

PERSONNEL COMMISSION MEETING
SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION COMMUNITY ROOM

MINUTES

I. CALL TO ORDER

- A. The meeting was called to order at 5:33 p.m. by Commissioner Barabani.
- B. Roll-Call
 - 1. Commissioner Gino Barabani, Chair
 - 2. Commissioner Rhonda Early, Vice-Chair
 - 3. Commissioner Michael Salazar, Member
 - 4. Patrick Maher, Personnel Commission Director
 - 5. Steve Williams, Ph.D., Personnel Analyst
 - 6. Nersidalia Garcia, Secretary III
- C. Pledge of Allegiance

II. APPROVAL OF AGENDA

Moved	<u>Mr. Barabani</u>	Seconded	<u>Ms. Early</u>
Vote: Barabani	<u>Aye</u>	Early	<u>Aye</u>
		Salazar	<u>Aye</u>

Mr. Barabani I see a lot of people out there so we will skip public comments part.

III. PUBLIC COMMENTS

- NOTE:**
- Comments from the public on any item that is not on the agenda but is under the subject matter jurisdiction of the commission may only be made at this time.
 - Comments from the public on any agenda item may only be made at this time.
 - Public comment during the commission's discussion of an agenda item will not be permitted.

Mr. Barabani Anyone who has a comment please step up here and speak. State your name clearly.

Joshua Bartell,
School Police
Officer My name is Joshua Bartell, I am here as a representative of San Bernardino School Police Officer Association. We are here in support of officer Daniel Arias. I like to briefly ask about what is going on with Daniel? He was hired as a police officer. I know my other friends will speak to different circumstances regarding Daniel. He was promoted out of class from campus security officer to police officer. With the full knowledge and we believe we were told that he works very well as a police officer, he has been waiting for the position to be available, and he is speaking the end. He has explained to me that he has filled out the

application for police officer at minimal of four separate times and completed and turned it in as he was asked to do. Every time he did, he was told that the position had been refrozen and when it came open he would simply need to reapply.

For the state of California the Governing Body Post, Daniel has completed the extended basic academy; he possesses his Post Basic Certificate which satisfies all the requirements to be a police officer as in a written test. When you go through police academy you take no less than 26 separate written tests on various elements of the law, the Ed Codes, criminal codes, to display that you accomplished to be a police officer. I know myself when I was hired back in 2007. I did not need to take a written test to achieve the rank for police officer. I did a decade ago to become a custodian, but to become a police officer I had already shown competence to do the job by completing the police academy by going through the testing. I became a police officer. I know I am speaking to my other officer friends that none of them were required to take a written test before they became police officers. Daniel was never told that in advance. He has completed satisfactory all the duties that has been asked of him and has been working as a police officer for more than two years now.

It is unfortunate that is come from this that he is been told you have been working as a police officer, you are no longer going to be the police officer, when you satisfy all the requirements, he possess his state issue certificates stating that he has completed. It is one year requirement because after you graduate from academy and you work for a year as a police officer, the state issues you a certificate that allows you to go to any agency in the state, and he possesses that. So if he wanted to go to San Diego, to Orange County, to San Bernardino County or anywhere else he can go and he can be treated as a lateral police officer because from the State of California definition he is considered as a police officer. And it is unfortunate that he was been told you will not be considered because of a written test that none of the officers that currently are in the department none of them had to complete as a requirement. Thank you for your time.

Eric Vetere,
Interim
Environment
safety Officer

Good evening my name is Eric Vetere. I am the Vice President for School Police Officer Association. I am here for two agenda items. The first one is of course regarding Daniel Arias. As Josh spoke of the California police officer and training has determined that Daniel is a police officer. There are the governing body with regards to his training and experience. If that is not the case we would like to see the paperwork that says he is not. He has been issued the Basic Post Certificate. By the state of California it says that he is entitled to be a police officer. If you guys have referring documents to that we would like to see them so that we can look into that with our legal counsel. 9051A the California Police Officers Standards says a police officer reading and writing ability assessment, they shall

be given that and they shall be able to read and write of what is necessary to perform the job as a police officer, which officer Daniel Arias has been doing for over one year. I was one of his training officers, trust me if he was not able to cut it, he would not be in the car with me. There are three areas that would waive his need to take a written test which is allegedly what he failed in this process.

Number two, proof of successful completion of the regular basic course, regardless of the fact that he has inversely given a job by the district he completed the basic course as required by section two before he was ever sworn in as a police officer that he completed thus he did not need to take the written test that he allegedly failed there was no necessity for it, there was no need for it. And can be waived and it is commonly waived by the most law enforcement agencies. For some reason this came out of the blue. I was hired in 2001 never took a written test. I understand that we are trying to make this place better, I am all for it. If we are going to rewrite the rules, we are going to rewrite job descriptions, please let's do that let's do it right and let's not try to retroactively apply new rules. If we are going to do stuff let's move forward with it and let's do it right. This young man has done nothing besides serve this district and would be willing to take a bullet for any one of you. It's not his fault that we are all in this mess. It is not his fault at all. He thought this job was his, he was told this job was his. And now his life is falling apart because of this, because of allegedly a test that he did not even need to take.

My second thing that I am here for is actually on the agenda; it is in regards a potential pay raise for Personnel Analyst. We are all working harder then what we should be, there is not a person who is employed by the district or a person from the commission or any of you sitting out there and we are sitting out here working harder than what we should be at this point. To try to give somebody a \$100.00 a day pay raise when we are firing teachers. Let me remind you that our primary function as the school district is to educate kids not to hire people. We can fix schools, and change rules and do job descriptions all day long but if we don't have the money to feed those people out on the streets, it does not matter, you know that. To do the same things that we want accuse the district from doing. Before we start giving each other pay raise you are not better than the people that you are accusing doing the same thing to their friends. So I urge to think about that, like I said we are all working hard out here, all of us. I am not saying that anybody in here is not working hard. I'm just saying lets understand we are under fiscal crisis right now and our primary focus is to educate kids. Thank you.

Steven Nelson,
School Police
Officer

Good evening, my name is Officer Steven Nelson; I have been employed for the district for the last 13 years as a police officer I was one of Daniel's field training officers and watched over him, help to train him and made sure that he provided the district with

all his services that were expected from a police officer. What I would like to see is ladies and gentlemen before me is step up to the knowledge to the expertise that are displayed and say that you would like to retain the employees that have been paid for trained and demonstrated their proficiency in this areas. It is exceedingly difficult through testing and interviews. Training to come up with quality police officers we are all familiar with the times passed here in this district. The value of times to have an employee hired that turns out to haunt us in the long run, and we have such an employee here, that less expressed to himself exemplary the job and would be a real tragedy to let him go without putting our heads together and finding a reason to keep him. We find these rules and regulations that have been established by this commission are working for the best interest of the commission and the district, and the employees. Then we need to find that within ourselves to adjust that to keep the employees that we have, that is within the scope and purview of this board and I know certain district all consistence as well to keep them and retain them as an officer. I would just like to thank you before you leave tonight, instead of brushing this off to the side allow him to transitioning back to campus security officer that you would sit down and actively seek to retain to current position that is what is best of serving to all of us at this point. Thank you.

Mr. Salazar I have a question; Can I ask you a question at this point? I am going to ask you the question and you may not know the answer and you may refer to the Chief. How much do we have invested in this training?

Joe Paulino,
Interim Chief of
Police

Thousands of dollars.

Steven Nelson,
School Police
Officer

You are talking approximately a minimum of four months of training; you are look at four months season officers' salary. You are looking at the training requirements of the San Bernardino City Police as well as San Bernardino sheriff's department as we attend training in both of their facilities which is far away access to what is required by state. The equivalent vehicles I think thousands is probably an understatement you are talking 20 to 40 thousand dollars at a minimum and that is not even going back to the fact that he barely experience the campus security officer that no incoming employee is going to have. His been with the district for enough years that when he arrives in a high school campus the kids know him and trust him, there are willing to provide him with information that they might not even provide me for been here 13 years simply because he has had the interaction on campuses as a campus security officer that I haven't had with them. So you would look at him as if he brings experience almost in access of that of mind because of his unique position of campus security officer. And then to transitioning him as a police officer puts that all to a greater service for the district.

Mr. Salazar So there is a, and I don't want to use the wrong words, but it sounds to me that there is an enormous amount of intangible intelligence that is brought to the table and then financially and physically what I hear you saying is that his training needs to be in tenths of thousands of dollars.

Steven Nelson,
School Police
Officer

That would be a fair statement to make, yes sir.

Mr. Salazar Thank you.

Daniel Arias,
School Police
Officer

Good evening board member of the personnel commission and the guy that they are speaking about is me. My name is Officer Daniel Arias been working with the school district for about 6 years. My fellow training officers both that spoke like he said I have been here as a campus security officer. I started about 6 years ago; I don't remember the exact date. When I started working as a campus security officer at the beginning I did not understand what I was getting into. As time passed by there was a passion that grew not only just to come and work and make a living for myself. There was a passion to help trouble youth, trouble kids who at one point I was in that situation. Working there and working with great campus security officers and school police officers who they give us the knowledge as campus security officer that we are able to function in the school setting. That desire and that passion to become a school police officer grew within me to the point that you know I was the one to put myself through the academy, you know I went there with the mentality of saying you know what this is what I want. This is what I want to accomplish in my life. I was about 22 year old when I started or 21 and, I am 26 now. Like I said I have that passion and desire begins to grown in me. I made something of it. I enrolled and it was not easy, I can remember when my first academy class started and with 80 and only 20 graduated and I was one of them. It was not easy working and at the same time going to the police academy. Our police academy is also granted by San Bernardino County Sheriff's Department and I have great friends and great tactic officers that been there. Doing that was with the vision of one day becoming the school police officer here for the district. November 2010, I was given the great opportunity to be police officer, Chief Paulino swore me in. It was a dream come true, it was something that was in my heart, something that I trained for and something that was given to me. After that the battle was not over. A lot of people think going to an agency and just because you know the agency you have it made but you don't. You are put to the extensive of FTO program. I appreciate all officers who helped me. But they told me if I was doing something wrong they would tell me. And I know if I was not doing what I would supposed to be doing or if I was not trained the way I suppose to be trained, I would have failed. I was made clear for me when I was hired on. You have to pass FTO and if you don't meet the requirement of FTO they failed you. I work my behind off studying trying to go the extra mile, to pass that. You are working on, you are putting time

and effort into this and at the same time you have a personnel life. I put my heart and everything that I have, when this was given to me like my fellow training officer told me, I had my training with the San Bernardino County Sheriff's Department, San Bernardino Police Department, different agencies and different counties and Orange County training provided in San Diego, I have been there. I know that I have knowledge to do this work. I know that I have the heart to do this work. My state online and where my heart is this is for me this is me. I would want you guys to consider what you guys want done for this position. I know this is for me and I want to thank you for the time, I don't want to thank the people who supported me and I hope you make the right decision, thank you very much.

Brian Cook,
School Police
Officer

Good evening I am officer Brian Cook also with San Bernardino School Police Officer I started 8/2008 my previous job before that was Campus Security I was hired in 2006 I also put myself through the academy, and coming to police officer I did not have to take the written test because I fulfilled the needs by the state that I could do the job. I also did the FTO program and passed it. The one point I want to make is that officer Arias has met requirements he has completed the FTO program, he has shown he can do the job and is capable of doing the job plus more. Thank you.

Joseph Paulino,
Interim Chief of
School Police
Department

Good afternoon, my name is Joe Paulino, Chief for School Police Department; I believe I spoke here a couple weeks again in regards to Daniel's situation. I believe this is important that we look at the investment time that we made on this young man. In addition to that the police for those of us who are in support of his process, we know it has been a long time, a very long time, and this is more than when you look at the rules in regards to his situation right now and I know that we made a big investment in his success and of course for our department is important that we have a successful planning. From all that has been said here today, if you notice what has been said that we are growing people from within the district, where the problems are unique and the sense of the kind of training we provide. There is nothing like us in regards to training or department that functions by appeals where we function by rules and decisions by the department. We have a solid vision in regards to our department; we have a solid training program. We care about our people, and it is reflecting in all of speaking here today on this young man's behalf. It is important that we have passion for those that are doing the right thing. It is important that we believe in that is why we are here to voice our opinion in regards to the way he has been treated and who believe that he deserves this position because he has demonstrated the skill, his knowledge, to be able to do this position. It is important we understand that those within this district is unfortunate where we are trying to maneuver him his new shift in the situation that we are in. Of course we have to follow the rules none of us do not follow it. We enforce the rules every day. However, we clearly understand the letter of the law, the spirit of the law. Its

important that you take that from that perspective. Thank you for your time this afternoon, appreciated it.

Dr. Vollkommer Good afternoon commissioners, before I go through my prepared comments. I just want to kind of piggy back to what these gentlemen have said. Just to share with you, Mr. Williams and Mr. Maher and I have had some sparingly discussions about testing, validity, who we want on board, when it makes sense, when it might not make sense. And I just want to reflect on these gentlemen, you know when I say my colleagues have to have my back, that means that if they don't I may get chewed from the Board or the Superintendent and you know life goes on. These guys when they say take a bullet that may be the real case. I can't imagine one of them to get up here and advocate for someone who they know they can't absolutely positively make it in the field. If I were in their shoes I would not, I would not stand up there and validate for slouch. If I knew that person wasn't able to uphold their duties in the field on the daily basis that may put me in danger, if I were Joe Paulino I certainly would not do it, knowing that he is going to be held responsible for the actions for every one of these people, every single one of them. So I am not necessarily suggesting that we throughout the whole process and we just kind of pick and choose who ever we want but, I am saying that we are to continually be mindful. The validity what we do to create a meritorious system. Because it is not always about getting an answer to the question on recruiting rights, its not, and you can go to every single position that every one of us holds. If we are about GPA I would not be standing here before you today, I would not. I was not a straight A student, it does not mean I am not intelligent but I was not a straight A student when I was younger. I just wants to kind of piggy back to what they were saying, hopefully get us to continue to think about our system and how it works and how it may not work, but again going back to what they were saying, if I was in their position I certainly would not want to come and advocate for someone I did not think can perform each and every day in the field.

That being said, I did prepare some comments for you this evening. First I want to say thank you very much for the outgoing commitment to getting the recruitments done. Continuing to fill positions would be positive for this district in many, many ways service to our students, employment opportunities and for the community moving away from emergency contracting out classified work which we know, it's a patriotic affects to the attendance to CSEA and the number of reductions, and extensions out of class, the elimination to the number of people. I am confident by continuing to work together we can get where we need to go, and that is the positions filled in a fair and meritorious matter.

I want to address a couple of the items on the agenda before you this evening. The first one is item IV (a), I first want to make just a minor correction to the backup information, it states that

no one contacted the commission staff with any comments. Mr. Maher and I did have a conversation. I did ask for the intent of the role play and he explained that it was basically what I would characterize not his words but my words is the house keeping item, to prevent the commission having to change the rules for a number of positions to be added or deleting, and the district has no problem with that if that is the intent. I do have to say for this issue is on the appeals on the item related to the environment safety officer at the same time it has caused concerns for to many of our management staff and I heard from many of them. Saying does this take us all out from management team? What is the change in this rule do? So I just want to share that with you I know it's not your intent to recap, but it was the intent to timing so I think we need to be aware of that.

The other thing I want to point out is that the second paragraph in the back materials is not complete unless it's my copy, it is not complete. I am looking at the paragraph after the fourth bullet from the top from "a problem with embedding the status of a position as executive, administrative, or police and Establishing a probationary period of one year by rule rather than in the classification specification is"? I don't know if there supposed to be a colon there or the rest of that is the answer to that according to the end of that paragraph. I was interested to see that explanation.

Moving to the rest of that rule change, there is a potential issue with the removal of the language with restricting positions. And again, the intent is to simply clean up the language that is related to probation that is fine but, in the extent of restricting positions that are authorize by the Ed Code, striking language rules its point number two which in this case to propose should not affect the districts makings and departments where they take the examinations. So I just want to make sure we are under the same page on that. And then finally in relation to that, that particular item, I want to ask a clarifying question because I did not think to ask Mr. Maher when we were meeting. I just want to make sure I understand what this rule means. Does this means that a person would not accrued time in a lower classification or out of classification be denied for their time that a person employed on a lower classification for example, on secretary I, I am hired as a secretary I and, 60 days of my probation I would ask to work out of class as secretary II or III would those days would not count, is the intent not to count for probation, or would it not count for probation in the hire classification? Do I understand that correctly? I know I don't suppose to be asking questions but I am so, does my question make sense?

Mr. Maher

The way the code reads is that you must complete probation in a specific classification of the type specified. So if you hire a person into classification A and then work them out of class on classification B technically you are not working in the

classification for probation so they can't complete that classification or probation out of classification because working out of class in the hire classification you can't count that towards hire classification because they are not legally or permanently in that position according to the rules, so they can't complete probation here. This is the problem you face when you work probationary employees and only probationary employees out of class before they complete probation and that is what the statute reads at least to the way I understand it.

Dr. Vollkommer

So going back to my original example, for the probation of secretary 1 is 60 days and we work them out of class for secretary II or III position for 90 days, they would go back to their 61 days of probation after that in that class assignment.

Mr. Maher

That is my interpretation of how the statute reads, yes. I don't think at least my intent was not to say that is a fact. I am just pointing out a warning I guess the district when it works a person out of class under the statute, because it does very clearly and unequally in a classification to complete the probation.

Dr. Vollkommer

We did not know that obviously because of how we award permanency and how we calculate the performance I sense just a little bit of reservation I just want to make sure before we start recalculating and having to change people track per tenure or track per permanency and I want to make sure we are doing it correctly, that this my point.

Two other issues in reference to item IV(c) we did not spend a lot of time preparing anything, I will comment on that just a second. We are renewing our objection to renewal on high school diploma requirement for this position, this position is a little higher than the custodian I, it has to do with some more technical kinds of things and we also heard from CSEA on this issue on last meeting, we are just reviewing our objections I want to say about that.

Item IV (D), assuming that we would do an objection. As you can see we are trying to keep our attorney cost down, we encourage everyone to do the same. We did not get a written legal opinion to you, but we did obviously research this and my comment is and food for thought for you and actuality the request to increase the personnel analyst pay can condensate to that of the personnel commission director what this would do. By the way this is nothing to do with Mr. Williams, I enjoy working with Mr. Williams so please don't take this personal at all Steve. In actually the request to increase the personnel analyst pay can condensate to that of the personnel commission director which some find a way the principal of like pay for like work. I believe that would mean the personnel analyst would be paid the same pay as the personnel commission director range 70, even on senior in class and duties. I don't know what you would accomplish out of this. The bottom line is the government board determines the salary for each classified

employee. The commission never has the authority to make recommendations so I am sure we will work on something to consider your recommendation you have. That is it for me, thank you for your time of been patient during my extended comments. I really do appreciate your loyal ness to listening the concerns and consider you have always given time, you always being attentive to everyone that has stood up here, not just me, I am just saying I appreciate this not only for myself but every issue that is come to you I have always seen you take it to the heart that is very much appreciate it. So thank you very much, and have a good evening.

Mr. Barabani I do have a question pertaining to this, if you don't mind?

Mr. Vollkommer Would you like me to stand?

Mr. Barabani You can sit down its al long day. I read through this thing, and, one of the things that concern me is part of the merit system.

Dr. Vollkommer Which item are you referring to?

Mr. Barabani Item D, like pay for like work stuff and just that you have an individual gets paid as a director when he is not working as a director, how does the district justify that? If we looking at justifying our pay rate?

Mr. Vollkommer That is a fair question. And I will let it stand on its own, my comments speak for themselves, it is a fair question Mr. Barabani. I apologize, I am not sure of the action items today. I am not sure of action item to solve the problem. This is my position. I think we have to be careful, we have limited time and, I know we have issues throughout the school district. We are working generally, collaboratively, and critically to address some of those issues I would say probably Mr. Maher has worked with us on several issues to say we need time to fix the problem that has being around for a long time, but again I don't think this is the answer to that problem.

Mr. Barabani Maybe a little simpler question. Does the district consider this person to be provisional or substitute employee?

Mr. Vollkommer Is there a difference?

Mr. Barabani It depends how you consider it.

Mr. Vollkommer I understand he is a substitute employee. That is my understanding.

Mr. Barabani Has he filled in the vacancies absence?

Mr. Vollkommer He is filling in and I asked this due to a person working out of classification, unless you need a clear definition of absence out of that.

Mr. Barabani Does he perform the work as a classified director?

Mr. Vollkommer He is performing the work as a substitute manager at this point.

Mr. Barabani If you would to fit him in your profile what would be the best classification title that person would be filling?

Mr. Vollkommer I am not going to trench around unto my personal profile of him, I would say at this moment he is substituting in the officer two positions, Gladys Byrd's position as she works out of classification as the human resource director.

Mr. Barabani Ok. Do any of these positions gone back to governing board?

Mr. Vollkommer Not that I am aware of, you mean as a substitute?

Mr. Barabani Yes.

Dr. Vollkommer Beyond as the provisional or acting personal commission director, he was kept as a substitute after that.

Mr. Barabani He was never classified as the director either, they never approved of him at the board. Has the governing board are they ever going to place his pay and his the status on the agenda at any time?

Mr. Vollkommer I think they will, they refer about this issue.

Mr. Barabani So we are looking forward to seeing that becoming an agenda item taken place, so if I chose to go there a comment.

Mr. Vollkommer Mr. Barabani you a certainly welcome to come and address the board at any time you want.

Mr. Barabani I have one question and you probably don't know the answer, we sent out some documents and I written some letters. I am kind of concern about this issue do you know if the governing board has received them all?

Mr. Vollkommer I believe they have but I will double check for you.

Mr. Barabani Ok. The last one the toughest one, we ask that the pay warrant be stopped on this individual but they continue paying him on violation, do you know why?

Mr. Vollkommer I know that is correct in continuing to pay. I'm never coming here again.

Mr. Barabani Laughing. That is fair.

Mr. Vollkommer Have a great evening.

Mr. Barabani Well no we saved a lot of money; I don't have sent any letter to anybody. Thank you very much. Is there is any more public comments? Ok we will move to Action Item IV (A).

IV. ACTION ITEMS

A. The commission will have a second reading and consider adoption to a proposed revision to Rule 6.02. A proposed motion is:

It is moved that the commission adopt the proposed revision to Rule 6.02 as submitted (Second reading and adoption).

Moved	<u>Mr. Barabani</u>	Seconded	<u>Ms. Early</u>
Vote: Barabani	<u>Nay</u>	<u>Early</u>	<u>Nay</u>
			<u>Salazar</u>
			<u>Nay</u>

Mr. Barabani Open for discussion. Mr. Maher was brought up, is there a

problem with the pending statue right here?

Mr. Maher The problem that you have is that when its kept in the rules person getting a copy of job description when they are hired or when they research the job spec on line, they are not aware of the fact that is one year probationary management or police class or so therefore by putting only on the rules most people don't have enough knowledge, sophistication that is in the rules because to my knowledge the only district that has ever done that is San Bernardino. So people will not normally look in the rules and would assume that is a normal probationary period. So I placed in the classification which would be done even if so kept in the rules I would think it would be done in any event to insure that the fact when people get the class specification they have the full information concerning the status and probability period on the time of hire all in the research and trying to determine if they want to apply for job or not.

Mr. Barabani What parts are we are missing something here?

Mr. Maher That supposed to carry out that issue. Is just back up materials explaining what the problem is on having it only on the rules, or having in rules in lieu of class specification.

Mr. Barabani We would have to have second reading again?

Mr. Maher No, that is just back up material explaining. That is not in the proposed rule itself, in the explanatory material so it has nothing to do with the actual reading of the rules itself.

Mr. Barabani The issue about the probationary status, I know that it's a statue is that like from your interpretation, is that like hard core where to the point where It could be a person who is like a month away from filling probation and then they get a promotion so then they would never complete the probation a lower?

Mr. Maher That issue is not really being specifically addresses by any changes to the existing rule. That issue was giving as a notice of district the problem with working people out of class before they complete probation is whether or not they have met the statutory requirement, the past feature or not past feature, changing and not change the rules and no effect has any bearing on that whatsoever. In terms on that process. I clearly read the statue that says we should complete probation in a classification. If you take the sections and you go into a classification legally the only way is you get into a classification legally is you go through a selection process in conformance with a statutory requirements of the code and whatever rules and provisions you may have on it. Once you get into classification to complete that period of probation that is required by the code its 130 days or 6 months whichever is longer. So when you take a person out of that classification or out of class theoretically and not still work in the classification. The purpose of the backup is to point out a cautionary note

concerning that practice, because we are making it very clear which it has been recommended by various attorneys to make that clear on temporary employees were out of class interim if it exist in classified service but, everybody uses some other kinds of languages that they do not gain permanency in any position when they have not attain that permanency through selection process specified by the court. So that can cause them a problem by that particular application when they are taken out and then they for some reason they return back and they can be then denied probation because they haven't completed probationary yet. It's just a cautionary note to the district. I am not going to run around looking for everyone that is working out of class and everything else that is just that notice to them that's an issue they need to address and take care of and the district fears' satisfying probationary performance that's a decision for the district to make.

Mr. Barabani

Ok.

Mr. Salazar

I just have a comment on that issue. It seems to me since we are in the rule changing phase here on this specific what we are talking about Mr. Maher should be spelled out within rule so there is no ambiguity as to interpretation so I would prefer to see that line within that rule and that is all my comments.

Mr. Maher

The reason that I did not try to put that in the rule is that its placing a further requirement in the district and if you go back historically with what has been happening here with out of classes and stuff, I think we have to clean it up in the future and not constantly go back to all of the mistakes that were made in the past. Bind the district to that and force them to come back and make decisions and notify people that didn't complete probation and so on, that is not the intent of the rule, and the rule itself speaks for itself. We can certainly add that kind of language if you want.

Mr. Salazar

I do prefer that kind of language because I think part of what is going on and I don't want to shift gears too far. We saw these officers come in here, and with some ambiguity previously and that is why we have that problem out here, and so any place we can cut down such ambiguity it think it's good. Again, I know there are three commissioners up here that is just my view on that. Thanks for your hard work on this because I know that is a lot of work to make this kinds of changes and language and making sure within the code and everything that goes on, you do a lot of research and study of that, but if there is something that we can you know make sure there is fine tune. There probably a time we make it I think we can all agree with that.

Mr. Barabani

I am trying to get a better hand on this, if I am probationary employee I have been in a job for six months and I have been working out of class in another job for a couple of months is it up to the district to ultimately decide whether I completed

probationary status or us?

Mr. Maher

Whether we would make a determination the specifics of each situations there is circumstances, like the example that I had, where a person was hired on probation and they worked in some assignment in the same classification and they gave an additional three weeks of time and grade for probation, when they went to terminate them on probation they thought they had three more than they really had and they could not terminate them because of personnel legally probation. So the commission had to be involved with that stuff when they are trying to terminate them as original employment when they completed became a permanent employee. So in that case the commission will definitely come involved to the commissions attention in the personal appeal for the dismissal as an original employee went back to permanent employee if somebody else comes to the process in the district does not take action to terminate them then they can complete their probationary period. I don't know that would come to the commission. Again, the statue does clear and that is all I am trying to say. When you take a person on a probationary status and move them out of probation to a different classification they have not met the legal definition of having completed probation and having completed probation which causes all kinds of potential problems, comes layoffs, other kinds of situations that may occur and I would recommend that the district has its own policy; we never work a person on probation out of class while they are on probation. Most district follow that policy and they have that practice some districts even go as far not to let a person be promoted while they are on probation for the very same reason because they have not completed probation, they don't know all that performance they require for them to complete probation before if not take the examination at least be hired to classification because of this problems so that is the reason why that kinds of stuff was in there and like commissioner Salazar said, if he wants language that tells the district clearly that a person cannot complete probation to work out of class we can write that language.

Mr. Salazar

I guess what I am saying I hear you referring to the Ed Code; I guess what I am is saying if our intent is to be consistent with the Ed Code then this is probably the time for us to be consistent with the ED Code in our rule making.

Mr. Maher

Ok.

Mr. Barabani

So what is happening then if somebody has an opportunity to work out of classification to gain some experience and job offers, so ultimately they have to make the decision whether I am going to complete probation or trying to get some experience in a better position?

Mr. Maher

If you read language of Ed Code "yes".

Mr. Barabani That is kind of rough.

Mr. Maher Except that you usually have thousands of other people that completed probation and there is no reason why they are the ones that cannot come with many years of seniority its any reason why they cannot be consider for out of classification work.

Ms. Early So the motion before us is to approve the second reading if we are saying that we are willing to add language to specify pro work habits during probation when a person works out of class. Would we be approving the second reading with the following revisions as suggested by Mr. Salazar?

Mr. Maher I would recommend not, you can use one or two options, you can approve the proposed rule changes as they are submitted to you and we can go back and do another revision or you can put this off till another meeting. I can write the additional language and you can consider the entire rule at that time. It's the pleasure of the commission on how they wish to proceed on that. If you are interesting in adding that additional language to that rule.

Mr. Barabani Would that be considered first reading then again?

Mr. Maher Where is Kristine at? I don't know If it would be brought as first reading or not, I have to check and make sure on that. You are not making a change on anything else but, whether you should do a first reading and then a second reading that would be a safest way; would it be legally required I have to get some legal advice on that.

Mr. Barabani Well, we have a motion on that; let's take a vote on that.

Ms. Early Nay.

Mr. Salazar Nay.

Mr. Barabani Nay.

Mr. Maher So now I will rewrite that and bring that back.

Mr. Barabani I have not made the motion.

Mr. Maher You can make the motion but you don't have to.

Mr. Barabani Ok. So we are going to rewrite that and bring it back, reagendaize it.

B. The commission will consider revising classification specifications for management, supervisory, and police classifications. Proposed motions are:

1. It is moved that the commission approve revisions to all classification specifications designated in Rule 6.02C1 to indicate that they are administrative, executive, or management classes with a one year probation period.

Moved Mr. Barabani Seconded Ms. Early

Vote: Barabani Aye Early Aye Salazar Aye.
 Mr. Barabani Any discussion on this? Call for a vote

2. It is moved that the commission approve revisions to all classification specifications designated in Rule 6.02C2 to indicate that they are police classes with a one year probation period.

Moved Mr. Barabani Seconded Ms. Early
 Vote: Barabani Aye Early Aye Salazar Nay.
 Mr. Barabani Call for discussion? Call for the vote.

- C. The commission will consider revising the classification specification for Nutrition Service Custodian/Utility Worker. A proposed motion is:

It is moved that the commission approve the revision to the classification specification for Nutrition Service Custodian/Utility Worker as submitted.

Moved Mr. Barabani Seconded Ms. Early
 Vote: Barabani Aye Early Aye Salazar Nay
 Mr. Barabani It is open for discussion? The question that has been brought up during the comments, it was brought up about the issue on completing high school diploma.

Mr. Maher That is the same issue that we are dealing with the case law also discuss this with the attorney, she says she had a case for another client where she tried to defend the high school diploma and lost it was told that she could not maintain that. Legally for this position it requires a high school diploma in order to perform the duties of the job. Again we emphasize we are not just hiring people of the streets, we are reopening a promotional examination where they have to have at least two years of a custodial experience as a custodian 1 in this district to apply so they are already been tested they have passed probation, they have been through experience they have been to training and are ready to apply for the position and the promotional examination. They will be given a written test and an oral examination in order to be placed on that list and record with the abilities to perform that job, so it's not just a matter that we can substitute out and we have methods that are better measures of proficiency to reading, and writing their communicate orally and so on and, the high school diploma has. I do know that there is an issue that an individual has a GED that for everything told can't communicate at all in English. So the position of high school diploma or the equivalent does not guarantee that they are capable of performing the job. So as of the consequence of that we have measurements we have methods that permit us to assess their capabilities of performing the job separate from having the high school diploma.

Mr. Barabani Any other discussion? Call for the vote.
 Ms. Early Aye.

when we have to approve so many sets of minutes all at one time.

Mr. Maher I am working on that.

Ms. Early Also, I would like to have a status report on the investigation of the allegation that two seated commissioners committed brown act violation placed on the agenda for our next commission meeting.

Mr. Maher Ok.

VI. ADJOURNMENT

The commission adjourned the meeting at 6:38 p.m.