumes of proposed advisors. Secretary Rogosin would facilitate this process so as not to violate the Brown Act.

8. Public Comments

President Phillips expressed the Unions concern about the making of provisional and limited term appointments.

9. Next Meeting

The next meeting was scheduled for Friday, February 3rd at 3:30 pm.

10. Adjournment

The meeting was adjourned at 6:22pm

Respectfully Submitted,

Peter Rogosin
Secretary, Personnel Commission

Date

Approved,

Timothy Carter
Chairperson, Personnel Commission

Date