

Berkeley Unified School District

The Board Room, 1231 Addison Street,
Berkeley, CA 94702

Personnel Commission Special Meeting Minutes

July 20, 2017 – 4:30 pm

1. Call to Order

The meeting was called to order at 4:33 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

Paula Phillips, BCCE President, urged the Commission to sustain the hearing officer's report findings. She commented that the District had suspended members for more than 45 days under a 30 day suspension order because only work days - not calendar days - are counted, which she believes is excessive. Marleen Sacks, BUSD Attorney, commented that she prepared a written a memo in response to the hearing officer's report and requested that it be included as part of the overall case record.

Ms. Sacks requested clarification as to when the decision was made establishing Chairperson Carter's role as the hearing officer. She said the District believes some of the statements in the report are not accurate, and this may lead to an improper conclusion. Ms. Sacks objected to references in the report to the appellant being offered a promotion, and maintained that there was no evidence during the hearing that a promotion was ever offered to the appellant. She added that the report included misstatements of facts. She requested that the Personnel Commission delete all references to an offer of promotion to the appellant.

Ms. Sacks commented that the report references to management's cultural bias and inclusion of the word "discrimination" were offensive and not supported by the evidence presented in the hearing. She requested that references to culture or discrimination be removed from the report.

4. Approval & Adoption of Agenda

Chairperson Carter made a motion to approve the agenda; Vice-Chairperson Goldstein seconded the motion, Approved, 3-0

5. Conference Items

These items are presented for discussion and action and may be carried over from a previous meeting.

a) Request for Advanced Salary Placement for Director, Classified Personnel

Secretary Rogosin said the request for advanced salary placement for Patty Duwel is based on her ten years of experience and specific knowledge and expertise in classification, recruitment, and employee relations. Vice-Chairperson Goldstein asked if the step was determined based on her previous employment. Secretary Rogosin said that her immediately previous salary was not a determining factor.

Chairperson Carter made a motion to approve the advanced salary placement for the Classified Director; Vice-Chairperson Goldstein seconded the motion,

Approved, 3-0

6. Closed Session (1 matter)

a) Receipt and Review of Hearing Officers Report - Government Code § 54954.5

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 Personnel Commission reconvened from closed session at 5:56 pm. Secretary Rogosin read an informative report, referencing Merit Rule 60.100.4 and CEC 45306 et seq. for context on hearing procedure that supported the Commission’s authorization of the Chairperson to serve as the hearing officer for the appeal hearing.

Commissioner Carter described the content of the findings which included approval of the appeal of the termination of an employee by the Board; and sustained the original 30-day suspension as implemented , and that the decision would be final.

Commissioner Ortiz moved to accept the report findings and Vice-Chairperson Goldstein seconded the motion.

Approved, 3-0

8. Public Comments

Chairperson Carter clarified that the suspension period applied to the case would be in accordance with the past practice of applying a 30 *work* day period. President Phillips said she wants to thank the Commission for the ruling but does not agree with the duration of the suspension which the Union considers to be a 45-day period. Secretary Rogosin said he would be in touch with Union and Ms. Wilson to set the date of her return.

Ms. Wilson thanked the Commission for listening, but that she was confused about ‘subsequent investigations’ mentioned in the report. Chairperson Carter said these questions would be addressed when Ms. Wilson met with Secretary Rogosin.

Vice-Chairperson Goldstein commented that it is unfortunate that the District representatives were not present at this moment because all parties could draw important learnings from this experience, which was a complicated, time-consuming and expensive process, and that improvements could be made in the communication with the District Administration. She added that she intends to share these observations with the school board at their next meeting, and will ask for their commitment to improving the progressive discipline and appeal processes.

9. Next Meeting

The next regular meeting will be held on Friday, August 11th.

10. Adjournment

The meeting was adjourned at 6:14 pm.

Respectfully Submitted,

Peter Rogosin
Secretary, Personnel Commission

Date

Approved,

Timothy Carter
Chairperson, Personnel Commission

Date