

Berkeley Unified School District

OFFICE OF THE SUPERINTENDENT



Berkeley Unified School District

Board of Education Meeting

October 16, 2013

The Berkeley Unified School District intends to provide reasonable accommodations in accordance with the Americans with Disabilities Act of 1990. If a special accommodation is desired, please call the Superintendent's office 48 hours prior to the meeting at 510-644-8764. If translation services are needed, please call 510-644-8764 at least 72 hours in advance.

BERKELEY UNIFIED SCHOOL DISTRICT

Location: 2020 Bonar Street, Suite 126

Berkeley, CA 94702

510-644-8764

ANNOUNCEMENT OF JOINT STUDY SESSION
OF THE BERKELEY UNIFIED SCHOOL DISTRICT AND
THE BERKELEY UNIFIED PERSONNEL COMMISSION

October 16, 2013

Co-Moderators

Karen Hemphill, Board President and Ann Aoyagi, Commission Chairperson

Meeting Agenda

Board President Hemphill will be the Presiding Officer and will call the meeting to order at 6:30pm. The Board will adjourn to Closed Session after completion of the Open Session.

a. Collective bargaining – Update - BFT

APPROVE AGENDA FOR OCTOBER 16, 2013

The Berkeley Unified School District Board of Education and the Personnel Commission for the Berkeley Unified School District will hold a joint Study Session focusing on two important topics involving the relationship between the District and its classified (non-certificated) employees.

Board of Education

Karen Hemphill, President
Josh Daniels, Vice President
Beatriz Leyva-Cutler, Director/Clerk
Judy Appel, Director
Julie Sinai, Director
Shira Wolkenfeld, Student Director
Lajayah Moore, Student Director

Personnel Commission

Ann Aoyagi, Chairperson
Timothy Carter, Vice Chairperson
Dan Lee, Commissioner
Randy Perez, Secretary

Administration

Donald Evans, Ed.D, Superintendent
Javetta Cleveland, Deputy Superintendent
Neil Smith, Assistant Superintendent, Educational Services
Delia Ruiz, Assistant Superintendent, Human Resources

1. The California Merit System and its application in the Berkeley Unified School District
2. The Classification and Compensation Study pertaining to the classified service of the District

Public Testimony

Persons wishing to address the Board and/or Commission should fill out a green speaker card. Speakers will be selected by lottery. Public Testimony is limited to 15 minutes – 3 minutes per speaker.

Extended Public Testimony

ADJOURNMENT

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Donald E. Evans, Ed.D., Superintendent
Ann Aoyagi, Commission Chairperson
FROM: Delia Ruiz, Assistant Superintendent, Human Resources
Randy Perez, Director, Secretary to the Personnel Commission
DATE: October 16, 2013
SUBJECT: Joint Board and Commission Study Session - Merit System

BACKGROUND INFORMATION

The Berkeley Unified School District utilizes the Merit System for the hiring and personnel management of classified employees. The Merit System was developed in the first half of the 20th century to promote hiring, retention, and promotion based on qualification and competence. It has been adopted by many California school districts and county offices of education. The Merit System is characterized by a separate governance structure (the Personnel Commission), a separate budget, and an administration independent, in its Commission duties, of the Board of Education.

Of central importance to the efficient and beneficial operation of a Merit System school district is an accurate, effective and fair system for classification and compensation of classified employees. A Classification and Compensation Study is being conducted on behalf of the Berkeley Unified School District and its Personnel Commission. The District and the Commission will shortly begin the process of considering the Study for possible approval and implementation.

Paul R. Gant, Partner with the education law firm Kingsley Bogard LLP, will present an overview of the Merit System, including an analysis of the roles and responsibilities of the District's Board of Education, the Personnel Commission, District administration, and classified employees of the District.

The Board and the Commission will be invited to address questions to the presenter.

DISTRICT GOAL

V. Resources: Generate and equitably allocate resources for programs and services that enable every student to succeed.

POLICY/CODE

Board Policy 4200 and Education Code sections 45220-45320

FISCAL IMPACT

None

STAFF RECOMMENDATION

Receive the presentation on the Merit System and exchange information with District staff and interested members of the public regarding the Merit System and its implementation in the District.

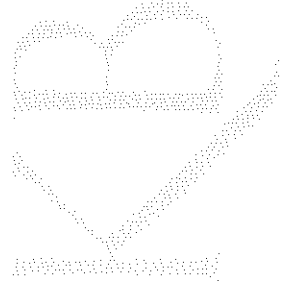


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AN OVERVIEW OF THE MERIT SYSTEM

PRESENTED BY PAUL R. GANT



History of the Merit System

- First Merit System adopted in California in 1936.
- Arose out of L.A. Unified hiring and employment scandals.
- There are now over 100 merit system districts and county offices of education.



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Fundamental Principles of the Merit System

- Recruit the most qualified candidates for classified employment.
- Promote fairness, equity, non-discrimination, and integrity in hiring, retention, and promotion.
- Insure equal pay for equal work.
- Provide for an efficient and effective workforce.
- Improve performance and advancement through training and promotion.
- Protect employee rights and provide due process.



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Legal Basis for the Merit System

- Authorized by the California Legislature in 1965.
- The statutory basis of the Merit System for K-12 school districts is set forth in Education Code sections 45220–45320.
- Personnel Commission adopts and amends Merit Rules after opportunity for input from the public, classified unions, and the District.



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Some Key Merit System Terms

- Personnel Commission
- Appointing Authority
- Eligibility Lists
- Promotional Lists
- Probationary Status
- Permanent Status
- Limited Term
- Provisional
- Emergency
- “*Substitute*” (*not a formal merit system term*)



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Relationship and Division of Responsibilities (CHART)

RESPONSIBILITIES OF THE PERSONNEL COMMISSION AND DISTRICT GOVERNING BOARD

Duty	Board	Commission
Adopt Merit Rules		X
Amend Merit Rules		X
Prepare Commission Budget		X
Approve Commission Budget	County Superintendent of Schools	
Select Commission Secretary-Director/Staff		X
Supervise Commission Secretary-Director/Staff		X
Conduct Classification and Compensation Study		X
Approve / Amend/Reject Class/Comp Study	Shared Function (also note Union role)	
Approve New Classified Positions	X	
Fix Duties of Classified Positions	X	
Designate Senior Classified Mgmt	X	
Develop Examinations		X
Conduct Testing and Schedule Oral Interviews		X
Develop Eligibility Lists		X
Appoint Classified Employees	X	
Discipline/Dismiss Employees	X	
Conduct Discipline/Dismissal Appeals		X
Approve Reductions in Force (Layoffs)	X	
Administer Layoff Procedures		X
Conduct Hearings Regarding Merit Rule Disputes		X



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Selection of Personnel Commissioners

- 3 Commissioner Appointees
 - Appointee of the largest classified union.
 - Appointee of the Board.
 - Appointee by vote of other two appointees.
- Final Board approval of union and shared commissioner is “ministerial.”
- Staggered three-year terms.



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Minimum Qualifications for Commissioners

- Registered voter.
- Resident of the school district.
- Known adherent to the principles of the Merit System.
- Cannot be member of Board of the district or COE.



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Personnel Commission Budget Process

- Personnel Commission prepares proposed annual budget.
- County Superintendent of Board considers and approves or proposes to reject/amend.
- Public hearing by County Superintendent for final decision.
- If rejected, prior year's budget rolls.



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CLASSIFIED PERSONNEL DIRECTOR AND Secretary to the Commission

- Selected by the Commission.
- Board formal appointment of the Personnel Director is “ministerial.”
- Serves as the Secretary to the Commission.
- Supervised and directed in his/her work by the Commission.



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Relationships: Commission Staff & District Staff

- Commission Staff may perform District work with acquiescence of the Commission.
- Director and Commission staff must be “impartial.”
- Director’s role in discipline matters is limited to procedural support for the Commission.
- Director may serve as a neutral resource in union negotiations.



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Collective Bargaining and the Merit System

- Potential for Conflict Between Merit Rules and Collective Bargaining Agreement.
- Collective Bargaining Agreement covers all matters of wages, hours and working conditions that have been bargained.
- If CBA is silent, Merit Rules may control.
- Classified employees entitled to “reasonable notice” prior to adoption of any merit rules.



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Hiring

- Determination of the Duties
- Development of Tests
- Eligibility Lists
- Rule of Three Ranks
- Promotional Lists
- Oral Interviews



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Employee Classification & Re-classification

Involves:

- Development of a classification plan.
- Relationship of positions within the classified service.
- Appropriate salary ranges and placement.



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Probationary Period for Employees

- 6 months/130 days of paid service (with extensions for certain leaves).
- In BUSD, 1 year for classified Administrators.
- Probationary employees may be released with or without “cause.”
- Must receive a statement of “reasons.”
- No right to appeal.



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Discipline and Due Process for Permanent Employees

- Merit Rules establish the disciplinary process for permanent employees and grounds for discipline.
- District files written charges and imposes discipline.
 - District procedures typically include administrator charge, “Skelly hearing”, and Board Review.
- Appeal by the Employee.
- Hearing/Final Decision by the Commission.
 - May be assigned to a neutral hearing officer for advisory findings.
- Commission’s determination final and binding.



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Other Dispute Resolution

- The Commission has the power to conduct hearings of protests related to the Merit rules.
- Testing and Examinations.
- Establishment of Eligibility Lists.
- Other.



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Layoffs and Re-employment

Key Concepts

- Lack of work or lack of funds.
- Seniority
 - Two methods of calculating (subject to negotiations).
 - Date of hire in probationary position.
 - Total hours of service.
- Rehire List
 - 39 months
 - 24 months
 - 63 months



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Return to Classification/Compensation Study

DIVISION OF ROLES/DUTIES CLASSIFICATION AND COMPENSATION

(Not an Exhaustive List)

Conduct Classification/Compensation Study		X	45268
Approve new positions	X		45277, MR 30.200.7
Establish the duties of the position	X*		45241, MR 30.200.1
Recommend minimum qualifications	X		45276
Establish minimum qualifications		X	45276, MR 30.200.3
Recommend salary schedule		X	45268
Establish salary schedule	X*		45268, GC 3540
Allocate positions with the Plan		X	45256, MR 30.200.2
Affix titles to positions	X ²	X	MR 30.200.3
Adopt the Classification Plan		X	45256, MR 30.200.2

The Board consults with the classified unions on these matters.

Citations are to the Education Code unless otherwise indicated.
Board retains jurisdiction to affix titles of Instructional Assistants



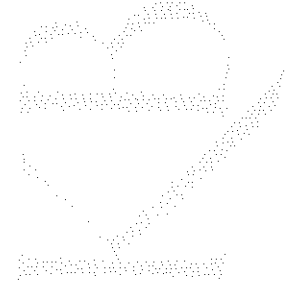
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Discussion



Berkeley Unified School District Performance Indicators

INDICATORS	2013-14	STATUS
Report on Employee Evaluations	August	08-21-13
Adequate Yearly Progress (AYP) Report including API	September	09-18-13
Report on Adult School Benchmarks	September	08-21-13
Annual Report on Achievement of English Learners	September	
Williams Settlement and Uniform Complaints	September October January April	09-11-13
Assessment of Progress on the Plan to Close the Achievement Gap	October	10-09-13
Measure H Financial Reports	October December March	09-11-13
Bond Financial Update	October November March May	09-11-13
Oversight Report on Charter School	October	
Fall Enrollment and Class Size Report	November	
Diversity Make-up of School Governance Councils	November	
First Interim Budget	December	
Report on Diversity Balance in Schools	December	
Interdistrict Permit Report	December	
Updated Board Policies and Administrative Regulations per GAMUT	December April	
Analyses of Data from Sites	January	
Eligibility for Free/Reduced Price Lunch Program	January	
CALPADS	January	
Student Attendance Report	January April	
Report on Special Education I.E.P. Timeline Compliance by Site	January June	
California Healthy Kids Survey (bi-annual report)	February	
Annual Audit and Audit Committee Report	February	
School Accountability Report Cards	February	
Student National Origin Report & Language Census	February	
Berkeley High School Report: Small Schools and Programs; WASC; Graduation Rate; SAT, IB, AP and CAHSEE Results	March	
School Safety Plans	March	
Second Interim Budget	March	
Annual Facilities Plan	March	
BSEP Budgets: Class Size; Libraries; Music/VAPA; Professional Development, Technology, Evaluation; Parent Outreach; Public Information & Translation	April May June	
School Site Plans with BSEP	May	
Report on Career Technical Education	May	