

September 6, 2012 Meeting Minutes

Call to Order

The meeting was called to order at 4:06pm and a quorum was established. Chairperson Lee was absent from the meeting.

Public Comment

Aneesha Broom, Food Service substitute, commented about her recent performance exam for the position of Food Service Assistant. She stated she was not forewarned about the dress code and expectations for a food service performance exam. She took the exam and said that she did not pass the exam because she was docked points for her attire and jewelry. She does not feel she was scored on her actual performance. She also stated that the test was scored by an employee with which she has had conflict. She requested that she be given the opportunity to take the exam again. Randy Perez, Director, Classified Personnel, will be investigating the test for Ms. Broom and will determine whether a retest is warranted.

Approval & Adoption of Agenda

Commissioner Carter motioned to move Item 7 from discussion to action. Delia Ruiz, Assistant Superintendent of HR, pointed out that unless agendaized, items could not be moved from discussion to action. Commission Vice Chair Aoyagi confirmed Assistant Superintendent Ruiz's statement. Paula Phillips, President, BCCE, expressed concern that union items were not being placed on as action. Director Perez explained that during a prior meeting, former Commissioner, Roy Doolan, explained that typically, items would be placed on as discussion, and if action was required, the item would be placed on the next Personnel Commission meeting as an action item. Director Perez also explained that most of the time Commission Chair Lee reviews the agenda items with Director Perez and determines the meeting agenda with him. Vice Chair Aoyagi asked to put Item 7a off as discussion on the next meeting agenda as the person requesting the item was not in attendance. Vice Chair Aoyagi motioned to adopt the agenda.

Approved: 2-0

Consent Items

Ratification of the following eligibility lists:

Vice-Chair Aoyagi asked if any of the consent items needed to be pulled from consent.

President Phillips requested to pull 5b, 5c, 5h, 5f and 5e.

- a) Custodian II
- b) Senior Records Clerk
- c) Site Coordinator, Family Engagement
- d) Food Service Assistant
- e) Instructional Assistant, Special Education, Attendant
- f) Instructional Assistant, Early Childhood Education
- g) Clerical Specialist
- h) Instructional Technician
- i) Extended Day Program Coordinator

Vice-Chair Aoyagi motioned to approve eligibility lists for Custodian II, Food Service Assistant, Clerical Specialist and Extended Day Program Coordinator.

Approved: 2-0

President Phillips asked if the test for Senior Records Clerk tested candidates that were not bilingual in addition to those that were. Director Perez stated that while the posting indicated Senior Records Clerk Bilingual Spanish required, the test included candidates that were not bilingual. The bilingual exam was administered in addition to the exams taken by candidates to be on the eligibility list.

President Phillips stated that Rafael Adames, who is on the rehire list, should have been provided an opportunity to work as a limited term employee in the Senior Records Clerk classification as well as other classifications. Human Resources is not offering jobs to Mr. Adames in accordance with his Reassignment Form.

Assistant Superintendent Ruiz clarified that a PERB charge was filed by BCCE on behalf of Mr. Adames, and PERB dismissed the charge. She also stated that at a prior meeting, Vice-Chair Aoyagi explained that paper postings go out to all sites and via district email, and anyone that knows Mr. Adames and his qualifications, including the union, could notify Mr. Adames of opportunities. Assistant Superintendent Ruiz further clarified that the District's legal responsibility is to recall an employee off the rehire list when a vacancy occurs in the classification from which the employee was laid off. She said the best approach would be for Mr. Adames to apply and test for vacancies in classifications for which he believes he is qualified. Mildred Scherr, BCCE representative, said that an investigation was never completed by Commission staff to determine whether the District was justified in the layoff Mr. Adames. She explained that the funding that paid for his position is still in the Adult School budget and has increased. Assistant Superintendent Ruiz explained that BCCE has followed two procedures on behalf of Mr. Adames: BCCE filed with PERB alleging that the District did not act appropriately during the layoff and PERB dismissed the charge stating that no evidence substantiates the claim, and BCCE has filed a grievance that is now at the arbitration level. The arbitrator will look at whether the District did anything inappropriately with regard to the layoff of Mr. Adames. There will be an objective arbitrator that will consider the sides of both the District and the union. Assistant Superintendent Ruiz recommended that we allow the arbitration process to handle the issue with Mr. Adames rather than have Commission staff spend time looking into the matter.

Vice-Chair Aoyagi motioned to ratify the eligibility list for Senior Records Clerk.

Approved: 2-0

President Phillips asked for clarity with regard to the FTE for the Site Coordinator, Family Engagement positions that were posted as six 0.5 FTE positions. The District is now combining the FTE so that there are three 1.0 positions. Director Perez indicated that the District initially asked the Commission to post as six 0.5 FTE positions, but has subsequently determined the need to be three 1.0 positions. President Phillips requested information on which sites are being combined for the three 1.0 FTE positions.

Vice-Chair Aoyagi motioned to ratify the eligibility list for Site Coordinator, Family Engagement.

Approved: 2-0

President Phillips stated that we needed to keep the names of candidates on eligibility lists when they are assigned part-time work. Director Perez explained that Article 17 of the BCCE contract addresses the issue of assuming higher FTE once employees become permanent.

Vice-Chair Aoyagi motioned to ratify the eligibility list for Instructional Assistant, Special Education, Attendant.

Approved: 2-0

President Phillips asked for clarity on the status of Diana Ortiz-Rodriguez. Director Perez said that Ms. Ortiz-Rodriguez is working as a limited term employee in the Instructional Assistant, Early Childhood Education classification.

He explained that she is a BFT unit member on a temporary leave of absence, and Zachary Pless, Program Supervisor for Early Childhood Education, has assigned her appropriately off the eligibility list as a limited term employee. President Phillips expressed concern over filling vacancies with limited term assignments. Vice-Chair Aoyagi motioned to approve the Instructional Assistant, Early Childhood Education eligibility list.

Not approved:

Vice-Chair Aoyagi voted for and Commissioner Carter voted against

President Phillips asked for clarification on whether the Instructional Technician eligibility list was Open and Promotional or just Open, and if the title of the classification was Instructional Technician, Extended Day Program. Director Perez confirmed that the list was Open and the classification was in fact Instructional Technician, Extended Day Program.

Vice-Chair Aoyagi motioned to ratify the eligibility list for the Instructional Technician, Extended Day Program.

Approved: 2-0

Conference Item

With regard to Miles Valentino:

Director Perez explained that Article 14.5.3 of the BCCE contract allows employees to demote in lieu of layoff to classifications not previously held and for which they qualify with the approval of the Personnel Commission.

President Phillips expressed concern over the contracting of *Playworks*. She stated that *Playworks* has taken the work of Mr. Valentino.

Vice-Chair Aoyagi motioned to approve assigning Miles Valentino to the Instructional Technician classification effective August 27, 2012.

Approved: 2-0

With regard to Abbey Hanson and Ernesto Marin:

Director Perez explained the differences in pay ranges and responsibilities within the Instructional Assistant, Special Education classifications. Ms. Hanson and Mr. Marin are currently at the lowest range (range 31) of Instructional Assistant, Special Education. He explained that in most cases, employees test to demonstrate qualifications, but Ms. Hanson and Mr. Marin have worked in the Instructional Assistant, Special Education, Attendant at range 33 for at least two years. BCCE requested that the Personnel Commission back date the effective date of Ms. Hanson's and Mr. Marin's reclassification to February 1, 2012.

Commissioner Carter motioned to approve BCCE's request to reclassify Abbey Hanson and Ernesto Marin as Instructional Assistant, Special Education, Attendant at range 33 effective February 1, 2012.

Approved: 2-0

Approval of Minutes

Vice-Chair Aoyagi motioned to approve the Personnel Commission meeting minutes of July 9, 2012.

Approved: 2-0

Next Meeting

Vice-Chair Aoyagi requested the union items currently under Discussion on the September 6th meeting agenda be listed as Conference Items for the October 4, 2012 meeting agenda.

Meeting adjourned at 6:46pm.

Respectfully Submitted:

Randy Perez
Secretary, Personnel Commission

Date

Approved:

Dan F. Lee
Chairperson, Personnel Commission

Date