

BERKELEY UNIFIED SCHOOL DISTRICT

ADOPTED MINUTES

MINUTES, REGULAR MEETING

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Wednesday, August 20, 2003

District Administrative Offices

2134 Martin Luther King Jr. Way

Berkeley, CA 94704-1180

**CALL TO ORDER**

President Joaquin J. Rivera called the meeting to order at 5:04 p.m. and the Board recess to Closed Session.

**ROLL CALL**

**MEMBERS PRESENT:** President Joaquin J. Rivera  
Vice President John T. Selawsky  
Director Shirley Issel  
Director Nancy Riddle

**MEMBER EXCUSED** Director Terry S. Doran

Administration Superintendent Michele Lawrence, Secretary

Prior to Closed Session, as necessary, staff/employee comments are taken per Government Code Section 459567

No one addressed the Board at this time.

Recess to Closed Session (Government Code Sections 3549.1(d), 54956.9, 54956.9(a) 54957 and Education Code Section

- a) Conference with Legal Counsel—Existing Litigation
- b) Consideration of Student Expulsion
- c) Collective Bargaining
- d) Public Employee Discipline/Dismissal/Release
  - 1) Benefits Specialist
- e) Public Employment Appointments
- f) Liability Claims
- g) Property Acquisition

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\*The Student Director does not attend Closed Session.

The Board recessed to Closed Session at 5:00 p.m. and reconvened in Public Session at 6:00 p.m.

### **PUBLIC INPUT REGARDING FRANKLIN AND ADULT SCHOOL**

The Board heard input from both citizens and staff regarding the Franklin and Adult School Project. Twenty-two speakers spoke against the project and fifteen speakers spoke in favor of the project.

President Rivera ended the Public Input at 7:17 p.m.

### Recess to Closed Session

The Board recessed to Closed Session at 7:17 p.m. and reconvened in Public Session at 7:30 p.m.

### **SWEARING IN OF STUDENT BOARD DIRECTOR BRADLEY JOHNSON**

President Joaquin J. Rivera performed the Swearing In Ceremony for Incoming Student Board Director Bradley Johnson. Student Director Johnson took his seat on the Board and said he is looking forward to serving on the Board. He then introduced his family members who were in attendance.

### Report Closed Session Action

President Rivera said the Board discussed the following items in Closed Session.

- a) Conference with Legal Counsel—Existing Litigation
- c) Collective Bargaining
- d) Public Employee Discipline/Dismissal/Release

No action was taken.

### Approve Minutes

Motion: Directors Issel/Selawsky and approved 3-0-1(1)-1-0 on voice vote:

That the Board of Education Minutes are approved as follows:

Special Meeting of April 30, 2003  
Special Meeting of May 19, 2003  
Special Meeting of June 10, 2003  
Regular Meeting of June 18, 2003

Approve Minutes (continued)

That the Special Meeting Minutes of May 13, 2003 are approved as amended. The amendment is that the meeting was held at Washington Elementary School Library, 2300 Martin Luther King Jr. Way, Berkeley, California, 94705.

AYES: Directors Issel, Rivera, Selawsky  
NOES: None  
ABSTAIN: Director Riddle, (Student Director Johnson)  
EXCUSED: Director Doran  
ABSENT: None

Approve Agenda

Motion: Directors Selawsky/Issel and approved 4-0-0-1-0 on voice vote:

That the Regular Meeting Agenda of August 20, 2003, is approved as amended. The amendment is that items 2.1-C, 3.1-C, 3.5-C, 4.1-C, 4.4-C, 4.11-C, and 4.12-C are pulled for further clarification.

AYES: Directors Issel, Riddle, Rivera, Selawsky  
NOES: None  
ABSTAIN: None  
EXCUSED: Director Doran  
ABSENT: None

The Board agreed, by consensus, to act on item 4.1-A: Approval of the Mitigated Negative Declaration for the Franklin Adult School Project, after the Consent Items.

**PUBLIC TESTIMONY**

Eight people addressed the Board.

**REPORTS**

Union Representatives' Report

No one addressed the Board at this time.

Superintendent's Report

Superintendent Lawrence reported that principals will be attending GLAD training Thursday and Friday of this week. She said staff is completing last minute details in preparation for the opening of school.

Board Members' Comments

Student Director Johnson announced the date of the next clean-up day at Berkeley High School. He said Berkeley High School students have welcomed Mr. Jim Slem, the new principal. Director Issel congratulated and welcomed Bradley Johnson, the new Student Director. She said the King Dedication which was held Saturday, August 23, 2003, was outstanding. Director Riddle welcomed Student Director Johnson on the Board. Vice President Selawsky welcomed Student Director Johnson and said he looks forward to working with him. Director Doran welcomed Student Director Johnson. He said he looks forward to the opening of a new school year. He reported that he attended the District's Annual Management Team Meeting.

**CONSENT ITEMS**

The Board pulled, for further consideration, Items 2.1-C, 3.1-C, 3.5-C, 4.1-C, 4.4-C, 4.11-C, and 4.12-C.

Motion: Directors Selawsky/Riddle and approved 4(1)-0-0-1-0 on voice vote:

That the remainder of the Consent Items are approved.

2.1-C: Acceptance of Personnel Report

Please see page 13 of these minutes for action on this item.

2.2-C: Delegation of Authority to Accept Resignations

2.3-C: Berkeley High School Custodian Allotment

2.4-C: 2003-2004 Calendars

3.1-C: 2003-04 Revised Single Plan for Student Achievement for Berkeley Alternative High School and Rosa Parks Elementary School

Please see page 14 of these minutes for action on this items.

**CONSENT ITEMS** (continued)

- 3.2-C: English Language Acquisition Program Application
- 3.3-C: After School Learning Program (ASLP) Fee Increase for 2003-2004
- 3.4-C: Initial Non-public School Placements for Special Education Students
- 3.5-C: Upgrade Administrative Secretary to Program Coordinator in the Office of Student Services

Please see page 15 of these minutes for action on this item.

- 3.6-C: Adult School Vice Principal
- 3.7-C: Three-Step Salary Schedule for Adult School
- 3.8-C: Adult School Course Approval for 2003-2004
- 4.1-C: Approval of Contracts/Purchase Orders for Services and Contracts

Please see page 15 of these minutes for action on this item.

- 4.2-C: Approve Listing of Warrants issued in May, June and July 2003
- 4.3-C: Approve Payroll Warrants issued in June and July 2003
- 4.4-C: Resolution 03-07 Ratification of Change Orders for Additional Work for the Cragmont Playfield Renovation

Please see page 16 of these minutes for action on this item.

- 4.5-C: Amendment of Agreement to Bid Schedule No. 1330 for Bread Products
- 4.6-C: Amendment of Agreement to Bid Schedule No. 1326 for Custodial Supplies
- 4.7-C: Amendment of Agreement to Bid Schedule No. 1328 for Milk and Milk Products
- 4.8-C: Amendment of Agreement to Bid Schedule No. 1329 for Produce and Products
- 4.9-C: Approval to Accept the Replacement of the Water Line at Berkeley High School Community Theater
- 4.10-C: Resolution 03-04: Accept the Project and Authorize Staff to file the Notice of Completion

**CONSENT ITEMS** (continued)

- 4.11-C: Resolution 03-05: Approve a Change Order for the New Campus Green Project at Berkeley High School

Please see page 16 of these minutes for action on this item.

- 4.12-C: Resolution 03-06: Closure of State School Building Lease Purchase Program Fund (Fund #30) at the Alameda County Treasurer's Office

Please see page 16 of these minutes for action on this item.

- 4.13-C: Resolution 03-08: Approval of Change Order for the Project to Replace the Fire Sprinkler Line at Berkeley High School Community Theater

- 4.14-C: Authorization to Release Ponderosa Tree Services for Bid Award, Resolution 02-91 and Re-Award Dead and Diseased Tree Removal and Tree Pruning Services at Various Sites to Clary Bros. Landscape, Inc., New Resolution 03-09

- 4.15-C: Liability Claims Submitted to the District

- 4.16-C: Resolution 03-11 to correct the 2003-2004 tax rate for the "Berkeley Public Schools Educational Excellence Act of 1994" (Measure B, 1994—Schools Special Tax)

**ACTION ITEMS**

4.1-A

Approval of the Mitigated Negative Declaration for the Franklin Adult School Project

Superintendent Lawrence said that the Approval of the Mitigated Negative Declaration does not prevent the disapproval of the Franklin Project should the Board take action on this item. She said these are two entirely separate items and one is not required in order to vote on the other. Superintendent Lawrence then deferred to Mr. Lew Jones, Director of Facilities.

4.1-A

Approval of the Mitigated Negative Declaration for the Franklin Adult School Project (continued)

Mr. Jones reiterated that there are two items before the Board. The Mitigated Negative Declaration is the environmental document and if that is approved, staff will move forward with the required postings at the County. He then reviewed the process. In January, the Board asked the staff to look at the feasibility of housing the Adult Program at the Franklin site. Over the next two months, facilities personnel and the architects met with the Adult School staff to explore this option. In March, a verbal update was provided to the Board. In this report, staff reported that the Adult School could fit at the Franklin site. Subsequent to that update, the Board hired an environmental (CEQA) consultant to help explore the implications of the proposed move and began the community process.

Mr. Jones reviewed the environmental implications for the Adult School's move to the Franklin site. He said this move is governed by the California Environmental Quality Act (CEQA) which is very specific about what you need to look at and analyze when proposing such a move. The District performed an initial study to help frame the issue. After review of the initial study, the District determined that a Mitigated Negative Declaration was the appropriate environmental document to develop and circulate for comment.

With a Mitigated Negative Declaration you have to issue it for public comment for a minimum of 20 days but if you go to the State Clearing House you have to issue it for a longer comment period. The comment period opened July 2, 2003 and closed August 1, 2003. The District received 13 letters; including two from the city staff and two letters from one person. The comments fell into a number of categories. There were comments on the San Pablo Avenue driveway; there were comments on it being linked to other projects; there were traffic circulation and parking questions; comments about the city's general plan; concerns about enforcement of mitigations; letters regarding crime, noise and open space; a couple of miscellaneous comments and a couple of minor inaccuracies of the project description.

Mr. Jones explained the supporting documents in the Board packet or sent previously to the Board. All these documents are relevant to the proposed action and are being considered prior to a Board decision. The following documents are being considered as a part of the action: the Mitigated Negative Declaration; the comments received; the response to the comments as prepared by our CEQA consultant; and an addendum to the Board document regarding the possibility of installing a driveway at San Pablo Avenue. Also included in the packet is a summary of mitigation measures.

4.1-A

Approval of the Mitigated Negative Declaration for the Franklin Adult School Project (continued)

Mr. Jones said the CEQA process is not intended to solve all of the issues or address all of the concerns that people may comment on. Certain items may be important to an individual or the Board, but are not part of the environmental review requirements. The purpose of this action item is the approval of the environmental document as required by CEQA.

Some comments and questions from Board members included the following:

Vice President John Selawsky

Vice President Selawsky said there have been a lot of comments and confusion about the San Pablo Avenue cut. According to a fax received by Board Members late last Friday, it seems as if Cal Trans (California Department of Education) was denying a curb cut on San Pablo. He asked Mr. Jones to clarify this issue.

Mr. Jones said as part of the process, Cal Trans receives a copy, through the State Clearing House, of the document so they had a copy of the first document that was done. He said staff, too, was surprised to receive the fax. Mr. Jones said we had a project manager meet with Cal Trans representatives very early in the process to try to get a sense of whether or not they could approve or what their process would be for this project. At the time, staff was looking at the possibility of having either one entry and exit on San Pablo Avenue or only having an entrance on Francisco Street.

In that initial discussion, Cal Trans representatives were very cool to the project manager about going forward with that proposal. Their concern was focused on how drivers could enter the site from the north and they did not want to have a median cut on San Pablo to provide entry to the site.

Vice President John Selawsky

Vice President Selawsky asked whether we could include a permeable surface parking lot if we found sufficient information and sufficient reason to utilize it.

Mr. Jones said there are a number of permeable alternatives. He said staff will need to do more research prior to proceeding with a recommendation.



4.1-A

Approval of the Mitigated Negative Declaration for the Franklin Adult School Project (continued)

Director Nancy Riddle

Director Riddle said she would like more time to get some documentation on who contracted or agreed to have the playground on the east end of the Franklin site. She stated that some community members thought that the traffic study was flawed. She asked staff to tell her about the qualifications of the person who did the study.

Mr. Jones said the traffic engineers have done a number of projects for the city of Berkeley. He said that the city traffic department directed the consultant on which intersections to study and the District complied with that request.

Director Shirley Issel

Director Issel addressed the issue of communication from concerned neighbors near the Franklin site. She discussed the issues raised by the city manager about the potential link between the Adult School move and other projects, and concerns mentioned regarding the adequacy of the parking study. She said she conducted an extensive review with a variety of consultants reading the legal issues that were raised and based on her research, she can support the item.

President Joaquin J. Rivera

President Rivera said he agrees that the Mitigated Negative Declaration is adequate. He is, however, still concerned about the traffic in the neighborhood. He said: "I hope that if we move on with this, we will continue to work with the Franklin neighbors and city to make sure that we address the issues that have been raised."

Motion: Directors Issel/Selawsky and approved 4(1)-0-0-1-0 on voice vote:

Approval of Resolution 03-02, which will adopt the final Mitigated Negative Declaration for the Franklin Adult School Project.

AYES: Directors Issel, Riddle, Rivera, Selawsky, (Johnson)

NOES: None

ABSTAIN: None

EXCUSED: Director Doran

ABSENT: None

4.2-A

Resolution 03-01: Approval of Franklin Adult School Project and Approval to Solicit Bids for that Project

Superintendent Lawrence said tonight staff will provide information about the impact of the decision that the Board will make tonight has on the programmatic issues around Adult Education.

Ms. Margaret Kirkpatrick, Principal, Berkeley Adult School, presented an overview of the Berkeley Adult School Program. She said she, her staff and students, are wholeheartedly in favor of this move. She said staff input has been accomplished by staff meetings; staff visits to the Franklin site accompanied by the architects for the project; and staff visits to the Franklin site without the architects. Ms. Kirkpatrick provided the following information:

- The Berkeley Adult School population consist of 40% males and 60% females
- The ethnic groups consist of 20% Asian; 23% African American; 24% Hispanic and 23% Caucasian
- Students attend school as follows: 47% every day; 11% once a week; 11% twice a week; 10% three times a week; 19% four times a week
- When students attend school is as follows: 45% in the morning; 23% in the afternoon; 33% in the evening.
- Community service: Dance, Drama, Health, Languages and professional growth.
- Successes for 2002-2003: the largest graduating class—over 140 students graduated in 2002-2003
- Standardized test results for ESL (English as a Second Language); ABE (Adult Basic Education) and ASE (Adult Secondary Education).
- Recipient of two EL (English Language) Civics grants including Civic participation.

Ms. Kirkpatrick elaborated on the disadvantages to the University Street site:

- Inadequate lighting
- Antiquated telephone system
- Inadequate wiring
- No access to second and third floors
- Inadequate access to restrooms
- Nonstandard and inadequate teaching space

4.2-A

Resolution 03-01: Approval of Franklin Adult School Project and Approval to Solicit Bid for that Project (continued)

Ms. Kirkpatrick outlined the advantages to moving to the Franklin site:

- Adequate lighting
- Adequate communication
- Standard teaching stations
- Wiring for technology
- Student and staff access
- A school that demonstrates respect for our students and staff.

Mr. Caleb Dardick, Community Relations Consultant, summarized the District's outreach over the last five months. He said he and District staff have had full and open communication with community members; site tours have been held at the Franklin site; three community meetings have been held; a site committee has been formed that the Franklin neighbors helped to select the membership; an internet site has been set up; we have a data base of 175 people who have expressed interest in this issue; notices have been sent via U. S. mail and telephone calls have been made.

President Joaquin Rivera

Joaquin Rivera said despite all of the outreach that was conducted by staff, there is still a feeling among the Franklin neighbors that they were not heard and that they were excluded from the process. He wanted to know what plans staff has to re-engage the neighbors and address their concerns.

4.2-A

Resolution 03-01: Approval of Franklin Adult School Project and Approvals to Solicit Bids for that Project (continued)

Superintendent Lawrence said she plans to create a mutual site committee and community advisory committee composed of Franklin neighbors and Adult School staff to address these concerns.

Motion: Directors Issel/Selawsky and approved 4(1)-0-0-1-0 on voice vote:

Approval of Resolution 03-01: Approval of the Franklin Adult School Project and Approval to Solicit Bids for that Project.

AYES: Directors Issel, Riddle, Rivera, Selawsky, (Student Director Johnson)

NOES: None

ABSTAIN: None

EXCUSED: Director Doran

ABSENT: None

4.3-A

Certification of 2003-2004 Multi-Year Projections

Mr. Eric D. Smith, Deputy Superintendent, Business and Operations, said based on a projection of current year revenue and expenditures, the District's combined General Fund (including Measure BB and BSEP carryover), is projected to end the 2003-2004 fiscal year with a deficit of \$5,829,598.

He recommended that the Board accept the Multi-Year Projections for FY 2003-04, Adoption, certifying that the District will be unable to meet its financial obligations for the current and two subsequent years without significant expenditure reductions and revenue enhancements.

President Rivera reminded everyone that we still have deficit. He requested that staff submit a report to the Board regarding the District's Recovery Plan which was adopted by the Board. He would like to know what has been implemented and what has been partially implemented. He requested that the Nutrition Services numbers be included in the Multi-Year Projections. In fact, he said, everything should be included.

4.3-A

Certification of 2003-2004 Multi-Year Projection (continued)

Motion: Directors Issel/Riddle and approved 4(1)-0-0-1-0 on voice vote:

Acceptance of the Multi-Year Projection of the 2003-2004 Adoption, certifying that the District will be unable to meet its financial obligations for the current and two subsequent years without significant expenditure reductions and revenue enhancements.

AYES: Directors Issel, Riddle, Rivera, Selawsky, (Student Director Johnson)

NOES: None

ABSTAIN: None

EXCUSED: Director Doran

ABSENT: None

**AGENDA REORDER**

2.1-C

Acceptance of Personnel Report

President Rivera said: "The reason I pulled this item is when this issue first came up, I opposed the upgrading of those two positions from Manager to Assistant Director which was a mistake, it was Director and I still feel the same way. The reason why I am willing to vote for this report as it is right now is that it is just a technical change. The Board has already made a decision but my strong feelings from July still exist."

Motion: Directors Selawsky/Riddle and approved 4-1-(1)-1-0 on voice vote:

Acceptance of the Personnel Report 03-24, as submitted.

AYES: Directors Issel, Riddle, Rivera, Selawsky

NOES: None

ABSTAIN: (Student Director Johnson)

EXCUSED: Director Doran

ABSENT: None

3.1-C

2003-04 Revised Single Plan for Student Achievement for Berkeley Alternative High School and Rosa Parks Elementary School

Superintendent Lawrence explained that the California Department of Education requires all schools participating in school-based coordinated categorical programs to have a board approved three-year Single Plan for Student Achievement that is revised annually.

Superintendent Lawrence and Director Issel discussed the district-wide goals and how and when the goals have been disseminated. Director Issel said there has not been an adequate process of the goals. Superintendent Lawrence suggested that Mr. Neil Smith, Director, Curriculum and Instruction and Ms. Carla Basom, Manager, State and Federal Projects, come before the Board in late September or early November and make a full presentation regarding the various programs that tie in with the District's goals, such as Staff Development; Special Education; Training; and Teacher Standards.

President Rivera noted that there are no measurable goals for Rosa Parks' goals 3 and 4. Also, he said we need to look at disaggregated groups and make sure that we focus on those groups who have the lowest test scores. These students need to make more progress in order to bridge the achievement gap. Those pieces should be included in the Rosa Parks Plan. He said staff should be accountable from year-to-year and, if goals are not met, we need to find out what happened.

Director Issel said she would like for staff to report back on goal achievement at the end of each year.

Motion: Directors Selawsky/Riddle and approved 4(1)-0-0-1-0 on voice vote:

Approval of the revised Single Plan for Student Achievement for Berkeley Alternative High and Rosa Parks Elementary School.

AYES: Directors Issel, Riddle, Rivera, Selawsky, (Student Director Johnson)

NOES: None

ABSTAIN: None

EXCUSED: Director Doran

ABSENT: None

3.5-C

Upgrade Administrative Secretary to Program Coordinator in the Office of Student Services

This item was tabled.

4.1-C

Approval of Contracts/Purchase Orders for Services and Contracts

President Rivera said he pulled this item because he is concerned about the amount of money we are spending on photocopying services.

Superintendent Lawrence said staff will come back to the Board with a comprehensive proposal regarding photocopying services. She said after the Board approves the plan and the plan has been put in place, there will be more consistency and more control over repairs of machines.

Director Issel requested that staff speak with the appraiser regarding the Hillside site on LeRoy Avenue to address, in the appraisal, issues associated with deferred maintenance.

Motion: Directors Selawsky/Riddle and approved 4(1)-0-0-1-0 on voice vote:

To authorize the Deputy Superintendent or Purchasing Agent to execute Purchase Orders.

AYES: Directors Issel, Riddle, Rivera, Selawsky, (Student Director Johnson)

NOES: None

ABSTAIN: None

EXCUSED: Director Doran

ABSENT: None

4.4-C

Resolution 03-07: Ratification of Change Orders for Additional Work for the Cragmont Playfield Renovation

Motion: Directors Selawsky/Riddle and approved 4(1)-0-0-1-0 on voice vote:

Approval of Resolution 03-07: Ratification of Change Orders for Additional Work for the Cragmont Playfield Renovation.

AYES: Directors Issel, Riddle, Rivera, Selawsky, (Student Director Johnson)

NOES: None

ABSTAIN: None

EXCUSED: Director Doran

ABSENT: None

4.11-C

Resolution 03-05: Approve a Change Order of the New Campus Green Project at Berkeley High School

Mr. Lew Jones, Director of Facilities, said that the Board must approve all change orders in excess of 10% of the contract value. The total change recommended is in excess of that amount.

Motion: Directors Riddle/Issel and approved 4(1)-0-0-1-0 on voice vote:

Approval of Resolution 03-05: Change Order for the New Campus Green Project at Berkeley High School.

4.12-C

Resolution 03-06: Closure of State School Building Lease Purchase Program Fund (Fund #30) at the Alameda County Treasurer's Office

Mr. Eric D. Smith, Associate Superintendent of Business and Operations, explained that the District has several major funds that account for the District's revenues. The Lease Purchase Program Fund was established to account for State revenues for capital facilities projects pursuant to the State Lease Purchase Program. In November 1998, the State School Facilities Program was created and the District was required to establish a County School Facilities Fund.

Because there are no proceeds in the Lease Purchase Fund, the fund is accruing negative interest at the County Treasurer's Office and the District is losing money.



4.12-C

Resolution 03-06: Closure of State School Building Lease Purchase Program Fund (Fund #30) at the Alameda County Treasurer's Office (continued)

Motion: Directors Selawsky/Riddle and approved 4-0-0-1-0 on voice vote:

Approval of Resolution 03-06: The Closure of Lease Purchase Funds at the Alameda County Treasurer's Office.

AYES: Directors Issel, Riddle, Rivera, Selawsky, (Student Director Johnson)

NOES: None

ABSTAIN: None

EXCUSED: Director Doran

ABSENT: None

**CONFERENCE**

4.1-CF

First Reading: Board Policy 3320, Claims and Actions Against the District

Mr. Eric D. Smith, Associate Superintendent of Business and Operations, reported that currently the District does not have a Board Policy for claims and actions against the District and that one is needed to protect the District.

Motion: Directors Selawsky/Issel and approved 4(1)-0-0-1-0 on voice vote:

Accept, for First Reading, Board Policy 3320 regarding Claims and Actions against the District.

AYES: Directors Issel, Riddle, Rivera, Selawsky, (Student Director Johnson)

NOES: None

ABSTAIN: None

EXCUSED: Director Doran

ABSENT: None

**INFORMATION**

3.1-I

Administrative Regulations regarding parent notification of Student Directory Information

Superintendent Lawrence reported that the administrative regulation outlines the procedures Berkeley School District will use to implement this legislation. The significant change to students and parents is that unless they return the appropriate form no information will be released which, if not attended by parents/guardians, could lessen the college contacts with their students.

Vice President Selawsky wanted to know how this information would be disseminated.

**EXTENDED PUBLIC TESTIMONY**

No one addressed the Board at this time.

**ADJOURNMENT**

President Rivera declared the Regular Meeting of August 20, 2003, adjourned at 10:53 p.m.

**APPROVED:**

**ATTEST**

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President, Board of Education  
Berkeley Unified School District

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Secretary, Board of Education  
Berkeley Unified School District

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