

Berkeley Unified School District
Personnel Commission Special Meeting Minutes

June 13, 2016 – 4:30 p.m.

1. Call to Order

The meeting was called to order at 4:37pm

2. Roll Call & Establishment of Quorum

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

3. Public Comment

None

4. Approval & Adoption of Agenda

Approved, 3-0

5. Conference Item

These items are presented for discussion and action and may be carried over from a previous meeting.

a. Ratification of the Classification and Compensation Study for Classifications in the BCCE Unit

Secretary Perez provided a copy of the new classification titles and salary ranges that were agreed upon by the District and the union. Paula Phillips, BCCE President, asked if the updated job descriptions were being brought to the Commission. After discussion, the Commission requested that Secretary Perez bring to the next Personnel Commission meeting the job descriptions that had recent revisions made to the minimum qualifications for education and experience. President Phillips commented that per Merit Rule 30.100.1, a re-class due to a gradual accretion of duties is effective the date that the Commission approves it, and that the Commission approved the job descriptions in November 2014. Delia Ruiz, Assistant Superintendent, responded that the District did not consider this to be a re-classification, but a compensation study. Vice-Chairperson Carter asked if classified employees are entitled to a retro pay. Assistant Superintendent Ruiz responded that this is not a reclassification study due to a gradual accretion of duties. As a result, they are not entitled to back pay. Secretary Perez commented that in regards to a reclassification study, Ed Code 45285 states that when a position is re-classed to a higher class, only employees in positions for two years or more may be reclassified. For the classification and compensation study recently completed, employees in probationary position are being re-classed along with all others, and therefore, if this study were a "reclassification" we would not be able to allocate new and probationary employees to the new classifications under the Edcode's definition of reclassification. President Phillips commented that the Commission should have reviewed the job descriptions before they approved them, and because the Commission did not, they are violating their own Merit Rules. President Phillips suggested establishing a new Merit Rule that gives employees a window of time where they can request a reclassification study. President Phillips said she was under the impression that this was a re-classification study not an allocation study.

A motion was made to bring to the Commission at the next meeting the new job classifications that have changes to the minimum qualifications.

Approved, 3-0

A motion was made to approve the ratification of the classification and compensation study.

Approved, 3-0

A motion was made to approve the tentative agreement between the District and the union regarding the classification study.

Approved, 3-0

b. Agenda Item Request – M. Ferguson

Commissioner Goldstein commented that the rule cited in the agenda request form 60.700.5g is under the Commission’s purview. She commented that merit rule 60.700.11d also applies to this situation. She said there was a lack of clarity in notice to Ms. Ferguson about her leave. Secretary Perez said that Merit Rule 60.700.11 (d) Leave of Absence Without Pay did not apply because Ms. Ferguson was not on unpaid leave. President Phillips said that per Merit Rule 60.700.5(g), and because the Commission approved Ms. Ferguson’s former position at LeConte as a bilingual position, Ms. Ferguson could be placed at Malcolm X because it had the most recent School Secretary I vacancy. Vice Chairperson Carter said that in regards to Merit Rule 60.700.5, he does not feel that the Director broke this Merit Rule; however, Ms. Ferguson should have been notified that eligible leave was going to exhaust. Secretary Perez responded that notice is given after the leave is already exhausted per Edcode 45195. Vice Chairperson Carter said that from an outsider’s perspective it looks like this employee was terminated to bring in a Spanish speaking employee.

A motion was made to approve the reinstatement of employment for Ms. Ferguson not to exceed 15 days to re-engage in the interactive process. Vice-Chairperson Carter commented that he would also like to cite Edcode 45192 (d).

Approved 2-1

Ay- Vice Chairperson Carter, and Commissioner Goldstein

Nay – Chairperson Ortiz

Commissioner Goldstein made a motion to have Fagen, Friedman and Fulfrost LLP provide a second legal opinion on whether the Commission had authority to return Ms. Ferguson to employment with the District pursuant to Merit Rule 60.700.5 (g).

Approved, 3-0

6. Public Comment


Marsha Montgomery, retired BUSD employee, commented that when she was an employee she went on workers comp and received surgery but was very upset by the treatment she received from the District, and so she chose to retire. She requested that the Commission update their merit rules.

Mansour Idden, NAACP Berkeley chapter President, commented that he was impressed with the Human Resources vision and mission statements and that if those had been followed, they would not have been here today.

7. Adjournment

Meeting adjourned at 7:20pm.


Respectfully Submitted,



Randy Perez
Secretary to the Personnel Commission

Approved,

Reynaldo Ortiz
Chairperson, Personnel Commission



Date

Date