

San Bernardino City Unified School District

Minutes of a Regular Meeting of the Board of Education

**MINUTES
ADOPTED
11/21/06**

Community Room
Board of Education Building
777 North F Street
San Bernardino, California

October 3, 2006

5:30 p.m.

Present: President Marlin Brown; Vice President Lynda Savage; Board Members Antonio Dupre, Teresa Parra, Judi Penman, Danny Tillman, and Elsa Valdez; Superintendent Arturo Delgado; Deputy Superintendent Judy White; Assistant Superintendents Mel Albiso, Narciso Cardona, Dayton Gilleland, Mohammad Islam, Yolanda Ortega, John Peukert, Paul Shirk, and Harold Vollkommer; and Superintendent's Assistant Mary Beth Gosnell. Minutes recorded by Administrative Assistant Jennifer Owens.

SESSION ONE – Board Budget Workshop

1.0 - Board Budget Workshop

1.1 - Board Budget Workshop

Mohammad Z. Islam, Assistant Superintendent, Business and Finance, presented FY 2005-06 Unaudited Actuals, and discussed One-Time and Ongoing new funding and Districtwide budget priorities for FY 2006-07 (see page ____).

Mr. Islam stated that the District will receive an estimated \$5 million in unrestricted programs and the budget will be realigned. The Board will decide how to allocate the funds. Dr. Delgado reported that Staff will present plans for using some of the funds at the October 17 Board meeting.

Mr. Islam reported that although the District is facing federal program cuts of approximately \$3.5 million, we won't have to cut any positions. Dr. Delgado stated that we will have money left over, but we are playing catch up. Principals have been asked to maintain a 20 percent cushion. Danny Tillman stated that eliminating deficit spending doesn't make sense. Dr. Delgado reported that we received a letter from the County Office asking us to address deficit spending. Mr. Islam stated that continued deficit spending would put the District under state watch.

Teresa Parra stated that this was good information, but thought that the purpose of the workshop was for the Board to discuss their priorities. Dr. Delgado stated that we are trying to present this for the Board. Negotiations are coming. Staff will next present educational priorities. Mrs. Parra stated that teachers pay for classroom supplies. Dr. Delgado stated that this should not be happening and will look into it.

Danny Tillman asked for prior year's ending balances and the costs associated with the Blueprint for Success and Curriculum Management Audit.

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Dr. Brown adjourned the workshop and called for a break at 5:40 p.m.

SESSION TWO - Opening

2.0 - Opening

2.1 - Call to Order

President Brown called the meeting to order at 5:50 p.m.

2.2 - Pledge of Allegiance to the Flag

The meeting was opened with the Pledge of Allegiance to the Flag of the United States of America.

SESSION THREE - Special Presentations

3.0 - Special Presentations

3.1 - Resolution Declaring October 2006 Character Education Month

Upon motion by Member Parra, seconded by Member Savage, and approved by the affirmative vote of Members Brown, Dupre, Parra, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

WHEREAS the Board of Education of the San Bernardino City Unified School District, with its longstanding record of providing Character Education and responsibility training to our students, welcomes the opportunity to join with others in our community, state, and nation in proclaiming that the present and future well-being of our society requires an involved, caring citizenry with good character; and

WHEREAS the character of our state is only as strong as the character of each individual citizen; and

WHEREAS the Board of Education believes that all educators are obliged to awaken youth to the moral and ethical virtues that build a fundamental strength of character; and

WHEREAS although character development is, first and foremost, an obligation of families, the efforts of faith communities; schools; and youth, civic, and human service organizations also play a very significant role in supporting family efforts by fostering and promoting good character; and

WHEREAS the common core of personal and social values, including trustworthiness, respect, responsibility, fairness, caring, citizenship, civic virtue, honesty, and personal responsibility, should be emphasized consistently and comprehensively in all curricula and instructional activities;

THEREFORE, BE IT RESOLVED that the Board of Education of the San Bernardino City Unified School District joins the California State Board of Education in recognizing October 2006 as Character Education Month and encourages all our schools to help ensure that the development of strong moral character and the promotion of responsible, ethical, civic-minded behavior are thoroughly integrated into each school's curriculum and program of instruction.

SESSION FOUR – Student Report/School Showcase

4.0 - Student Report/School Showcase

4.1 - Pacific High School

Jasmine Rodriguez, Student Board Representative from Pacific High School, presented a report of activities taking place at the high schools during the month of October. Under the direction of choir teacher Diane Trotter, the Pacific High School Advanced Choir performed.

SESSION FIVE - Administrative Presentation

5.0 - Administrative Presentation

5.1 - Curriculum Management Audit Update

This presentation was postponed until the October 17, 2006 School Board meeting.

SESSION SIX - Administrative Reports

6.0 - Administrative Reports

6.1 - Board Members' Inservice and Business Expense Report for the Quarter Ending June 30, 2006

Members of the Board of Education are granted permission to attend meetings and conferences of local and state non-partisan groups while performing services for the District.

Shown in this report are funds expended from the undistributed accounts of individual members for meetings and conferences that were previously approved by the Board. Also shown are the expenditures from the individual accounts, which require Board ratification per the present policy on Board members' inservice and business expenses (see page ____).

SESSION SEVEN – Other Matters Brought By Citizens

7.0 - Other Matters Brought by Citizens

Tierney Harris reported that her son participates in football and track at Arroyo Valley High School. Ms. Harris stated that \$1.4 million was approved by the Board to fix the fields, and asked why the plan was changed to resod instead of installing artificial turf. Ms. Harris reported that rocks push up to the surface after rain, the grass is torn, and the field retains water causing players to fall. During the September 29 football game, six players were injured. Many injuries could have been avoided. The District is setting students up for serious injuries knowing it is a problem. Judi Penman stated that she was negligent when the vote took place. Mrs. Penman doesn't think the resod will work.

Corinthia Williams stated that her daughter was unfairly given an F by a teacher at Cajon. She needs this class to graduate and can't participate in extracurricular activities because she has an F. Marlin Brown stated that Dayton Gilleland will look into her concern and get back to her.

SESSION EIGHT - Reports and Comments

8.0 - Report by Board Members

Lynda Savage thanked Dayton Gilleland for serving as this year's Y's Guy Candidate. Mrs. Savage reported that Dr. Gilleland was a wonderful model in the Fashion Show.

Teresa Parra congratulated Dr. Gilleland for being the winner of the Y's Guy contest. Mrs. Parra stated that while visiting schools she has been impressed with second and third grade students in the Dual Immersion program.

Elsa Valdez reported that the Cesar Chavez Bust Unveiling was a nice family event. Organizations had booths and distributed information and many dignitaries were in attendance. Dr. Valdez reported that Dayton Gilleland was the best dancer at the Y's Guy fashion show.

Judi Penman congratulated Dayton Gilleland and thanked Art Delgado and John Peukert for their support. Mrs. Penman stated that Principal for a Day is a good opportunity for the public to see what is going on at the schools. The next event will be held on February 8, 2007. Mrs. Penman reported that the District hosted a procurement seminar at the Chamber of Commerce and it was well attended. Mrs. Penman announced that the Chamber is hosting a School Board Candidates' Forum on October 10, at City Hall.

Tony Dupre stated that the Principal for a Day is a good program. Mr. Dupre invited Board members and Staff to attend the Boys and Girls Club Banquet on October 6. Tickets have been reduced to \$75.

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Danny Tillman reported that he recently visited San Bernardino High School and asked about the status of the modernization project. John Peukert stated that the project is in line for state funding.

8.1 - Legislative Update

None.

9.0 - Report by Superintendent and Staff Members

Dr. Delgado stated that the Dual Immersion program is very successful because students have the chance to practice their English on the playground and by watching TV at home. Dr. Delgado reported that he attended an ERT meeting today. This was the first meeting with Mayor Morris. They are looking at ways to join resources and preschools at the state and city levels.

SESSION NINE - Legislation and Action

10.0 - Consent Items (When considered as a group, unanimous approval is advised.)

Certain items of business require review and approval by the Board of Education. Other items are for information and review only. Therefore, the following items are grouped as a consent list for receipt and approval. When members have questions about items included in the consent calendar, these items are pulled out of the group and considered separately.

Consent item 10.15 was held for later consideration.

Upon motion by Member Parra, seconded by Member Savage, and approved by the affirmative vote of Members Brown, Dupre, Parra, Penman, Savage, Tillman, and Valdez (Noes: None), the following were adopted:

10.1 - Approval of Minutes

BE IT RESOLVED that the Minutes of the Board of Education Meeting held on August 15, 2006, be approved as presented.

10.2 - Approval of Single Plans for Student Achievement

BE IT RESOLVED that the Board of Education approves the Single Plans for Student Achievement with material changes for the following schools:

Schoolwide Programs

Barton Elementary School
Belvedere Elementary School
Davidson Elementary School
Highland-Pacific Elementary School
North Park Elementary School

Targeted Assisted Programs

Anderson Community Day
Juanita Jones Elementary School

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10.3 - Board Members' Inservice and Business Expense Report for the Quarter Ending June 30, 2006

BE IT RESOLVED that the Board of Education ratifies the total amount of \$1,250.00 expended from the Board of Education's individual inservice and business accounts for the period beginning April 1, through June 30, 2006.

10.4 - Acceptance of Gifts and Donations to the District

BE IT RESOLVED that the Board of Education acknowledges receipt of \$226.98, Roberto Del Real through Edison International Employee Contributions Campaign; \$226.98, Edison International Annual Campaign Match on behalf of Roberto Del Real; \$400.00, Cindy Cochran; 20 heavy duty locks, Mark Ryan; Twenty \$25.00 Gift Cards, Longs Drug Store #31; \$125.53, Target-Take Charge of Education; \$1,000.00, Chris and Rebecca Gallegos; \$500.00, Norman R. Wallis; \$300.02, Target-Take Charge of Education; \$109.27, Target-Take Charge of Education; Gift Cards for Chili's Restaurant, Lifetouch National School Studios; \$234.72, Target-Take Charge of Education; \$121.79, Target; Microwave Oven, JoAnn Farley; \$112.30, Target-Take Charge of Education; \$120.00, Edison International Employee Contributions Campaign; and 100 backpacks and 15 teacher bags, Office Depot.

10.5 - Payment for Course of Study Activities

BE IT RESOLVED that the Board of Education considers the following activities to be a part of the regular course of study for the 2005-06 school year and approves payment to the following:

FantastiKids, Inc., to present "Stay Safe from Drugs" on October 18, 2006. The cost, not to exceed \$750.00, will be paid from Wilson Elementary School Account No. 419.

Will and Company, through Orange County Performing Arts Center, to perform "Dickens' A Christmas Carol" on December 12, 2006. The cost, not to exceed \$990.00, will be paid from Alessandro Elementary School Account No. 419.

Razzle Bam Boom, through the Orange County Performing Arts Center to present "200 Years of American Music" on February 7, 2007. The cost, not to exceed \$950.00, will be paid from Alessandro Elementary School Account No. 419.

We Tell Stories, through the Orange County Performing Arts Center, to present "Proud to Be Me" on April 4, 2007. The cost, not to exceed \$575.00, will be paid from Alessandro Elementary School Account No. 419.

10.6 - Business and Inservice Meetings

BE IT RESOLVED that the Board of Education approves the attendance and participation of the following individuals in scheduled business and inservice meetings:

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TEASHIA LOPEZ
(Board Representative, St. Anthony
School)

To attend the Kindergarten Conference for
California Teachers at the Sheraton Park Hotel at
the Anaheim Resort, Anaheim, CA on October
13-14, 2006. The amount, not to exceed \$570.22,
will be paid from Accountability Unit Account
No. 536.

TERESA PARRA
ELSA VALDEZ
(Governing Board Members)

Attend the California Latino School Boards
Association Conference, San Diego, CA, October
6-7, 2006. Total cost, not to exceed \$1,370.00,
will be paid from Board of Education Account
No. 066.

10.7 - Commercial Warrant Registers For Period from September 1, Through September 15,
2006

BE IT RESOLVED that the Commercial Warrant Register for period from September 1, 2006,
through September 15, 2006, be approved.

BE IT FURTHER RESOLVED that the Board of Education authorizes Gene Fortajada,
Accounting Services Director, or Larry Soria, Accounts Payable Officer, to sign disbursements.

10.8 - Federal/State/Local District Budgets and Revisions

BE IT RESOLVED that the Board of Education approves the addition of \$219,538.00 in the
budgeting of expenditures and revenues for the restricted program, ROP Lottery Grant (379).

BE IT ALSO RESOLVED that the Board of Education approves the addition of \$275,120.00 in
the budgeting of expenditures and revenues for the restricted program, High Priority Schools
Grant (473).

BE IT ALSO RESOLVED that the Board of Education approves the addition of \$35,000.00 in
the budgeting of expenditures and revenues for the restricted program, After School Education
and Safety (ASES) – Regional Learning Centers Grant (475).

BE IT ALSO RESOLVED that the Board of Education approves the reduction of \$1,679.00 in
the budgeting of expenditures and revenues for the restricted program, After School Education
and Safety Program – Cohort 2 (477).

BE IT ALSO RESOLVED that the Board of Education approves the addition of \$8,952.00 in the
budgeting of expenditures and revenues for the restricted program, After School Education and
Safety Program – Cohort 4 (478).

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BE IT ALSO RESOLVED that the Board of Education approves the addition of \$8,139.00 in the budgeting of expenditures and revenues for the restricted program, Indian Education Grant (505).

BE IT ALSO RESOLVED that the Board of Education approves the reduction of \$819,000.00 in the budgeting of expenditures and revenues for the restricted program, Reading First Grant (506).

BE IT ALSO RESOLVED that the Board of Education approves the addition of \$126.00 in the budgeting of expenditures and revenues for the restricted program, Special Education-Low Incidence Specialized Services Entitlement (573).

BE IT FURTHER RESOLVED that the Board of Education approves the reduction of \$15,000.00 in the budgeting of expenditures and revenues for the restricted program, NCLB – Title IV-21st Century Technical Assistance Grant (579).

10.9 - Bid No. F05-19, Serrano Middle School - Modernization

BE IT RESOLVED that Bid No. F05-19, Serrano Middle School – Modernization, be awarded to the lowest responsible bidder for each Bid Package, including Base Bid and Alternates No. 1 & 2, as follows:

Category 01 - HAZMAT ABATEMENT & INTERIOR DEMOLITION	Base Bid	Additive Alternate 1	Additive Alternate 2	Award Total
Janus Corporation, Norco, CA	\$ 354,750.00	-	-	\$ 354,750.00

Category 02 - MULTI-TRADE	Base Bid	Additive Alternate 1	Additive Alternate 2	Award Total
Angeles Contractor, Inc., Buena Park, CA	\$ 1,984,000.00	\$ 125,000.00	\$ 85,000.00	\$ 2,194,000.00

Category 03 - HVAC	Base Bid	Additive Alternate 1	Additive Alternate 2	Award Total
ACH Mechanical Contractors, Inc., Redlands, CA	\$ 510,000.00	-	-	\$ 510,000.00

Category 04 - PLUMBING	Base Bid	Additive Alternate 1	Additive Alternate 2	Award Total
Pro-Craft Plumbing Co., Yucaipa, CA	\$ 176,292.00	-	-	\$ 176,292.00

Category 05 - ELECTRICAL	Base Bid	Additive Alternate 1	Additive Alternate 2	Award Total
R. Jensen Co., Riverside, CA	\$ 1,190,000.00	-	\$ 7,000.00	\$ 1,197,000.00

Total \$ 4,432,042.00

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BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign agreements for the bids awarded.

10.10 - Bid No. 30-06, Parent Communication System, District-wide

BE IT RESOLVED that bids were received from Chatter, Inc., San Marcos, CA; Edulink Systems, Inc., Anaheim, CA; Keys Technology Group, Orlando, FL; MessageBroadcast, Newport Beach, CA; National Notification Network, Glendale, CA; Parlant Technology, Inc., Provo, UT; Reliance Communication, Inc., Santa Cruz, CA; SynreVoice Technologies Inc., Markham, ON Canada; The NTI Group, Sherman Oaks, CA; and US Netcom Corporation, Joplin, MO.

BE IT ALSO RESOLVED that Bid No. 30-06, Parent Communication System be awarded by category based on line item and unit price in accordance with Public Contract Code 20118.1 as follows:

Category A,	Award to Edulink Systems, Inc.
Line Number 1	\$93,708.88 (including tax)
On-site Parent Communication System	
Line Number 2	\$10,319.00/Annually
Annual Maintenance/Support (Years 2 through 5)	
Category B, Hosted Emergency Parent Notification Response System	\$19,200.00/Annually
Total Bid Award:	\$112,908.88/First Year (\$29,519.00/Annually thereafter)

BE IT ALSO RESOLVED that the District reserves the right to extend the bid on an annual basis, not to exceed five years total.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign agreements associated with this bid.

10.11 - Notice of Completion Bid No. 06-06, Replacement of 12 Tennis Courts at Pacific High School

BE IT RESOLVED that the Board of Education authorizes filing a Notice of Completion for Bid No. 06-06, Replacement of 12 Tennis Courts at Pacific High School, purchase order No. 500018, awarded to:

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Universal Asphalt Co., Inc.
10610 S. Painter Avenue
Santa Fe Springs, CA 90670

BE IT FURTHER RESOLVED that Marlin Brown, President, Board of Education, be authorized to execute the Notice of Completion.

10.12 - Notice of Completion, Bid No. 13-05, Bid Package 2A, Cesar E. Chavez Middle School-Phase 3

BE IT RESOLVED that the Board of Education authorizes filing a Notice of Completion for Bid No. 13-05, Cesar E. Chavez Middle School - Phase 3, for the portions of the work awarded to the Prime Contractor listed below:

Category 2A– Site Work
R. E. Fleming Construction, Inc.
Hesperia, CA

BE IT FURTHER RESOLVED that Marlin Brown, President, Board of Education, be authorized to execute the Notice of Completion.

10.13 - Notice of Completion, Bid No. 21-03, Bid Package 19A, Cesar E. Chavez Middle School

BE IT RESOLVED that the Board of Education authorizes filing a Notice of Completion for Bid No. 21-03, Cesar E. Chavez Middle School, for the portions of the work awarded to the Prime Contractor listed below:

Category 19A– Underground Utilities
Janikowski Plumbing, Inc.
Fallbrook, CA

BE IT FURTHER RESOLVED that Marlin Brown, President, Board of Education, be authorized to execute the Notice of Completion.

10.14 - Notice of Completion, Bid No. 31-03, Bid Packages 09, 10, 12, and 17, Cesar E. Chavez Middle School

BE IT RESOLVED that the Board of Education authorized filing a Notice of Completion for Bid No. 31-03, Cesar E. Chavez Middle School, for the portions of the work awarded to the Prime Contractors listed below:

Category 09– Roofing
Best Roofing & Waterproofing, Inc.
Gardena, CA

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Category 10– Sheet Metal
Crown Sheet Metal
Baldwin Park, CA

Category 12– Glazing
Queen City Glass Co.
Hesperia, CA

Category 17– Painting
Simmons & Wood, Inc.
Lakeside, CA

BE IT FURTHER RESOLVED that Marlin Brown, President, Board of Education, be authorized to execute the Notice of Completions.

10.16 - Agreement with EXCEED to Provide Job-Related Assessment for District Special Education Student

BE IT RESOLVED that the Board of Education approves entering into an agreement with EXCEED, Moreno Valley, CA, to provide a job-related assessment for a Special Education student, effective October 4, 2006, through June 30, 2007. EXCEED will provide the initial assessment, including whether the student can use public transportation, job exploration, community work experience at multiple sites, an outcome meeting, and a written assessment report. The fee, not to exceed \$2,175.00, will be paid from the Restricted General Fund – Workability 1 Program, Account No. 570

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.17 - Agreement with Paradigm Learning Centers to Provide Assemblies and a Flag Football League for At-Risk Students at Martin Luther King, Jr. Middle School

BE IT RESOLVED that the Board of Education approves entering into an agreement with Paradigm Learning Centers, San Bernardino, CA, to provide assemblies and a flag football league for at-risk students, effective November 1, 2006, continuing through June 30, 2007. The assemblies and the flag football league are designed to be a comprehensive program to reach at-risk students to lower suspension rates, increase academic achievement, and lower dropout rates. The fee, not to exceed \$15,000.00, will be paid from the Restricted General Fund – Elementary Secondary Education Act, Account No. 501.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

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10.18 - Agreement with the Foundation for California State University San Bernardino to Provide Foreign Language Professional Development Seminars for District Teachers

BE IT RESOLVED that the Board of Education approves entering into an agreement with the Foundation for California State University San Bernardino (CSUSB), San Bernardino, CA, to provide professional development seminars for District foreign language teachers, effective October 4, 2006, continuing through June 15, 2007. The seminars will provide lesson planning and delivery of content based on the 2003 Foreign Language Framework, reading and writing instruction, framework-aligned assessments and portfolio development, differentiated instruction, classroom management, and networking. The fee, not to exceed \$5,000.00, will be paid from the Restricted General Fund – Title II Secondary Math/Science, Account No. 541.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.19 - Agreement with EDEquity, Inc., to Provide Targeted Instructional Improvement to Ten District Schools

BE IT RESOLVED that the Board of Education approves entering into an agreement with EDEquity, Inc., Rancho Cucamonga, CA, effective October 4, 2006, continuing through June 30, 2007, to provide Targeted Instructional Improvement to close the achievement gap in 10 schools. Year I Cohort schools are: Anton, Jones, Arrowhead, Del Rosa and Jefferson Hunt Elementary Schools. Year II Cohort schools are: Alessandro, Lincoln, Kendall, Salinas, and Highland-Pacific Elementary Schools. The fee, not to exceed \$250,000.00, shall be paid from the Restricted General Fund – No Child Left Behind, Title I, Program Improvement School Support, Account No. 524.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.20 - Agreement with EquitySpec Consulting Engineers, Inc.

BE IT RESOLVED that the Board of Education approves entering into an agreement with EquitySpec Consulting Engineers, Inc., to provide mechanical engineering services for the replacement of existing boilers and pipes for the Nutrition Center, effective October 4, 2006, through June 30, 2007. The cost, not to exceed \$30,000.00, will be paid from the Cafeteria Account No. 092.

BE IT FURTHER RESOLVED that Mohammad Z. Islam, Assistant Superintendent, Business and Finance, be authorized to sign said agreement on behalf of the Board of Education.

10.21 - Agreement with the Asian-American Resource Center to Provide English Language Development Classes

BE IT RESOLVED that the Board of Education approves entering into an agreement with the Asian-American Resource Center, San Bernardino, CA, to provide English language development classes to parents of District students and community members that pledge to provide tutoring to District students who are English learners, effective October 4, 2006, through June 30, 2007. The program will meet student needs in a multi-level English as Second Language (ESL) class. The curriculum is varied to address proficiency levels from beginning through high literacy. Student progress will be continually monitored by a variety of standardized and teacher-developed tests. The goal is for the parents and community members to help tutor their children and others in the community in learning ESL skills. The cost, not to exceed \$60,000.00, will be paid from the Restricted General Fund – Community Based English Tutoring, Account No. 469.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.22 - Agreement with the Book of Acts Church to Provide English Language Development Classes

BE IT RESOLVED that the Board of Education approves entering into an agreement with the Book of Acts Church, San Bernardino, California, to provide English language development classes to parents of District students and community members that pledge to provide tutoring to District students who are English learners, effective October 4, 2006, through June 30, 2007. The program will meet student needs in a multi-level English as Second Language (ESL) class. The curriculum is varied to address proficiency levels from beginning through high literacy. Student progress will be continually monitored by a variety of standardized and teacher-developed tests. The goal is for the parents and community members to help tutor their children and others in the community in learning ESL skills. The cost, not to exceed \$60,000.00, will be paid from the Restricted General Fund – Community Based English Tutoring, Account No. 469.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.23 - Agreement with the Boys and Girls Club of San Bernardino to Provide English Language Development Classes

BE IT RESOLVED that the Board of Education approves entering into an agreement with the Boys and Girls Club of San Bernardino, San Bernardino, CA, to provide English language development classes to parents of District students and community members that pledge to provide tutoring to District students who are English learners, effective October 4, 2006, through June 30, 2007. The program will meet student needs in a multi-level English as Second Language (ESL) class. The curriculum is varied to address proficiency levels from beginning

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through high literacy. Student progress will be continually monitored by a variety of standardized and teacher-developed tests. The goal is for the parents and community members to help tutor their children and others in the community in learning ESL skills. The cost, not to exceed \$60,000.00, will be paid from the Restricted General Fund – Community Based English Tutoring, Account No. 469.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.24 - Agreement with California English Language Academy to Provide English Language Development Classes

BE IT RESOLVED that the Board of Education approves entering into an agreement with California English Language Academy, Yucaipa, CA, to provide English language development classes to parents of District students and community members that pledge to provide tutoring to District students who are English learners, effective October 4, 2006, through June 30, 2007. The program will meet student needs in a multi-level English as Second Language (ESL) class. The curriculum is varied to address proficiency levels from beginning through high literacy. Student progress will be continually monitored by a variety of standardized and teacher-developed tests. The goal is for the parents and community members to help tutor their children and others in the community in learning ESL skills. The cost, not to exceed \$60,000.00, will be paid from the Restricted General Fund – Community Based English Tutoring, Account No. 469.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.25 - Agreement with Camp Fire USA – San Andreas Council to Provide English Language Development Classes

BE IT RESOLVED that the Board of Education approves entering into an agreement with Camp Fire USA – San Andreas Council, San Bernardino, CA, to provide English language development classes to parents of District students and community members that pledge to provide tutoring to District students who are English learners, effective October 4, 2006, through June 30, 2007. The program will meet student needs in a multi-level English as Second Language (ESL) class. The curriculum is varied to address proficiency levels from beginning through high literacy. Student progress will be continually monitored by a variety of standardized and teacher-developed tests. The goal is for the parents and community members to help tutor their children and others in the community in learning ESL skills. The cost, not to exceed \$60,000.00, will be paid from the Restricted General Fund – Community Based English Tutoring, Account No. 469.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.26 - Agreement with CSUSB College of Extended Learning to Provide English Language Development Classes

BE IT RESOLVED that the Board of Education approves entering into an agreement with the CSUSB College of Extended Learning, San Bernardino, CA, to provide English language development classes to parents of District students and community members that pledge to provide tutoring to District students who are English learners, effective October 4, 2006, through June 30, 2007. The program will meet student needs in a multi-level English as Second Language (ESL) class. The curriculum is varied to address proficiency levels from beginning through high literacy. Student progress will be continually monitored by a variety of standardized and teacher-developed tests. The goal is for the parents and community members to help tutor their children and others in the community in learning ESL skills. The cost, not to exceed \$89,500.00, will be paid from the Restricted General Fund – Community Based English Tutoring, Account No. 469.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.27 - Agreement with El Sol Neighborhood Educational Center to Provide English Language Development Classes

BE IT RESOLVED that the Board of Education approves entering into an agreement with the El Sol Neighborhood Educational Center, San Bernardino, CA, to provide English language development classes to parents of District students and community members that pledge to provide tutoring to District students who are English learners, effective October 4, 2006, through June 30, 2007. The program will meet student needs in a multi-level English as Second Language (ESL) class. The curriculum is varied to address proficiency levels from beginning through high literacy. Student progress will be continually monitored by a variety of standardized and teacher-developed tests. The goal is for the parents and community members to help tutor their children and others in the community in learning ESL skills. The cost, not to exceed \$60,000.00, will be paid from the Restricted General Fund – Community Based English Tutoring, Account No. 469.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.28 - Agreement with Pathways to Provide English Language Development Classes

BE IT RESOLVED that the Board of Education approves entering into an agreement with Pathways, San Bernardino, CA, to provide English language development classes to parents of District students and community members that pledge to provide tutoring to District students who are English learners, effective October 4, 2006, through June 30, 2007. The program will meet student needs in a multi-level English as Second Language (ESL) class. The curriculum is varied to address proficiency levels from beginning through high literacy. Student progress will

be continually monitored by a variety of standardized and teacher-developed tests. The goal is for the parents and community members to help tutor their children and others in the community in learning ESL skills. The cost, not to exceed \$60,000.00, will be paid from the Restricted General Fund – Community Based English Tutoring, Account No. 469.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.29 - Amendment No. 1 to the Agreement with OJB Engineering, Inc. for Construction Management Services in Connection with the Placement of the Multi-Use Rooms, Phase II

BE IT RESOLVED that the Board of Education approves amending the agreement with OJB Engineering, Inc., San Bernardino, CA, to provide construction management services in connection with the placement of the multi-use rooms, Phase II, effective June 1, 2006, through June 30, 2007. The cost for services, not to exceed 4 percent of the total construction costs and \$130,000.00 for general conditions, will be paid from Fund 35, School Facility Program, MRM. The 4 percent fee was negotiated down from 11 percent, which was the total construction fee for Phase 1. The Multi-Use Rooms are as listed below:

Barton ES	Belvedere ES	Lytle Creek ES	Muscoy ES
Davidson ES	Del Rosa ES	Newmark ES	Parkside ES
Highland-Pacific ES	Inghram ES	Rio Vista ES	Vermont ES
Kendall ES	Lankershim ES	Urbita ES	

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said amendment.

10.30 - Amendment No. 1 to the Agreement with Adorno, Yoss, Alvarado & Smith for Legal Services

BE IT RESOLVED that the Board of Education approves extending the agreement with Adorno, Yoss, Alvarado & Smith, Irvine, CA, for legal and consultative services, advice, and representation to the District in the areas of land acquisition and eminent domain, redevelopment, real property, construction, and finance and such other services as may be requested by the District, through June 30, 2010. The cost for services related to a specific school or other project will be charged to that project's funding. Costs for general, program-wide services, will be paid from Developer Fee-Capital Facilities Fund 25, Building Fund 21, Special Capital Reserve Fund 40, and/or General Fund 01 or other designated funding.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said amendment.

10.31 - Amendment No. 1 to the Agreement with Best, Best & Krieger LLP for Legal Services

BE IT RESOLVED that the Board of Education approves extending the agreement with Best, Best & Krieger LLP, San Diego, CA, for legal and consultative services, advice, and representation to the District in the areas of California Environmental Quality Act (CEQA) including policy and guidelines services, school facilities and safety related matters, and general and other matters as required by the District, effective July 1, 2004, through June 30, 2009. The cost for services related to a specific school or other project will be charged to that project's funding. Costs for general, program-wide services, shall be paid from Developer Fee-Capital Facilities Fund 25, Building Fund 21, Special Capital Reserve Fund 40, and/or General Fund 01 or other designated funding.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said amendment.

10.32 - Amendment No. 1 to the Agreement with the Parent Institute for Quality Education to Provide Training for Parents of District Students Enrolled at Highland-Pacific Elementary School

BE IT RESOLVED that the Board of Education approves amending the agreement with the Parent Institute for Quality Education, El Monte, CA, to provide training for parents of District students enrolled at Highland-Pacific Elementary School, approved by the Board of Education on August 15, 2006, Agenda Item No. 9.19. Amendment No. 1 is necessary to increase the cost by \$250.00, from \$5,000.00 for a new total not to exceed \$5,250.00. The cost will be paid from the Restricted General Fund – School Based Coordinated Program, Account No. 419. All other terms and conditions will remain the same.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.33 - Amendment No. 1 to the Agreement with the Inland Regional Center to Provide Applied Behavioral Analysis to District Students

BE IT RESOLVED that the Board of Education approves amending the agreement with Inland Regional Center, San Bernardino, CA, approved by the Board of Education on June 20, 2006, Agenda Item 10.34. Amendment No. 1 is necessary to increase the fee by \$10,000.00, from \$20,000.00 for a new aggregate total not to exceed \$30,000.00. The fee will be paid from the Restricted General Fund – Special Education, Account No. 827. All other terms and conditions will remain the same.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

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10.34 - Amendment No. 2 to the Agreement with Joan Cismowski to Teach American Sign Language to Kindergarten Vanguard Classes at Ramona-Alessandro Elementary School

BE IT RESOLVED that the Board of Education approves amending the agreement with Joan Cismowski, San Bernardino, CA, to provide American Sign Language lessons to Kindergarten Vanguard classes, approved by the Board of Education on September 5, 2006, Agenda Item 8.73. Amendment No. 2 is necessary to increase the fee by \$960.00, from \$960.00 for a new total not to exceed \$1,920.00. The cost will be paid from the Unrestricted General Fund – Instructional Needs Assessment Program, Account No. 205.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.35 - Sale of Used District Salvage Vehicles and Equipment

BE IT RESOLVED that in accordance with California Education Code Section 17545, the Board of Education declares the following items as surplus to District needs and unsatisfactory or no longer suitable for school use: List of District Salvage Vehicles and Equipment dated September 26, 2006, and the District shall give notice of the sale.

BE IT ALSO RESOLVED that the District enters into an agreement with The Liquidation Company, Fontana, CA, to provide auction services for the sale of District surplus as stated above. Payment to be made to The Liquidation Company, Fontana, CA, in the amount of 35 percent of the total gross sales, less sales tax, for auctions conducted at The Liquidation Company's Fontana facility. Proceeds from the auction shall be deposited into the Unrestricted General Fund.

BE IT FURTHER RESOLVED that Mohammad Z. Islam, Assistant Superintendent, Business and Finance, be authorized to sign the agreement on behalf of the Board of Education.

10.36 - Sale of Used District Computer Equipment and Peripherals

BE IT RESOLVED that the Board awarded Bid 09-05 to E-Recycling of California, Paramount, CA, on May 17, 2005, to include the purchase of additional surplus computer equipment and peripherals for recycling from the District for a one-year term, and all extensions, not to exceed five years. During the awarded term, the District will present new Board-approved computer and peripheral surplus lists to the awarded bidder with option to buy using Attachment B, Price List, which states the District shall receive \$3.00 per monitor, \$1.25 per CPU, \$3.00 per TV, \$1.25 per printer, \$3.00 per server, \$1.50 per storage device, and \$.05 per keyboard or mouse. All prices include associated cables. Proceeds from the sale shall be deposited into the Unrestricted General Fund.

BE IT ALSO RESOLVED that in accordance with California Education Code Section 17545, the Board of Education declares the following items as surplus to District needs and

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unsatisfactory or no longer suitable for school use: List of Salvage Computer Equipment and Peripherals dated September 25, 2006.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Assistant Superintendent, Business and Finance, to sign said agreement.

10.37 - Extended Field Trip, California Cadet Corps Program, Brigade Leadership School, Camp Pendleton, Oceanside, California

BE IT RESOLVED that the Board of Education approves the extended field trip for 250 middle and high school California Cadet Corps Program students, 11 District employee chaperones, and 2 volunteer chaperones to attend the Brigade Leadership School, Camp Pendleton, CA, October 19-22, 2006. The cost of the trip, not to exceed \$19,850.00, including food, busses for transport on base, office supplies, cargo van rental, t-shirts, and baseball caps for 250 students, 11 District employee chaperones, and 2 volunteer chaperones will be paid from Alternative Programs Account No. 030, and private donations. Transportation by Laidlaw, and San Bernardino City Unified School District Charter Busses, \$6,400.00, will be paid from the following participating Cadet Program School Account Nos.: Arrowview Middle School Account No. 501; Cajon High School Account No. 202; Chavez Middle School Account No. 419; Curtis Middle School Account No. 501; Del Vallejo Middle School Account No. 419; King Middle School Account No. 419; Pacific High School Account No. 202; San Geronio High School Account No. 203; Serrano Middle School Account No. 204; and Shandin Hills Middle School Account No. 276. Names of the students are on file in the Business Services office.

10.38 - Extended Field Trip, California Cadet Corps Program, State Command and Staff School, Los Alamitos, California

BE IT RESOLVED that the Board of Education approves the extended field trip for fifty middle and high school California Cadet Corps Program students and four District employee chaperones to attend the State Command and Staff School, Los Alamitos Joint Forces Training Base, Los Alamitos, CA, October 13-15, 2006. The cost of the trip, \$20,000.00, including lodging, transportation, foodstuffs, and training material, will be paid from The State of California Military Department. Transportation, by rented state vehicles, is included in the total cost, and will be paid from the State of California Military Department. Names of the students are on file in the Business Services office.

10.39 - Extended Field Trip, California Cadet Corps Program, Non-Commissioned Officer and Officer Candidate School, Los Alamitos, California

BE IT RESOLVED that the Board of Education approves the extended field trip for 150 middle and high school California Cadet Corps Program students and 6 District employee chaperones to attend the Non-Commissioned Officer and Officer Candidate School, Los Alamitos Joint Forces Training Base, Los Alamitos, CA, November 3-5, 2006. The cost of the trip, \$5,350.00, including lodging, foodstuffs, instructional materials, awards, and T-shirts, will be paid from Alternative Programs Account No. 030 and private donations. Transportation by Laidlaw,

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\$1,500.00, will be paid from Alternative Programs Account No. 030. Names of the students are on file in the Business Services office.

10.40 - Extended Field Trip, Palm Avenue Elementary School, Camp High Trails Outdoor Science School, Barton Flats, California

BE IT RESOLVED that the Board of Education approves an extended field trip for 100 Palm Avenue Elementary School fifth grade students and 5 District employee chaperones to attend Camp High Trails Outdoor Science School, Barton Flats, CA, October 23-25, 2006. The cost of the trip, \$16,500.00, including meals and lodging for 100 students and 5 District employee chaperones, will be paid from Palm Avenue Elementary School ASB Account and fundraisers. Transportation by Laidlaw Bus Lines, \$1,678.08, will be paid from Palm Avenue Elementary School Account No. 205 and Palm Avenue Elementary School ASB Account. Names of the students are on file in the Business Services office.

10.41 - Physical Education Exemptions

BE IT RESOLVED that the following students, whose birth dates are listed below, be exempt from physical education requirements and placed in alternative periods of instruction:

8-26-89	6-18-90	10-30-90	11-28-90	1-31-91	6-16-91
6-21-91	12-17-91	9-29-92	12-11-92	2-10-93	5-2-93
8-2-94	7-1-95				

10.42 - Expulsion of Student(s)

BE IT RESOLVED that the Board of Education accepts and adopts the recommendation and findings of the Hearing Panel, based on a review of the Panel's finding of facts and recommendations, and orders the expulsion of the following student(s) with the birth date(s) as listed below in accordance with the Board rules and regulations and in compliance with Education Code Section 48900:

*(S)01/31/94	*(S)06/11/91	11/30/95	*(S)02/12/90	***(S)04/01/89	*(S)07/18/93
*(S)10/08/89	*(S)12/14/90	*(S)03/07/89	*(S)07/25/90	*(S)03/05/94	

*The Board does hereby order the enforcement of the expulsion suspended for a period of not more than one calendar year. The suspension of the enforcement of the expulsion order is deemed appropriate for the rehabilitation of the pupil, per Education Code section 48917.

**The Board does hereby expel the pupil for a period of one semester, and does hereby order the enforcement of the expulsion suspended for the following semester, allowing him/her to be considered for re-enrollment in the district under suspended expulsion as deemed appropriate for the rehabilitation of the pupil, per Education Code section 48917.

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(S) A stipulated expulsion is a process whereby the pupil and his/her family acknowledge responsibility for the behavior leading to the recommendation for expulsion by the school administration, and waive their right to a hearing by admitting to the facts in support of an expulsion recommendation. The pupil and his/her family stipulate the facts of the case as presented by the school, accepting one of the following consequences: *(S) suspended expulsion, ***(S) expulsion one semester, suspended expulsion one semester, (S) expulsion two semesters.

10.43 - Student(s) Recommended for Suspension, but Remanded Back to School Sites or Had Suspensions Reduced, Due to Errors of Due Process, Lack of Evidence, and/or Availability of Other Means of Correction

BE IT RESOLVED that the following student(s) were recommended for suspension, but suspension is deemed inappropriate based on due process errors, insufficient evidence, and/or the availability of other means of correction in compliance with Education Code Section 48900. Therefore, although they were recommended for suspension, the suspension was reversed or modified.

10.44 - Student(s) Recommended for Expulsion, but Remanded Back to the School Sites Due to Errors of Due Process, Lack of Evidence and/or Availability of Other Means of Correction

BE IT RESOLVED that the following student(s) were recommended for expulsion, but expulsion is deemed inappropriate based on due process errors, insufficient evidence, and/or the availability of other means of correction in compliance with the Education Code section 48900. Therefore, although they were recommended for expulsion, the expulsion is not granted:

10.45 - Student(s) Not Recommended for Expulsion as Specified Under Education Code Section 48915 (a)

Education Code Section 48915 (a) states, "Principal or the Superintendent of the schools shall recommend a pupil's expulsion...., unless the principal or superintendent finds and so reports in writing to the governing board that expulsion is inappropriate, due to the particular circumstance, which should be set out in the report of the incident."

The student(s) identified below were found to have committed a violation of Education Code Section 48900 for which a referral for expulsion is mandated; however, the principal found that due to particular circumstances, expulsion is inappropriate:

10.46 - Revocation of Suspension of Expulsion

FURTHER, in accordance with Education Code Section 48917, the Board does hereby order the expulsion of the student(s) with birth date(s) as listed:

10/13/88

This order revokes a previously suspended expulsion order and is recommended at this time because the student(s) violated the conditions of the suspension of the expulsion order.

10.47 - Lift of Expulsion of Student(s)

BE IT RESOLVED that the Board of Education authorizes the readmission of the following student(s), with the birth date(s) as indicated below, to schools of the San Bernardino City Unified School District in accordance with the Board rules and regulations and in compliance with the Education Code Section 48900:

04/30/93	03/19/90	05/10/90	09/25/91	12/23/92	10/11/89
02/21/93	07/13/90	09/13/94	09/30/93	06/21/90	11/25/91
10/18/90					

10.48 - Failure to Recommend Mandatory Expulsion 48915

BE IT RESOLVED that the following school(s) have failed to adhere to Education Code Section 48915. Principals are required by Education Code to report guns, brandishing a knife, sexual assault, possession of an explosive device, and/or the sale of an illegal substance. The following school(s) have not followed this Education Code requirement:

10.15 - Consultant Agreement with Labor Ready, Inc., to Provide Temporary Cafeteria Workers

Teresa Parra asked why the District is contracting for temporary cafeteria workers instead of using District employees. John Peukert stated that this is a temporary arrangement to help with the shortage caused by the Personnel Commission not acting.

Upon motion by Member Parra, seconded by Member Brown, and approved by the affirmative vote of Members Brown, Dupre, Parra, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the Board of Education approves entering into a service agreement with Labor Ready, Inc., San Bernardino, CA, to provide temporary cafeteria support for preparation, service, and clean up at District sites as needed, effective October 4, 2006, through June 30, 2007. The cost, not to exceed \$700,000.00, will be paid from Nutrition Services Cafeteria Account No. 92.

BE IT FURTHER RESOLVED that Mohammad Z. Islam, Assistant Superintendent, Business and Finance, be authorized to sign said agreement.

11.0 - Action Items

11.1 - Emergency Resolution Regarding Temporary Assumption of Functions of Personnel Commission

INTRODUCTION

The San Bernardino City Unified School District is currently facing an emergency situation. Based on the refusal of the Personnel Commission to discharge its mandatory statutory duties, hundreds of critical classified positions remain vacant, and promotional positions remain open. Resolving this critical situation requires immediate action by the Board of Education.

RECOMMENDATION

Staff recommends a measured response to remedy the emergency situation caused by the Personnel Commission. Consistent with its constitutional, statutory and regulatory obligations, staff recommends that the Board of Education adopt an emergency resolution to authorize the Superintendent and Board of Education to perform certain functions of the Personnel Commission. Staff recommends that only those functions that are necessary to maintaining District operations, including, but not limited to, preparation of eligibility lists and appointment of individuals for vacancies and open promotional positions, be executed by the Superintendent or his designee. Staff further recommends that the Board of Education only authorize the Superintendent or his designee to perform these functions until the Personnel Commission resumes full performance of its statutory duties.

BACKGROUND

1. The statutorily defined, mandatory duties of the Personnel Commission are to appoint and supervise a director (sections 45240 and 45264), to prepare and submit an annual budget (section 45253), to classify employees (section 45256), to prescribe rules to be followed by the Board of Education in enumerated areas (sections 45260 and 45261), to give each new classified employee a handbook that summarizes the rules (section 45262), to recommend a graduated scale of compensation for apprentices (section 45263), to recommend salary schedules (section 45258), to place applicants on eligibility lists (section 45272), to provide that oral examinations be recorded (section 45273), to retain examination records (section 45274), to approve minimum qualifications (section 45276), to establish procedures for maintenance of requests for transfer, change of location, change of shift, and notification of forthcoming examinations (section 45278), to provide by rule for examination for business manager (section 45280), to process disciplinary appeals (section 45305) and to investigate disciplinary appeals (45306).
2. The Rules and Regulation of the Personnel Commission state that Personnel Commission will perform the following functions, among others:

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- a. The Commission shall meet on the fourth Wednesday of each month. Rule 2.04.
 - b. The Commission shall create and post an agenda. Rule 2.08.
 - c. The Commission shall ratify eligibility lists prepared by the Classified Personnel Director (now the Assistant Superintendent). Rules 5.01, 5.08.
 - d. The Commission shall certify that the person assigned to a position has been appointed pursuant to the Education Code and the rules of the Personnel Commission. Rule 5.08(C).
3. At its regular meeting of August 24, 2005, the Commission listened to presentations and reviewed information on a topic entitled “The Classified Employees’ Crisis – Discussion and Necessary Action Regarding Non-Compliance with the California Education Code and the Personnel Commission Rules.” As a result the Commissioners voted to approve the content of and sign and send a letter to the Board of Education of the District. The letter accused the District of “[s]ignificant noncompliance [that] has created a crisis for classified employees and applicants for classified positions, as well as for the District.” The letter did not specify what, if any, noncompliance issues were created by the District.
 4. Dr. Arturo Delgado, Superintendent of the District, responded on behalf of the District on September 16, 2005, asking for clarification regarding the unspecified, alleged areas of non-compliance with the Education Code and Commission Rules.
 5. The Director responded to the request for clarification by letter dated September 26, 2005. The response, however, did not provide the clarification sought. Instead, the Director stated that the letter “speaks for itself.”
 6. By letter dated October 14, 2005, Dr. Delgado informed the Director that absent specific responses from the Commission to the questions posed in his letter of September 16, 2005; the District would be unable to investigate the allegations and would consider the matter closed.
 7. The Director responded to the Superintendent by letter dated November 1, 2005. The Director stated that “[w]e appear to have an understanding and communications problem,” “[t]herefore, I have had the letters translated into Spanish for you.”
 8. The Director provided a partial copy of Article 6 of the Education Code and the Commission Rules to the District, highlighting the statutory and regulatory duties of the Commission, Commissioners and the Director of the Commission and the Classified Personnel Director (now the Assistant Superintendent).
 9. In December 2005, the term of the Commissioner appointed by the classified employees of the District expired. He was replaced by Christopher Sherman.

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Sherman's nomination was not placed on the agenda of the Board of Education of the District as required by law. He was seated, however, and began participating as a Commissioner without challenge from the Director, the Commission or the District.

10. Beginning with the agenda for the Commission's meeting on or about February 22, 2006, and continuing through the present, the Director has failed or refused to place items on the Commission's agenda to ratify recruitments or eligibility lists in spite of the fact that such items have been submitted by administration. He has also wrongfully failed/refused to sign transfer, hiring and promotional documents.
11. As a result of the failure/refusal of the Director and the Commission to consider the ratification of recruitment and eligibility lists the District is unable to hire replacements or to promote current employees into vacant positions. There are currently approximately 579 vacant positions in the classified service. Without the ability to timely fill the vacant positions, the District is impaired in its ability to provide services to students and staff, to provide the services necessary to maintain District facilities and support services, or to ensure that the District's schools and facilities are safe, secure, and peaceful.
12. On February 21, 2006, the District issued a letter demanding that the Commission cease and desist any and all actions, contracts, or activities in furtherance with the threatened "assumption of [unspecified] duties," any and all submissions for payment or contracts that do not accurately and completely reflect a valid and specific Commission action, and failing or refusing to process District hiring documents.
13. On April 26, 2006, at the regular meeting of the Commission, after closed session, but before any business was conducted, both the District's appointee to the Commission and the appointee jointly appointed by the District and the exclusive representative resigned their offices, leaving Sherman as the sole Commissioner.
14. Due to the lack of a quorum, the Commission was unable to meet in May, June or July.
15. On June 6, 2006, the Board of Education of the District announced its nominee to the Commission and on July 18, 2006, the Board of Education of the District appointed Delfina Bryant as its appointee to the Commission at a regularly scheduled public meeting.
16. Thereafter, the Director failed/refused to prepare or publish an agenda for the Commission's regular meetings.
17. Commissioner Sherman and Commissioner Bryant agreed to schedule a special meeting of the Commission for August of 2006. However, the Director subsequently notified Commissioner Bryant that the meeting would not be held as agreed.

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18. The Director prepared and published an agenda for a Commission meeting to be held August 30, 2006. However, prior to the beginning of the meeting the Director announced that in his opinion Commissioner Bryant had not been properly appointed. Commissioner Sherman announced that he agreed with the Director's opinion and that there would be no meeting.
19. There has been no legal challenge to the appointment of Commissioner Bryant. The Director and Commissioner Sherman, however, refuse to recognize her appointment. Their continued failure and/or refusal prevents the Commission from conducting the business of the Commission and prevents the District from hiring/promoting classified employees. The unprecedented number of vacant classified positions is causing substantial disruption to District operations.
20. As of September 19, 2006, the Personnel Commission has refused to discharge its statutory duties with respect to the appointment of classified employees, and has persisted in its refusal to recognize the lawfully appointed District Commissioner.

Dr. Delgado stated that Delfina Bryant was duly appointed to the Personnel Commission by the Board. Christopher Sherman and Abe Flory have refused to acknowledge her. Promotions and appointments have not been able to be filled. A writ of mandate was issued. On September 27, the District submitted an agenda request to the Personnel Commission. The Personnel Commission posted a notice that the commission would not meet. People have been on eligibility lists that are expiring and will have to reapply and retest. The Superintendent asked the Board to consider adopting the following resolution.

Warren Kinsler, attorney from Atkinson, Andelson, Loya, Ruud & Romo, stated that Dr. Delgado explained the reasons for the resolution and deferred to closed session discussion regarding litigation. There is a close relationship for the need for the resolution relative to litigation.

Dr. Delgado stated that the public is allowed to comment on this matter prior to the Board moving into Closed Session. Mr. Kinsler stated that action will be taken in open session.

Danny Tillman asked for examples of consequences of the Commission not acting. Dr. Delgado stated that air conditioners have not be repaired in a timely manner, there is a lack of staff to serve lunches, there are a number of CSO positions not being filled resulting in safety issues, people have left the District because we can't give them a date when the Personnel Commission will meet. We are losing qualified people. We can continue to hire temporary people.

Mr. Tillman asked if this action is unprecedented. Mr. Kinsler reported yes. Sherrie Gordon, attorney from Atkinson, Anderson, Loya, Ruud & Romo, reported that we are watching state and federal mandates. We can't hire special education personnel required to conduct IEP meetings. We have no choice.

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Dr. T. R. Lin, Personnel Commission Director in Desert Sands School District, encouraged the Board not to act. The Personnel Commission hasn't refused to work with the District. They have only asked to use the proper procedures. Lawsuits will follow if the Board takes this action. Dr. Lin asked the Board to find a win/win situation.

Chuck Sheppard stated that CSEA does not support the resolution. It is unprecedented. Creativity should be used to resolve this. CSEA's concern with Delfina Bryant is whether or not she is a known adherent to the merit system. Mr. Sheppard stated that this is an invitation to further chaos.

Natacey Singleton, CSEA site representative, stated she doesn't support the resolution. Problems should be resolved amicably on both sides without either side taking away any power. This could be at the expense of classified employees. Don't make it a power struggle.

Abe Flory, Personnel Commission Director, reported that he retained legal counsel who suggested that all parties meet with a mediator to address real issues.

Dr. Delgado stated that the Board went through an extensive process to appoint Mrs. Bryant. Sherrie Gordon stated that her name was announced at a public meeting and the appropriate time passed for her actual appointment. The public was invited to make comments which is required by law. No one is qualified by law to not recognize her. State and federal funding comes under scrutiny and jeopardy. Students entitled to services can't afford not to have them. There is a quick resolution. The Personnel Commission needs to recognize Delfina Bryant.

Dr. Delgado stated that the Personnel Commission has two commissioners. The Board can wait until after Closed Session to make a decision on the resolution. Teresa Parra asked someone to explain the intent of the resolution. Mr. Kinsler stated that he can't go into the strategy in open session. Sherry Gordon stated that Christopher Sherman refuses to sit with Delfina Bryant to hold a meeting, and Abe Flory is refusing to prepare an agenda. Elsa Valdez asked if the resolution was temporary. Dr. Delgado stated that we want the District to function, not take over the role of the Personnel Commission.

Danny Tillman stated that if Christopher Sherman sat at the table with Delfina, the problem would go away. Mr. Tillman asked what the ruling in November would provide. Dr. Delgado stated that it would determine whether or not the Board took proper action in appointing Mrs. Bryant, it would mandate Christopher Sherman to recognize Delfina Bryant as a commissioner, and approve pending appointments.

Judi Penman asked if every attempt has been made to resolve this. Dr. Delgado stated that he met with Ken Holt twice and Abe Flory once. There didn't appear to be any flexibility and he has no confidence that a meeting will be held.

Elsa Valdez stated that she is disturbed with the cartoon pamphlet created and distributed by Abe Flory. It is not amusing to ridicule staff. No one deserves this. Teresa Parra stated that she

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doesn't appreciate someone threatening employees. She also has a concern with Mr. Flory's pamphlet. Mrs. Penman agreed.

It was the consensus of the Board to discuss this further in closed session.

11.2 - Personnel Report #7, dated October 3, 2006

Upon motion by Member Parra, seconded by Member Savage, and approved by the affirmative vote of Members Brown, Dupre, Parra, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the Personnel Report #7, dated October 3, 2006, be approved with addition as noted (see page ____). Personnel actions included in this report are in accordance with policies of the Board of Education, the rules and regulations of the Personnel Commission, and the District's Affirmative Action Plan.

Addition to page .37:

BE IT RESOLVED that the Board of Education approves the appointment of the following employees:

KRIZEK, PATRICIA: Coordinator, State Preschool Program, effective date, work year and salary, to be determined.

DOMINGUEZ, MICHAEL: Elementary School Principal – Carmack/Harmon, effective date, work year and salary, to be determined.

ALLEN, JOAN: Middle School Vice Principal, effective date, work year and salary, to be determined.

WILLIAMS, COLLEEN: Middle School Vice Principal, effective date, work year and salary, to be determined.

SESSION TEN - Closed Session

12.0 - Closed Session

As provided by law, the Board met in Closed Session for consideration of the following:

Student Matters/Discipline

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Conference with Labor Negotiator

District Negotiator: Yolanda Ortega
Employee Organization: California School Employees Association
Communication Workers of America
San Bernardino Teachers Association

Public Employee Discipline/Dismissal/Release

Public Employee Appointment

Title: Middle School Vice Principal
Elementary Principal – Carmack/Harmon
Coordinator, State Pre-School

Conference with Legal Counsel-Anticipated Litigation

(Government Code Section 54956.9(c)) (One)

Conference with Real Property Negotiator

(Government Code Section 54956.8)

Property: APN 0134-211-36-0000
(Located at the Carousel Mall)

Negotiating Parties: San Bernardino City Unified School District
Mark A. Ostoich and LNR

Superintendent's Evaluation

The Board adjourned from Closed Session and made the following announcement.

It was moved by Member Brown, seconded by Member Savage, and approved by the affirmative vote of Members Brown, Dupre, Parra, Penman, Savage, and Valdez (Noes: Tillman), to adopt the following resolution effective October 18, 2006.

Further, in the interim period, the Superintendent is to attempt to resolve pending issues between District and the Commission.

The Resolution will not be effective if the Commission holds a meeting and conducts necessary business and adopts resolution that it will perform all of its duties and exercise its discretion as required by law.

RESOLUTION OF THE BOARD OF EDUCATION

WHEREAS public education is a uniquely fundamental right in California (*See e.g. Butt v. State of California* (1992) 4 Cal.4th 668; *Serrano v. Priest* (1976) 18 Cal.3d 728; *Serrano v. Priest* (1971) 5 Cal.3d 584); and

- WHEREAS** the California Constitution, Article I, section 28, subsection (c) provides “[a]ll students and staff of public primary, elementary, junior high and senior high schools [with] the inalienable right to attend campuses which are safe, secure and peaceful;” and
- WHEREAS** it is the duty of the Board of Education of the San Bernardino City Unified School District (“Board of Education”) to provide students and staff with campuses which are safe, secure and peaceful as required by Article I, section 28, subsection (c) of the California Constitution; and
- WHEREAS** the ultimate responsibility of the Board of Education under Article I, section 28, subsection (c) of the California Constitution to provide students and staff with campuses which are safe, secure and peaceful, and this responsibility cannot be delegated to any other individual or entity; and
- WHEREAS** Article I, section 28, subsection (c) of the California Constitution does not apply to the Personnel Commission of the San Bernardino City Unified School District (“Personnel Commission”); and
- WHEREAS** the Board of Education finds that proper staffing in the classified service of the District is crucial to the effective discharge of its duties under Article I, section 28, subsection (c) of the California Constitution; and
- WHEREAS** the Board of Education finds that classified employees provide direct supervision of students, contribute to safety and security, provide for clean and sanitary classrooms, restrooms and campuses, ensure effective and safe transportation services, and otherwise create a safe, secure and peaceful school environment; and
- WHEREAS** the Board of Education of the District also has the authority and obligation under Education Code section 45241 to “employ, pay, and otherwise control the services of persons” of the classified service in accordance with Merit System statutes; and
- WHEREAS** the Merit System statutes and/or the rules and regulations of the Personnel Commission cannot “restrict the authority of the governing board provided pursuant to other sections of [the Education Code];” and
- WHEREAS** the Board of Education finds that to effectively “employ, pay, and otherwise control the services of persons” of the classified service, the Board of Education must make appointments to vacancies and open promotional position; and
- WHEREAS** the Board of Education alone is responsible for the efficient operation of the District’s schools and facilities; and

- WHEREAS** the efficient operation of the District's schools and facilities requires proper staffing in the classified service; and
- WHEREAS** the proper staffing of positions in the classified service is dependent in part upon the Personnel Commission discharging its duties as prescribed by Education Code section 45240 *et seq.*; and
- WHEREAS** the Personnel Commission is required to prescribe rules to be followed by the Board of Education in enumerated areas (sections 45260 and 45261), to give each new classified employee a handbook that summarizes the rules (section 45262), to place applicants on eligibility lists (section 45272), to approve minimum qualifications (section 45276), to establish procedures for maintenance of requests for transfer, change of location, change of shift, and notification of forthcoming examinations (section 45278), to process disciplinary appeals (section 45305) and to investigate disciplinary appeals (45306); and
- WHEREAS** the Board of Education has, by and through its designated representatives, requested, directed, and otherwise attempted to persuade the Personnel Commission and its Director to discharge the duties as prescribed by Education Code section 45240 *et seq.*; and
- WHEREAS** the individual Personnel Commissioners are not employees of the District, and are not, therefore, subject to the requests, directions or other persuasive endeavors of the Board of Education; and
- WHEREAS** the Director of the Personnel Commission is a classified employee of the District and is, therefore, subject to directives of the Board of Education; and
- WHEREAS** the Personnel Commission and its Director have refused to discharge duties as prescribed by Education Code section 45240 *et seq.*; and
- WHEREAS** the refusal of the Personnel Commission and its Director to discharge the duties as prescribed by Education Code section 45240 *et seq.* has resulted in inadequate staffing of positions in the classified service of the District, as follows:
1. The statutorily defined, mandatory duties of the Personnel Commission are to appoint and supervise a director (sections 45240 and 45264), to prepare and submit an annual budget (section 45253), to classify employees (section 45256), to prescribe rules to be followed by the Board of Education in enumerated areas (sections 45260 and 45261), to give each new classified employee a handbook that summarizes the rules (section 45262), to recommend a graduated scale of

compensation for apprentices (section 45263), to recommend salary schedules (section 45258), to place applicants on eligibility lists (section 45272), to provide that oral examinations be recorded (section 45273), to retain examination records (section 45274), to approve minimum qualifications (section 45276), to establish procedures for maintenance of requests for transfer, change of location, change of shift, and notification of forthcoming examinations (section 45278), to provide by rule for examination for business manager (section 45280), to process disciplinary appeals (section 45305) and to investigate disciplinary appeals (45306).

2. The Rules and Regulation of the Personnel Commission state that Personnel Commission will perform the following functions, among others:
 - a. The Commission shall meet on the fourth Wednesday of each month. Rule 2.04.
 - b. The Commission shall create and post an agenda. Rule 2.08.
 - c. The Commission shall ratify eligibility lists prepared by the Classified Personnel Director (now the Assistant Superintendent). Rules 5.01, 5.08.
 - d. The Commission shall certify that the person assigned to a position has been appointed pursuant to the Education Code and the rules of the Personnel Commission. Rule 5.08(C).
3. At its regular meeting of August 24, 2005, the Commission listened to presentations and reviewed information on a topic entitled "The Classified Employees' Crisis – Discussion and Necessary Action Regarding Non-Compliance with the California Education Code and the Personnel Commission Rules." As a result the Commissioners voted to approve the content of and sign and send a letter to the Board of Education of the District. The letter accused the District of "[s]ignificant noncompliance [that] has created a crisis for classified employees and applicants for classified positions, as well as for the District." The letter did not specify what, if any, noncompliance issues were created by the District.

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4. Dr. Arturo Delgado, Superintendent of the District, responded on behalf of the District on September 16, 2005, asking for clarification regarding the unspecified, alleged areas of non-compliance with the Education Code and Commission Rules.
5. The Director responded to the request for clarification by letter dated September 26, 2005. The response, however, did not provide the clarification sought. Instead, the Director stated that the letter “speaks for itself.”
6. By letter dated October 14, 2005, Dr. Delgado informed the Director that absent specific responses from the Commission to the questions posed in his letter of September 16, 2005; the District would be unable to investigate the allegations and would consider the matter closed.
7. The Director responded to the Superintendent by letter dated November 1, 2005. The Director stated that “[w]e appear to have an understanding and communications problem,” “[t]herefore, I have had the letters translated into Spanish for you.”
8. The Director provided a partial copy of Article 6 of the Education Code and the Commission Rules to the District, highlighting the statutory and regulatory duties of the Commission, Commissioners and the Director of the Commission and the Classified Personnel Director (now the Assistant Superintendent).
9. In December 2005, the term of the Commissioner appointed by the classified employees of the District expired. He was replaced by Christopher Sherman. Sherman’s nomination was not placed on the agenda of the Board of Education of the District as required by law. He was seated, however, and began participating as a Commissioner without challenge from the Director, the Commission or the District.
10. Beginning with the agenda for the Commission’s meeting on or about February 22, 2006, and continuing through the present, the Director has failed or refused to place items on the Commission’s agenda to ratify recruitments or eligibility lists in spite of the fact that such items have been submitted by administration. He has also wrongfully failed/refused to sign transfer, hiring and promotional documents.

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11. As a result of the failure/refusal of the Director and the Commission to consider the ratification of recruitment and eligibility lists the District is unable to hire replacements or to promote current employees into vacant positions. There are currently approximately 579 vacant positions in the classified service. Without the ability to timely fill the vacant positions, the District is impaired in its ability to provide services to students and staff, to provide the services necessary to maintain District facilities and support services, or to ensure that the District's schools and facilities are safe, secure, and peaceful.
12. On February 21, 2006, the District issued a letter demanding that the Commission cease and desist any and all actions, contracts, or activities in furtherance with the threatened "assumption of [unspecified] duties," any and all submissions for payment or contracts that do not accurately and completely reflect a valid and specific Commission action, and failing or refusing to process District hiring documents.
13. On April 26, 2006, at the regular meeting of the Commission, after closed session, but before any business was conducted, both the District's appointee to the Commission and the appointee jointly appointed by the District and the exclusive representative resigned their offices, leaving Sherman as the sole Commissioner.
14. Due to the lack of a quorum, the Commission was unable to meet in May, June or July.
15. On June 6, 2006, the Board of Education of the District announced its nominee to the Commission and on July 18, 2006, the Board of Education of the District appointed Delfina Bryant as its appointee to the Commission at a regularly scheduled public meeting.
16. Thereafter, the Director failed/refused to prepare or publish an agenda for the Commission's regular meetings.
17. Commissioner Sherman and Commissioner Bryant agreed to schedule a special meeting of the Commission for August of 2006. However, the Director subsequently notified Commissioner Bryant that the meeting would not be held as agreed.

18. The Director prepared and published an agenda for a Commission meeting to be held August 30, 2006. However, prior to the beginning of the meeting the Director announced that in his opinion Commissioner Bryant had not been properly appointed. Commissioner Sherman announced that he agreed with the Director's opinion and that there would be no meeting.
19. There has been no legal challenge to the appointment of Commissioner Bryant. The Director and Commissioner Sherman, however, refuse to recognize her appointment. Their continued failure and/or refusal prevents the Commission from conducting the business of the Commission and prevents the District from hiring/promoting classified employees. The unprecedented number of vacant classified positions is causing substantial disruption to District operations.
20. As of September 19, 2006, the Personnel Commission has refused to discharge its statutory duties with respect to the appointment of classified employees, and has persisted in its refusal to recognize the lawfully appointed District Commissioner; and

WHEREAS due to inadequate staffing caused by the refusal of the Personnel Commission to discharge its duties as prescribed by Education Code section 45240 *et seq.* and in violation of the requests and directives of the Board of Education, an actual and immediate emergency exists regarding the Board of Education's responsibility under Article I, section 28, subsection (c) of the California Constitution to provide students and staff with campuses which are safe, secure and peaceful; and

WHEREAS Education Code section 35160 provides the Board of Education with the authority to "initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established; and

WHEREAS no law exists which conflicts with or is inconsistent with the Board of Education taking reasonable action to respond to emergency situations, and specifically, the actual and immediate emergency situation created by the refusal of the Personnel Commission to discharge its duties as prescribed by Education Code section 45240 *et seq.*

THEREFORE BE IT RESOLVED that the Board of Education of the San Bernardino City Unified School District:

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1. An actual and immediate emergency exists based on the inadequate staffing of the classified service in the District.
2. The emergency is based upon the refusal of the Personnel Commission of the San Bernardino City Unified School District to exercise its duties as prescribed by Education Code section 45240 *et seq.* as well as its own Rules and Regulations.
3. In order to effectively respond to the emergency situation caused by the Personnel Commission, the Board of Education must ensure that the duties as prescribed by Education Code section 45240 *et seq.* are fully executed.
4. The Board of Education hereby directs the Superintendent to take reasonable and measured action to perform the duties as prescribed by Education Code section 45240 *et seq.*, and to the extent appropriate, utilize procedures set forth in the Rules and Regulations of Personnel Commission, as follows:
 - a. The Superintendent or designee shall identify vacancies and open promotional positions in the classified service; and
 - b. The Superintendent or designee shall create or utilize existing lists of individuals who are qualified to fill the vacancies and open promotional positions in the classified service; and
 - c. The Superintendent or designee shall adhere to merit principles when creating the list of individuals who are qualified to fill the vacancies and open promotional positions; and
 - d. The Superintendent or designee shall submit the list of vacancies and open promotional positions and the corresponding list of individuals qualified to fill said positions to the Board of Education.
5. The Board of Education will take action to approve or reject the candidates recommended by the Superintendent for the vacancies or open promotional positions.
6. The candidates approved by the Board of Education for the vacancies and open promotional positions shall be deemed appointed for said positions, and shall have all the rights, privileges and duties afforded to similarly situated members of the classified service.
7. The Superintendent and Board of Education shall exercise these duties until the Personnel Commission forwards to the Board of Education written notice approved by a majority of Commissioners at a lawfully agendized meeting that it will perform all of its duties and exercise its discretion as prescribed by law.
8. In no event will the appointments made by the Board of Education be subject to subsequent approval or rejection by the Personnel Commission.

9. The Superintendent shall take whatever legal action necessary to compel the Personnel Commission to:

- a. Recognize the lawfully appointed District Commissioner, Delfina Bryant, whose entitlement to the use and enjoyment of the office is affirmed hereby; and
- b. Discharge its statutory duties in a timely, effective, and cooperative manner; and
- c. Cease and desist acting in an arbitrary and capricious manner; and
- d. Any and all other legal action deemed necessary to avert the current crisis.

10. The Superintendent shall take whatever legal action necessary to compel the Personnel Commission Director to:

- a. Comply with reasonable directives of the Board of Education; and
- b. Discharge his duties as prescribed law and by the Rules and Regulations of the Personnel Commission;
- c. Cease and desist acting in an arbitrary and capricious manner; and
- d. Any and all other legal action deemed necessary to avert the current crisis.

SESSION ELEVEN - Closing

13.0 - Adjournment

By the affirmative vote of the members, the meeting was adjourned at 8:50 p.m.

The next regular meeting of the Board of Education of the San Bernardino City Unified School District will be held on Tuesday, October 17, 2006, at 5:30 p.m. in the Community Room of the Board of Education Building, 777 North F Street, San Bernardino.