

Berkeley Unified School District
Personnel Commission Meeting Minutes

December 15th, 2022 – 3:00 pm

1. Call to Order

The meeting was conducted via Zoom meeting # 852 7339 2873 and was called to order at 3:01 pm.

2. Roll Call & Establishment of Quorum

Chairperson Goldstein, Vice-Chairperson Zenor-Davis, and Commissioner Roter were present, and a quorum was established.

3. Public Comments

None.

4. Approval & Adoption of Agenda

Vice-Chairperson Zenor-Davis made a motion to approve the meeting agenda; Commissioner Roter seconded the motion,

Approved, 3-0

5. Discussion Items

a.) Agenda Item Request - M. Wilson

Secretary Castillo explained that Ms. Wilson was invited to apply for a reclassification as part of a larger situation that the Union had brought to his attention involving all Administrative Assistant, ECE's. Ms. Wilson claims that since two of her colleagues in the same classification were reclassified, she should also be reclassified. Secretary Castillo said no paperwork had been received from Ms. Wilson despite his request that she submit reclassification paperwork.

Mildred Scherr, BCCE Vice-President, spoke on behalf of the Union and said that Ms. Wilson's agenda request is enough documentation for the Personnel Commission to respond to concerning how the merit rules work in this situation. Ms. Scherr provided context, saying that initially, a request had been made for all four Administrative Assistant ECE's to be reclassified as a group. However, after a meeting between Mr. Castillo and Maria Carriedo, the Principal for ECE, he determined that all employees should request a reclass individually. Ms. Scherr says there is a history around the relationship between that Administrator and some of the School Admin Assistants. Ms. Scherr cited education code 45285, Alameda County Merit Rules 4804.3, CSPCA Model Merit Rules 3.8.7, and BUSD Merit Rules 30.300.4 in support of the Union's position and argument that Ms. Wilson should be reclassified, with her colleagues, to Administrative Assistant II.

Frank Hernandez, a BCCE representative, said that not reclassing Ms. Wilson to Administrative Assistant II clearly violates the merit rules and questioned how the District could break the merit rules.

Margo Wilson, School Administrative Assistant, ECE, expressed confusion about the process and the authority given to Secretary Castillo to deny her request. She reiterated the merit rules and said she feels this is becoming personal and requests clarification of the process.

Commissioner Roter said that the Commission wants to do what is right. He clarified his interpretation of particular merit rule language “may” (discretionary) and “shall” (not discretionary). He analyzed merit rule 30.300.4 (Ed Code 45285, subsection B1 & B2) pertinent to this case and ultimately did not understand the difference between B1 (all the positions) & B2 (a portion of the positions).

Vice-Chairperson Zenor-Davis asked for clarification as to whether the issue concerns the duties being done in Ms. Wilson’s role or how long she has been in the position. Secretary Castillo said there is an absence of information from Ms. Wilson because she did not submit the requested documentation. He said that her Union rep also asked her to complete the necessary paperwork, but she did not participate. Secretary Castillo reiterated that two of the four employees in this classification completed the paperwork, the analysis was finalized, and he was able to reclassify them.

Ms. Scherr said that Ms. Wilson began the process but did not continue because she did not feel supported. Ms. Scherr reiterated that according to Ed Code 45385 B1 & B2, all four qualify for the reclassification. Mr. Hernandez reiterated that it does not say in the merit rules that Ms. Wilson must submit paperwork.

Ms. Wilson said that Secretary Castillo had enough information to analyze this request, citing meetings with Ms. Carreido, Assistant Superintendent of HR, Samantha Tobias-Espinosa, Frank Hernandez and Mildred Scherr. She says Secretary Castillo provided no guidance about the process. Ms. Wilson reiterated that she’s been doing the same job as everyone else for more than three years, verifiable by Ms. Tobias-Espinosa. Ms. Wilson says she qualifies for this reclassification by both Ed Code and the BUSD Merit Rules. She asked again for clarification on the authority to deny the request, specifically around the documentation request.

Commissioner Roter said that if all four job duties are similar enough to warrant reclassification, he has no hesitancy in reclassifying all of them. He again said he wanted to understand the difference between B1 & B2 in reference to Ms. Scherr’s comment that Ms. Wilson qualifies for the reclassification under either subsection. He suggested looking at the duties of the four employees in that classification.

Vice-Chairperson Zenor-Davis expressed frustration and asked several times during the process why Ms. Wilson had not submitted paperwork. He said the response was always, “we don’t know.” However, he believes that a more productive process would have resulted if it had been made clear from the beginning that the lack of paperwork was the issue.

Ms. Wilson asked for an investigation and thanked Vice-Chairperson Zenor-Davis for acknowledging his frustration with this situation. She asked for protocol and procedure, so there is accountability and not an arbitrary process. Vice-Chairperson Zenor-Davis clarified that the paperwork was not arbitrary because it triggers a process to determine if people are working out of class and, if they are, to what degree they are working out of class. He reiterated that all four people were encouraged to submit the paperwork. Ms. Scherr referenced the 10/6/22 Personnel Commission meeting; when asked why the other two did not submit paperwork, the Commission was told other concerns with the Administrator had caused Ms. Wilson's reluctance to move forward with the process.

Chairperson Goldstein said desk audits are the only way to see what a person does or does not do on the job. There should have been more clarity earlier as to whether or not this was a process that could move as a wave. In October, it pivoted to individuals instead of a group because Secretary Castillo got enough information to question whether or not the jobs were similar enough or not. She suggests desk audits for the two who did not have them. Commissioner Roter and Vice Chairperson Zenor-Davis agreed with the suggestion. Secretary Castillo reiterated his original suggestion in the 10/6/22 meeting regarding future reclassification requests and reminded the Commission that this position will be looked at in the first phase of the classification and compensation study. Chairperson Goldstein requested a desk audit outside the study since this started before the decision was made to conduct the study. Secretary Castillo responded to Ms. Wilson that his authority comes from the Commission.

Monica McClinton, Budget Analyst II, thanked Chairperson Goldstein for suggesting a desk audit for Ms. Wilson. However, she expressed concern that the desk audit will not be fair due to Secretary Castillo's reluctance to do it outside the classification and compensation study. Frank Hernandez reiterated that the merit rules clearly state that Ms. Wilson should be reclassified.

Chairperson Goldstein made a motion to ask Secretary Castillo to conduct a desk audit for Ms. Wilson and Ms. Stepney; Vice-Chairperson Zenor-Davis seconded the motion.

Approved, 3-0.

The Personnel Commission took a break at 4:24.

The session reconvened at 4:35.

b. Working session, Revision of Personnel Commission Merit Rules and Regulations.

The Personnel Commission continued to review Chapter 10, Hours of Employment and Overtime of the CSPCA Model Merit Rules. Philip Gordillo, President of CSPCA and former interim Executive Director, Classified Personnel at BUSD, was a special guest at this part of the session. He provided expertise and guidance on specific questions related to revising the merit rules and regulations.

6. Public Comment

Mr. Hernandez again expressed disappointment with how Ms. Wilson’s situation has been handled.

Ms. Scherr again expressed disappointment that the District’s merit rules are being violated as it concerns Ms. Wilson’s situation. She is concerned that the desk audit will not be fair due to Mr. Castillo’s reluctance to do it. She suggested that a third-party conduct the audit for fairness.

Secretary Castillo congratulated Chairperson Goldstein on completing her final meeting as Chairperson and thanked her for her extra year of service as a Chairperson. Chairperson Goldstein thanked the acknowledgment and said she looked forward to seeing how Vice-Chairperson Zenor Davis runs the operation.

7. Next Meeting

The next regular Personnel Commission meeting will be held on January 12th, 2023, at 4:30 pm. No special meetings are scheduled at this time.

8. Adjournment

The meeting was adjourned at 5:56 pm.