

June 7, 2012 Meeting Minutes

Call to Order

The meeting was called to order at 3:05pm. The quorum was established and the Commission went into closed session.

Report from Closed Session

The Commission returned from closed session at 4:08pm. Chairperson Dan Lee reported that the Commission made progress on setting up the appeal hearings for a couple of classified employees. They also discussed the performance evaluation of the Director, Classified Personnel.

Approval and Adoption of Agenda

Chairperson Lee asked if there were any changes to the agenda. Denise Diggs-Ray, union representative, BCCE, requested that Public Comments be at the top of the agenda as there are people who would like to comment but will not be available for the whole meeting. The request was approved.

Chairperson Lee asked if there were any consent items that needed to be pulled. No additional changes were made. A motion was made to approve agenda as amended.

Approved 2 – 0

Swearing in of Commissioner Nominated by BCCE

John Selawsky, President, Board of Education, provided the Oath of Allegiance and Timothy Carter was officially sworn in as Personnel Commissioner.

Public Comments

Ms. Diggs-Ray, BCCE, distributed copies of an Agenda Item Request Form submitted in May, which recommended that the Personnel Commission put together a binder that contains policies and procedures, i.e. those for application for employment, along with changes and dates of changes. She also spoke about prior administrations' practice regarding notifications and examinations. She asked the Commissioners to review her request.

Consent Items

Ratification of Eligibility Lists-

Chairperson Lee moved to ratify eligibility list items A- C.

- a). Custodian I
- b). Custodian II
- c). Risk Management, Workers' Compensation & Benefits Supervisor

Tracie De Angelis, Administrative Coordinator, Human Resources, expressed support for the extension of the Eligibility List for Dinesh Kumar who is still on medical leave, since he may not be familiar with the process for requesting an extension. She requested that the Personnel Commission review options for Mr. Kumar who was gravely injured and has not been able to return to work.

BCCE President, Paula Phillips commented that she had been informed that some BCCE members have not been provided with the opportunity to review and appeal their test scores. Secretary Perez requested specifics regarding her statement.

On behalf of district administration, Lew Jones, Director of Facilities, expressed support of the request to extend the eligibility dates for Dinesh Kumar.

Paula Phillips, BCCE, also supported the extension of the eligibility List for Dinesh Kumar and requested that all names on the list be extended, as has been done in past practice.

Approved 3 - 0.

Approval of the Minutes

Chairperson Lee asked if there were any corrections to the May 3, 2012 Meeting Minutes. President Phillips requested a couple of changes.

President Phillips requested clarification regarding the courtesy typing test. Randy Perez, Director, Classified Personnel and Secretary to the Personnel Commission explained that a test was administered but was not scored and calculated into the average. The Commission staff offered candidates the opportunity to take the typing test to meet requirements if they were not able to go to a testing facility. Secretary Perez clarified that, if a position requires a typing test, a candidate is informed that the Commission staff can administer the test if the candidate is not able to obtain a typing certificate. Ms. Diggs-Ray inquired whether employees would have the opportunity to take the test if they wanted to have the information added to their personnel file for future reference. She asked that the Commissioners consider allowing employees to take the test, if they so desire, and have it placed in their personnel file.

President Phillips raised questions regarding the number of vacancies at the King Dining Commons and Berkeley High School food services, which are being filled with substitute employees. Secretary Perez informed her that he had addressed those issues at the last meeting: Nutrition Services has had to deal with several employees being on leave. President Phillips stated that she will ask for that response at the next Labor Management Committee meeting (LMC). She thanked Chairperson Lee for requesting a list of the testing to be placed on the agenda.

Minutes approved 3-0.

Chairperson Lee asked if there were any corrections to the May 29, 2012 Meeting Minutes.

Ms. Diggs-Ray commented that the Budget hearing was held at a time when employees were not able to attend. They may have had questions if they had been able to attend. President Phillips informed the Commission that she was not aware that the meeting was being scheduled because she was on vacation. A discussion ensued regarding methods of informing- in a timely fashion- the union and other interested parties about Personnel Commission meetings. Secretary Perez clarified that President Phillips did receive an email and that the meeting was posted in the front of the building and in the hallway. Commissioner Carter asked if there was a way to re-hear the meeting. Chairperson Lee commented that the meeting was publicly announced and the information has been in the packets in the last two (2) agenda packets. Secretary Perez commented that the hearing cannot be re-done statutorily.

Chairperson Lee moved to approve the Minutes of May 29, 2012.

Minutes approved 3-0.

Conference Item

Request for reclassification

Paula Phillips, BCCE clarified that the District is requesting the reclassification of Jose Hernandez to Lead Grounds Gardener and that the union is in support of this action. Various letters provided by Mr. Hernandez, as well as letters from principals and other certificated staff supported this request.

Lew Jones, Director of Facilities, explained that, historically, there have been two crews that are independently scheduled, each with a lead tradesperson. He stated that Mr. Hernandez has been functioning as a lead grounds gardener through gradual accretion of duties for a couple of years and should be made permanent in that position.

Steve Collins, Maintenance Manager, commented that three years ago this position was reclassified as lead. In recognition of that, Mr. Hernandez has been paid a 5% differential for working out of class.

Chairperson Lee stated that he was unclear why a reorganization wasn't recommended. The District is going to do another reclassification study and has not approved job changes due to accretion of duties, although there have been situations where there has been a reclassification. It is important to note that Mr. Hernandez has been in the job for more than two years.

Vice-Chairperson Aoyagi agreed and supported the reclassification of Jose Hernandez.

Jose Hernandez, Grounds Gardener, spoke on his own behalf and requested that the Personnel Commission reclassify him to a Lead Grounds Gardener. He stated that he had been employed as a grounds gardener in the BUSD since 1979. He has trained the City of Berkeley students that have been assigned to his crew. He has been doing the lead position for 11 years, receiving a 5% differential for this work. This is a big responsibility that has been given to him verbally, but not on paper, and he is not being paid at the rate of the lead worker.

Ron Jackson, BCCE Executive Director, pointed out that representatives present from the District — including both Mr. Hernandez' supervisor and his supervisor's supervisor-- and from Human Resources are not opposing the recommendation. We now have someone who has been waiting for years for the correct classification. The commission can make the recommendation if the motion is made.

Secretary Perez stated that, upon review of the information submitted, it was his opinion that Mr. Hernandez would fall into the lead category. Commissioner Carter asked if Secretary Perez was the person that would be making the recommendation. Secretary Perez said that he would.

Roderick Carraway stated that he has been with the District sixteen years and has worked with Mr. Hernandez since 1996. He has seen his work with the Weekend Offenders Program, and with students and many others. This decision affects not only Mr. Hernandez but also the other employees that work under him. He has trained most of the grounds gardeners that have come into the District. He is well respected in the community. He has been here thirty-three years. Mr. Carraway expressed his belief that Mr. Hernandez should not wait any longer to be reclassified.

Based on the information presented to the Personnel Commission, which included letters, job descriptions, statements from staff and management, Commissioner Carter moved to reclassify Jose Hernandez to Lead Grounds Gardener effective June 7, 2012.

Approved 2 – 1

Chairperson Lee thanked Mr. Hernandez for all of his work for the District.

Information Items

Chairperson Lee stated that a list of new employees being hired and of examinations will be put into the agenda each month.

President Phillips commented that Jaqueline Boutte was not added to the list on the agenda. Secretary Perez replied that the list is notification of new hires only, not re-hires. Chairperson Lee stated that Secretary Perez was following directions, but added that President Phillips had brought up a good point regarding re-hires being added to the list.

Reports

Union

President Phillips reported that there are still concerns regarding vacancies not being posted at all sites and vacancies not being filled. There are about 20-30 positions that the union is aware of that have been open since last school year. One example is the position in the Student Admissions office; others are the Senior Records Clerk and the eight positions in Nutrition Services, to name just a few. According to the Writ of Mandate, the Personnel Commission is supposed to notify the union within five days when the District needs to hire a LTE. The District did adopt a process, but it is not following this process. The union found that a lot of the documents were stale dated.

Another concern is that members are being denied their re-employment rights. Some members have received notices that they are being terminated after exhausting their sick leave. These employees have received a work-related injury and are being forced to use up their sick leave. When a claim has been denied, it doesn't negate the fact that there is a workers comp injury. The letters that union members are receiving state that they have exhausted their sick and vacation leave, and that they are being placed on the 39 month re-employment list. They are bringing medical notices to the District which are being ignored. A union member, who was denied re-employment, could have been placed in a position when he was ready and able to return to modified duty. In addition, the District is also violating COBRA because union members are not receiving COBRA notifications. Section 45195 of the Ed Code applies to members that exhaust sick leave. If the District is not allowing members to return to work with modified work duty, then it is violating ADA regulations.

BCCE filed a grievance when the District hired contractors and student workers to perform bargaining unit work of a laid-off employee.

President Phillips requested that Karl Hardiamon be reinstated.

Commissioners' Reports

Personnel Director

Secretary Perez reported that he had met with Commissioner Carter and talked with him about the merit commission annual conference and training. He noted that he found Mr. Carter to be smart and articulate.

Commissioners

Vice Chairperson Aoyagi had nothing to report; she welcomed Tim Carter to the Personnel Commission.

Chairperson Lee also welcomed the new commissioner and advised that Commissioner Carter attend the Merit Academy conference. Chairperson Lee found the information presented there very useful.

Chairperson Carter expressed his appreciation for the warm welcome.

Public Comment

Delia Ruiz, Assistant Superintendent, Human Resources, recommended that the Commission consider changing the next meeting date from July 5, 2012 since there may be many people wanting to attend who would be absent immediately following a holiday.

Chairperson Lee moved to change the meeting date for the next Personnel Commission meeting to Monday, July 9, 2012 at 4:00 pm.

Approved 3 - 0.

Next Meeting

Chairperson Lee requested that Secretary Perez provide an updated Custodian II Eligibility List for all three incumbents.

Adjournment

The meeting adjourned at 5:24pm.

Respectfully Submitted:



Randy Perez
Secretary, Personnel Commission

8/3/2012

Date

Approved:

Dan F. Lee
Chairperson, Personnel Commission

Date