

**SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT
SPECIAL PERSONNEL COMMISSION
MEETING MINUTES**

March 30, 2011

A special meeting of the Personnel Commission was held in the Personnel Commission Office. Present were Mr. Gino Barabani, Chairperson, Ms. Rhonda Early, Vice Chairperson and Michael Salazar, Member.

I. CALL TO ORDER

Mr. Barabani called the meeting to order at 5:46 p.m. Mr. Barabani led the pledge of allegiance.

II. APPROVAL OF AGENDA

Mr. Barabani: Next item on the agenda is Approval of the Agenda.

Mr. Salazar: I'd like to move that we approve the agenda.

Mr. Barabani: I have a motion, do I have a second? I'll second it. Call for a vote. Aye.

Ms. Early: Aye.

Mr. Salazar: Aye.

III. PUBLIC COMMENTS

Mr. Barabani: Public Comments at this time.

Dee Tarango, Certificated Manager: My name is Dee Tarango, and I work in the Accountability office as a Coordinator, and I am speaking to the issue of the job descriptions; the three job descriptions that you will be talking about in Action Item V (D) and I am the person that is working directly with the state; we had a review last year, we were found out of compliance and so at that time, we were given a year to fix our job descriptions. So, just for a tiny little background, when the job descriptions were written years ago, we had some funding that most of the people were paid from and there was some flexibility within that funding, but now the funding is directly related to English Learners and the way the state words it, it's direct services to English Learners, meaning that whoever is funded, whatever position is funded from that fund, they need to be working directly with students or with families. So in the job descriptions, there are statements about clerical duties, typing, keeping records, and so what the state is directing us to do is to take that type of statement out because that position works totally with children. The positions are very important and we don't want to loose the positions, we don't want to loose the people. So what our office is wanting to do is to form that job description in such a way that categorical, rather than General Ed, but categorical money can pick up the position, which it's already doing. So in describing; in the state describing to me what needs to happen for instance, Ed Assistant III should be working

with children. If there is typing, if there is maintaining of records, clerical duties like that, that really belongs to the teacher so that frees up that person to do tutoring and they do some assessment, they support with the language. The Attendance Verifier and the Community Resource Worker are very much the same, they are not working so much with the students, they are working directly with families. So, they need to be free to answer the phone when families call and be able to research agencies, understand family needs, the community needs, understand what the families need in order to help their children who are English learners succeed so, their time is spent with the families and should not be spent with clerical duties. The funding before, which was flexible, has been narrowed in its focus to reading, writing, math, and families. The issue of direct services is what came up during our CPM which is a Categorical Program Review, it came up then as they were reading our job descriptions and they picked three schools; these were the job descriptions and those three schools and they basically said, we see other things here not that would take them away from working with students so, our request then, is to consider so we can make these changes. Now the issue with the funding is; what the state their kind of procedure is, they have the finding, you have the year to fix the finding, anything that goes past that year, the State Board of Education then gets information, we submit a consolidated application every year; that's how we get our categorical funding, by submitting that application. What has happened in the past is the state then reviews who is out of compliance, how are they out of compliance, and if it is with categorical funding, then they have a discussion on whether to withhold some of that funding because we are now not in compliance with our legal assurances with the mandates with the state. So we are trying to avoid all of that; we had the finding last May so, May 6th is our dateline date. Everything takes some time, it took time for the state to write up the finding, they found it right away, but they had to write it up and then everything of the procedure takes some time, but our deadline is coming pretty closely so, we don't want to lose the funding, we don't want to lose the people.

Mr. Barabani: Thank you.

Dee Tarango, Certificated Manager: Ok.

Mr. Barabani: Thank you very much. Any other public comments? Thank you very much.

Dee Tarango, Certificated Manager: Thank you.

IV. ACTION ITEMS

Mr. Barabani: First item under Action Item section IV, Item A, *the Commission will request additional information from the district under the authority of Education Code 45311 and the Public Records Act. A proposed motion is: 1. It is moved that the Commission request all unredacted payroll records and time cards or time records and a payroll history report for Bryan Astrachan for the dates of February 19, 2011 through March 31, 2011. Motion? 2. It is moved that the Commission request records that show the budgeting source for all funds used to pay Bryan Astrachan between January 1, 2011 and March 31, 2011. Do I have a second on Action Item IV (A) number one?*

Ms. Early: I second.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Salazar: Is there time for discussion?

Mr. Barabani: I will rescind, that is what I paused for, but go ahead. Were you going to retract and go back?

Mr. Salazar: I just wanted to make a brief comment about this whole thing. We are in a public forum and I just want to go on record as saying that I don't believe that this is, in a public forum, a place for us to be talking about confidential personnel issues and mentioning personnel specifically by name in a public forum. It seems to me that any time we've had any discussions about specific personnel that its always been done in closed session. I just wanted to make that comment and it concerns me that we have this employee's name right here on our agenda for all to see that there are some issues that the Commission has with this specific employee. That's all.

Mr. Barabani: All right, we have a motion; I will call for a vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: I will abstain from voting.

Mr. Barabani: Action Item IV (A) number two, do I have a motion for that?

Ms. Early: Did you not make a motion already?

Mr. Barabani: No, I am trying to break them down into sections A and then one and then two.

Ms. Early: I so move.

Mr. Barabani: Any discussion? Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Ms. Salazar: Nay.

Mr. Barabani: We will now move to Action Item IV (B), *The Commission will discuss and take action concerning an investigation and hearing pursuant to Education Code sections 45311 and 45312 and the issuance and enforcement of subpoenas and take testimony from the Assistant Superintendent Human Resources – Classified and Bryan Astrachan concerning various aspects of the selection procedure for Cafeteria Worker (Job Code 0427). Proposed motions are: 1. It is moved that the Commission conduct a hearing and investigation into the recruitment and selection process for Cafeteria Worker (Job Code 0427) to determine if the entire examination process was conducted in accord with the examination procedures under the Rules, the merit system statutes of the Education Code and the directives of the Commission. 2. It is moved that the Commission Chair issue subpoenas to the Assistant Superintendent Human Resources-Classified and to Bryan Astrachan to appear before, produce records, and to testify under oath at a date and time scheduled for the Commission Chair but not later than May 25, 2011, concerning the examination procedure for Cafeteria Worker (Job Code 0427).* Do I have a second on Action Item B sub parts one and two?

Ms. Early: I second.

Mr. Barabani: I have a second. Open for discussion.

Mr. Salazar: Again, for the record, I just feel that we should not be using employee's names. Thank you.

Mr. Barabani: Thank you. I would like not to use his name, but...?

Mr. Salazar: But you do.

Mr. Barabani: But most positions here; people's their; you do work for the public so, the name is in the directory and everything like that so, it's not an issue, my laymen's opinion is it's not an issue. Second, I have no idea what this individual's job is so, I can't refer to the position he holds.

Mr. Salazar: You do refer to it, don't you? Ok.

Mr. Barabani: Call for a vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: Nay.

Mr. Barabani: Action Item number IV category C. *The Commission will discuss and take action on a promotional only recruitment for Cafeteria Worker (Job Code 0427). Proposed motions are: I will read them and then we can decide how we want to vote for them. 1. It is moved that the Commission approve the attached recruitment bullet for a*

promotional only examination for Cafeteria Worker (Job Code 0427), 2. It is moved that the commission declares that the promotional only examination for Cafeteria Worker (Job Code 0427) is posted and qualified employees of the district may apply for that promotional examination effective immediately, 3. It is moved that the Commission approves and directs that any person who was disqualified from the previous examination for this position due to not having a high school diploma or equivalent be tested at the same time and that they be placed on the open promotional list based on their scores, 4. It is moved that the Commission request that CSEA notifies current employees of the district who might qualify for and be interested in applying for this promotional opportunity and to advise the Commission Chair of any information they receive that might indicate that qualified and interested employees are being discouraged or prevented from applying or participating in the selection process, 5. It is moved that the Commission warns and advises any person (e.g., district employee, district administrator, Commission staff, or non-employee) who willfully by himself or in cooperation with another person defeats, deceives, or obstructs any person with respect to his right of examination, application, or employment for this recruitment may be guilty of criminal actions will be referred to the district attorney for investigation and prosecution, 6. It is moved that the Commission Chair assume overall responsibility for the administration of the recruitment and the examination procedure. I'd like to go through these now that I read them one at a time so; we are under Action Items IV category C number one. Do I have a second for that?

Ms. Early: I second.

Mr. Barabani: Call for discussion. Call for the vote.

Mr. Salazar: Aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Barabani: Action Item IV category C number two. Would it help for me to read this again? Ok. *It is moved that the Commission declares that the promotional only examination for Cafeteria Worker (Job Code 4027) is posted and qualified employees of the district may apply for that promotional examination effective immediately. Do I have a second?*

Ms. Early: I second.

Mr. Barabani: Any discussion? Call for the vote.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Salazar: Aye.

Mr. Barabani: Thank you.

Mr. Barabani: Action Item IV subcategory C number three: *it is moved that the Commission approves and directs that any person who was disqualified from the previous examination for this position due to not having a high school diploma or equivalent be tested at the same time and that they be placed on the open promotional list based on their scores.* Do I have a second?

Ms. Early: I second.

Mr. Barabani: Open for discussion. Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: Aye.

Mr. Barabani: Action Item IV subcategory C number four: *it is moved that the Commission request that CSA notifies current employees of the district who might qualify for and be interested in applying for this promotional opportunity and to advise the Commission Chair of any information they receive that might indicate that qualified and interested employees are being discouraged or prevented from applying or participating in the selection process.* Do I have a second?

Ms. Early: I second.

Mr. Barabani: Any discussion? Call for a vote. Aye.

Ms. Early: Aye.

Mr. Salazar: I will abstain.

Mr. Barabani: All right. Thank you.

Mr. Barabani: Action Item IV sub C number five: *it is moved that the Commission warns and advises any person (e.g., district employee, district administrator, Commission staff, or non-employee) who willfully by himself or in cooperation with another person defeats, deceives, or obstructs any person with respect to his right of examination, application, or employment for this recruitment may be guilty of criminal actions will be referred to the district attorney for investigation and prosecution.* Do I have a second?

Ms. Early: I second.

Mr. Barabani: Open for discussion. Call for a vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: I will abstain from voting on that.

Mr. Barabani: Action Item IV sub C number six: *it is moved that the Commission Chair assume overall responsibility for the administration of the recruitment and the examination procedure.* Do I have a second?

Ms. Early: I second.

Mr. Barabani: Open for discussion.

Mr. Salazar: I guess the question that comes to mind is what is it that makes the Chair qualify for such a unique position?

Mr. Barabani: Basically, we have a staff that handles the technical responsibilities and I would assume I would be here to overlook the procedures making sure they are done correctly and after the examination is done, making sure it got categorized, examination graded and then we won't have any further problems with maybe the list leaving the office.

Mr. Salazar: So, I am to understand that the Chair feels that the Chair is uniquely qualified for such a position?

Mr. Barabani: In my opinion, I believe I can do what's needed to complete (inaudible).

Mr. Salazar: It seems like a highly technical position that requires a certain level of expertise.

Mr. Barabani: And that is why we have the staff.

Mr. Salazar: I am talking about the Chair on this so, you're uniquely qualified to supervise and tell whether something is technically fit or not.

Mr. Barabani: Well, we have the exam Cafeteria Worker was done and we didn't have anybody here; well we didn't have anybody here to produce the document the district wanted us; felt favorable enough to submit.

Mr. Salazar: I just asked the question what is it that makes the Commission Chair qualified for such a responsibility, I feel like that's a heavy responsibility.

Mr. Barabani: I believe the responsibility is to make sure that this is being done correctly and fairly and with the technical staff doing the technical aspects of it, I am just going to be here to hopefully oversee things.

Mr. Salazar: Hopefully you get it right there because that is a very challenging position, I wish you well, Mr. Chair.

Mr. Barabani: Thank you. Thank you. Call for a vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: Nay.

Mr. Barabani: We'll move to Action Item IV subcategory D: *The Commission will discuss and take action on a request for revisions to the classification specifications for the positions of Attendance Verifier, Community Resource Worker, and Education Assistant III (Spanish). Proposed motions are: 1. It is moved that the Commission, under protest and coercion, approves the requested revision of classification specifications only as to change in duties proposed by the Assistant Superintendent Human Resources – Classified for the positions of Attendance Verifier, Community Resource Worker, and Education Assistant III (Spanish) as indicated in the attached classification specification of each. 2. It is moved that the Commission warns and advises the Assistant Superintendent Human Resources – Classified that before any future classification specification will be revised, the information necessary for a proper, professional, and legal classification specification, as indicated in the attached letter to her dated March 14, 2011 must also be provided as part of the requested for revisions or as part of any proposed classification specification.* Do I have a second?

Ms. Early: I second.

Mr. Barabani: We will open this up to discussion.

Mr. Salazar: Just a comment, I'll cover one first and then two, but I can most likely vote for this, the issue that I have is with the language as it is written here, I don't feel like I am under any protest or being coerced to make a decision here so to me, that language as it is written here, is offensive and it does not reflect my view of what we are talking about here. So, I just want to say that for the record. I don't feel like I am being coerced or I'm under any sort of protest or anything like that so, there you go.

Mr. Barabani: Call for a vote. I vote aye.

Ms. Early: Aye.

Mr. Salazar: I will abstain because of the language.

Mr. Barabani: Action Item IV sub E: *The Commission will discuss and take action on the hearing officer...*

Mr. Salazar: Oh, did we vote on both of them at the same time? I am sorry Mr. Chair.

Mr. Barabani: Yes we did; would you have liked for me to...it's too late now.

Mr. Salazar: I thought we were on just item one.

Mr. Barabani: No, I read them both and then made a call.

Mr. Barabani: Action Item IV subcategory E: *The Commission will discuss and take action on the hearing officer and investigators report as to whether or not Mel Albiso was hired as an Associate Superintendent and/or Associate Superintendent/Chief Administrative Officer in accord with the examination procedures of Education Code Article 6 on the merit system and the Commission Rules. Proposed motions are, there are three of them: 1. The Commission moves to adopt the March 28, 2011 report of the Commission Chair on his investigation into the appointment process for Mel Albiso as an Associate Superintendent and/or Associate Superintendent/Chief Administrative Officer as submitted. 2. The Commission moves to conduct a public hearing on April 27, 2011 pursuant to Education Code section 45310 to determine if Mel Albiso was appointed as an Associate Superintendent and/or Associate Superintendent/Chief Administrative officer in accord with the examination procedures of the Commission Rules and the examination procedures for merit systems as specified in the Education Code, and if so, to determine if a pay warrant may thereafter be issued. 3. The Commission moves to ask the governing board to place the report, as approved by the Commission on the governing board agenda for discussion and action at the earliest time as it is required to do pursuant to Education Code section 35145.5. We will take these one at a time. So, Action Item IV subcategory E number one: *The Commission moves to adopt the March 28, 2011 report of the Commission Chair on his investigation into the appointment process for Mel Albiso as an Associate Superintendent and/or Associate Superintendent/Chief Administrative Officer as submitted.* Do I have a second?*

Ms. Early: I second.

Mr. Barabani: Open for discussion. Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: This is E (1) or are we voting on all three, just one?

Mr. Barabani: Yes.

Mr. Salazar: Nay.

Mr. Barabani: Action Item IV subcategory E number two: *The Commission moves to conduct a public hearing on April 27, 2011 pursuant to Education Code section 45310 to determine if Mel Albiso was appointed as an Associate Superintendent and/or Associate Superintendent/Chief Administrative Officer in accord with the examination procedures of the Commission Rules and the examination procedures for merit system as specified in the Education Code, and if so, to determine if a pay warrant thereafter be issued.*

Ms. Early: I second.

Mr. Barabani: Open for discussion. Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: Nay.

Mr. Barabani: Action Item IV subcategory E number three: *The Commission moves to ask the governing board to place the report, as approved by the Commission on the governing board agenda for discussion and action at the earliest time as it is required to do pursuant to Education Code section 35145.5.*

Ms. Early: I second.

Mr. Barabani: Open for discussion.

Mr. Salazar: Yes, just one thing on that, it looks like the way that this is written is to place a report as approved so, are we already assuming that the report was going to be approved when this agenda was written?

Mr. Barabani: No, that way it's separated into three sections.

Mr. Salazar: Yeah, but you wouldn't know in item three that item one was going to be approved?

Mr. Barabani: Then you would have voted no.

Mr. Salazar: No, I am just saying that in item three, this was written before we took that vote. So the assumption was when this was written then that was going to be approved, right? I am just making an observation and a comment. One other thing, for the record and again, I don't think we should be using names of personnel on the public form, if we have personnel issues, we should be talking about that confidentially and in closed session. That's it, that's all my comments.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: Nay.

V. CLOSED SESSION

Mr. Barabani: Next item is Item V Closed Session; the Commission will adjourn into Closed Session at 6:20 p.m.; let me read what we will be *Conference with legal counsel, Kristine E. Kwong, Musick, Peeler, & Garrett LLP regarding existing litigation (section 54956.9A): San Bernardino City Unified School District: Dr. Arturo Delgado v Personnel Commission of the San Bernardino City Unified School District case No. CIVDS 916709. Pursuant to Government Code section 54957 to discuss: Public Employee appointment Title: Personnel Commission Director. Next item Public Performance Evaluation Title: Training/HR Specialist (2).* We have to wait until we reconvene into open session; we are now going into closed session.

REPORT OUT OF CLOSED SESSION

The Commission reconvened its open session meeting at 7:10 p.m.

Mr. Barabani: Thank you Nerci. I hope I was not too loud in there to bother you; we have nothing to report.

VIII. ADJOURNMENT

The Commission adjourned the meeting at 7:10 p.m.