

**Berkeley Unified School District**  
**Personnel Commission Meeting Minutes**

August 4, 2016 - 4:30 pm

**1. Call to Order**

The meeting was called to order at 4:29pm

**2. Roll Call & Establishment of Quorum**

Chairperson Ortiz, Vice Chairperson Carter and Commissioner Goldstein were present and a quorum was established.

**3. Public Comments**

Paula Phillips, BCCE President, commented that the Commission cannot stifle public comments even if it seems disrespectful. Vice Chairperson Carter said there should be a certain level of decorum and respect during the public meetings.

**4. Approval & Adoption of Agenda**

Approved, 3-0

**5. Approval of Meeting Minutes**

a) June 13, 2016

President Phillips commented that in regards to Conference Item 5.a., the classification and compensation study, in some cases, resulted in a re-classification due to a gradual accretion of duties.

Approved as amended, 3-0

b) July 15, 2016

Commissioner Goldstein commented that in Discussion Item 7.a. it should be recorded that Marko Akil filed a Level I Grievance prior to his probationary release. Commissioner Goldstein also commented that it should be noted that letters from the BNAACP and School Board, and doctor's notes were included in the packet provided by Marie Ferguson.

A motion to bring minutes back to next commission meeting,

Approved, 3-0

**6. Consent Items**

Ratification of Eligibility Lists

a) Maintenance Supervisor

b) Delivery Driver

c) Public Information Officer

d) Executive Assistant II, Confidential

Approved, 3-0

**7. Discussion Items**

a) Agenda Item Request: Lolita Coleman

Lolita Coleman, former Administrative Assistant, commented that she was placed on the 39-month re-hire list but received notification three weeks late and her benefits were jeopardized. Ms. Coleman said that she submitted a doctor's note on 7/19/16, and would like to return to her previous position, which was changed to the Employee Benefits Specialist. She stated that she is being retaliated for filing a Workers Comp claim and for her affiliation with the Union. President Phillips requested that the Commission review Secretary Perez's letters to employees who are being placed on the 39 month rehire list. Commissioner Carter asked how many former employees are on the re-hire list due to exhaustion of all leaves. Secretary Perez

indicated he would email the Commissioners the amount of former employees that are on the 39-month re-hire list due to exhaustion of all leaves. Commissioner Goldstein cited merit rule 60.700.5.g and said that better explanation of this rule was needed.

## **8. Conference Items**

### **a) Agenda Item Request: Marie Ferguson**

President Phillips commented that there has been a lot of discussion as to how Marie Ferguson was placed on the re-hire list but according to the contract, she should have been placed on the 36 month rehire list because she was on an industrial illness leave per merit rule 60.700.5.f. Delia Ruiz, Assistant Superintendent, responded that they consulted with legal throughout the whole entire process, and also clarified that there is no such thing as a 36 month rehire list. Vice-Chairperson Carter said that more time was needed to look at the information that legal counsel provided. Chairperson Ortiz commented that the District has set processes, but that improvements can be made to notify employees before their leave has exhausted. He also commented that the Union should offer workshops for their members about these processes. Vice Chairperson Carter asked Assistant Superintendent Ruiz if it was the Districts purview to find a fitness for duty clinic. Assistant Superintendent Ruiz responded that when it comes to re-instatement of an employee, it is under the Districts purview, but that further information could not be provided with Marie Ferguson's written consent. President Phillips asked several questions related to the fitness for duty exams, and Vice Chairperson Carter commented that her questions could not be answered, as they were not agendized for discussion. President Phillips stated that she would email the Commissioners her questions. Vice Chairperson Carter requested to see the email Director Perez sent to Fagen, Friedman and Fulfroost requesting a legal opinion on Ms. Ferguson's matter. Commissioner Goldstein requested that Ms. Ferguson attend the next meeting so that she can consent to having a discussion about her fitness for duty exam. Vice Chairperson Carter commented that Ms. Ferguson's leave was not handled properly. Commissioner Goldstein commented that Ms. Ferguson still hasn't been cleared to return to work. Vice Chairperson Carter said the Personnel Commission's purview should relate to her activity prior to her release.

A motion was made to bring this item back to the next meeting. Commissioner Carter asked President Phillips to email to the Commission her questions pertaining to the fitness for duty exams before the next meeting to be placed on the agenda.

Approved, 3-0

## **9. Reports**

### **a) Union**

None.

### **b) Commissioners Reports**

Vice Chairperson asked to bring the noon supervisor item back to the next meeting. Commissioner Goldstein was tasked to contact George Cole from CSPCA, and a contact from the CSEA association about the Personnel Commission's jurisdiction. She said that she learned that there is a range of interpretations and a range of case law when there are complicated cases. She urged the Commission to stick by guidelines, and to address error's when they are made. She also commented that there is an obligation to address risk to avoid litigation, and to partner with other BUSD resources. She stated that there needs to be education about how things are handled.

### **c) Personnel Director**

#### **i. New Hires and Examinations administered in the month of July**

Secretary Perez said that the Personnel Commission is working towards going completely paperless.

**10. Public Comments**

Mansour Id-deen, NAACP Berkeley Chapter President, asked for information about the 39-month rehire list, but Commissioner Carter stated that he did not believe that the requested information was relevant.


**11. Next Meeting**


The next regular meeting was scheduled for September 1, 2016 at 4:30pm.

**12. Adjournment**

The meeting was adjourned at 6:31pm.

Respectfully Submitted,

  
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Randy Perez  
Secretary to the Personnel Commission

  
\_\_\_\_\_  
Date

Approved,

\_\_\_\_\_  
Reynaldo Ortiz  
Chairperson, Personnel Commission

\_\_\_\_\_  
Date