

**San Dieguito Union High School District
PERSONNEL COMMISSION**

Regular Meeting Minutes

3:30 P.M., October 9, 2018

710 Encinitas Blvd., Encinitas, CA 92024

San Dieguito Union High School District Office - Board Room

REGULAR MEETING/OPEN SESSION

1. CALL TO ORDER

The meeting was called to order at 3:34 p.m. by JOHN BAIRD. As Vice-Chair, Commissioner Baird chaired the meeting.

2. PLEDGE OF ALLEGIANCE

Commissioner Baird asked Jeff Charles to lead the pledge of allegiance.

Members in Attendance

John Baird

Jeffery Charles

Justin Cunningham

Staff in Attendance

Susan Dixon, Director

Barbara Bass, Human Resources Analyst

Kathy Potter, Human Resources Technician

Guests

Carmen Blum

Cindy Frazee

Sheila Graciano

Tina Peterson

Jose Sanchez

3. OATH OF ALLEGIANCE FOR NEW PERSONNEL COMMISSIONER: JEFFERY CHARLES, for the remainder of the 2015-2018 term, was administered by Director Dixon.

4. APPROVAL OF THE AGENDA FOR THE OCTOBER 9, 2018, PERSONNEL COMMISSION REGULAR MEETING.

It was moved by JUSTIN CUNNINGHAM, seconded by JEFFERY CHARLES, to approve the agenda for the October 9, 2018, Personnel Commission Regular Meeting.

Passed unanimously

5. APPROVAL OF THE MINUTES FOR THE SEPTEMBER 11, 2018, PERSONNEL COMMISSION REGULAR MEETING.

It was moved by JUSTIN CUNNINGHAM, seconded by JOHN BAIRD, to approve the minutes for the September 11, 2018, Personnel Commission Regular Meeting.

Approved with a revision to Item 7.A., as discussed and agreed upon by commissioners; line 29, replaced "charges" with "allegations".

Passed with 2 Ayes (Meeting held prior to Commissioner Charles' appointment, therefore, he did not vote)

6. APPROVAL OF THE MINUTES FOR THE SEPTEMBER 30, 2018, PERSONNEL COMMISSION SPECIAL MEETING.

It was moved by JUSTIN CUNNINGHAM, seconded by JOHN BAIRD, to approve the minutes for the September 30, 2018, Personnel Commission Special Meeting.

Passed with 2 Ayes (Meeting held prior to Commissioner Charles' appointment, therefore, he did not vote)

ACTION ITEMS

7. ELIGIBILITY LISTS TO BE ESTABLISHED

A. It was moved by JEFFERY CHARLES, seconded by JUSTIN CUNNINGHAM, to establish an Eligibility List for INSTRUCTIONAL ASSISTANT-SpEd (Severe), SR-36, Open/Promotional, six months eligibility.

B. It was moved by JOHN BAIRD, seconded by JEFFERY CHARLES, to establish an Eligibility List for INSTRUCTIONAL ASSISTANT-SpEd (Non-Severe), SR-34, Open/Promotional-Dual Certification, six months eligibility.

C. It was moved by JUSTIN CUNNINGHAM, seconded by JOHN BAIRD, to establish an Eligibility List for NUTRITION SERVICES SUPERVISOR, Supervisory Range 4, Open/Promotional, six months eligibility.

All passed unanimously

8. DISCIPLINARY HEARING

A. It was moved by JOHN BAIRD, seconded by JEFFERY CHARLES to amend the motion as follows, "The Personnel Commission shall appoint a hearing officer to conduct the disciplinary hearing and report findings and recommendations to the commission. The commissioners may participate in the disciplinary hearing."

The original motion was stated as follows: Motion by _____, second by _____, to either a) have the Personnel Commission conduct the disciplinary hearing; OR b) appoint a hearing officer to conduct the disciplinary hearing and report findings and recommendations to the Commission.

There was a brief discussion as to how to proceed with the item given the wording of the motion. Director Dixon explained that it was difficult to word the item but that the point to be discussed and decided was whether or not to use a hearing officer. Commissioner Baird made a motion to a) have the Personnel Commission conduct the disciplinary hearing and Commissioner Charles seconded the motion so the item could be open for discussion. Commissioner Baird stated that he had no concerns about running a hearing and shared that he has had extensive experience conducting hearings, provided information as to hearing procedures and gave his perspective as to how the hearing would be conducted by the commission. Commissioner Baird also brought up the cost associated with the services of a hearing officer. He offered to serve as the "quasi" hearing officer with the other commissioners in attendance. Commissioner Cunningham stated that the benefit of a hearing officer, in addition to the experience they would have to offer, would also support a lack of appearance of bias. Commissioner Baird compared their role to that of a judge stating that they would have a vote after hearing both sides of the case and if there was an appearance of bias the two commissioners could say that it is not working for them. A hearing officer is simply going to receive the items, introduce the two different sides, introduce the witnesses, swear them in and those kinds of things. There is not much room for bias in his experience. Picking a hearing officer is a lengthy process, have to get a list, all three have to agree on that person. Commissioner Charles expressed his thoughts that there are pros and cons to using a hearing officer and asked Director Dixon about the materials she had handed out in regards to the upcoming hearing. She stated that she prepared the information packet in anticipation of questions that might be asked. Information and discussion included: local merit district practices (varies); the practice SDUHSD used from

1993-2014 (hearing officer); Los Angeles Community College District practice (hearing officer - this was shared because when researching hearings in California merit systems this agency had detailed documents available to view); hearing officers can be identified through the American Association of Arbitrators; and the CSPCA handbook for conducting hearings. Commissioner Baird again pointed out the high cost of using a hearing officer and that based on the size of the LA Community College District it was not an appropriate source of information. The next issue discussed was the use of a court reporter versus the use of technology to provide a written transcript of the hearing procedure. Commissioner Charles provided information on a technology-based recording system in which he is familiar. Commissioner Cunningham, upon review of the CSPCA handbook, brought up the option of utilizing a hearing officer in conjunction with the commissioners in attendance at the hearing and that this may be a way to ensure the proper process is followed and prevent it from advancing to a court. Commissioner Baird stated that the CSPCA board reviewed the hearing handbook and, although it was produced in 1993, the information contained in it is still accurate. Commissioner Baird further stated that members of the statewide CSPCA board have used this handbook to conduct hearings rather than use a hearing officer. The anticipated length of time of a hearing was discussed; Commissioner Baird stated that based on his experience he would expect the hearing to last at least three days. Commissioner Cunningham reiterated that a hearing officer might be a good option to ensure that the procedures are as streamlined as possible. Commissioner Charles stated that he could see using a hearing officer as almost like a paralegal to gather and organize information and that if he were the employee who was the subject of a disciplinary hearing he would not want to have a hearing officer present his side of the story to the commission without the benefit of knowing the information was correctly conveyed. He further stated that a hearing officer could serve as an efficiency resource and subject matter resource. Commissioner Cunningham stated that by having the commissioners attend the hearing, the employee would see that the commission cares. Given that the commissioners seemed to agree that a hearing officer would be used but that the commissioners would attend the hearing, a discussion of the best way to word a motion to that effect including the use of words such as "observer" versus "participant" and the specific role of the hearing officer ensued. Director Dixon pointed out that the CSPCA handbook suggests that a pre-conference hearing may be in order to give the commissioners a chance to agree to the procedures that will be followed to avoid disagreement during the hearing. Commissioner Baird requested that the hearing officer selected know in advance that the commissioners would be participating in the hearing to avoid any confusion as to their participation; the commissioners discussed the process of identifying a hearing officer who can serve as a facilitator versus an adjudicator. Commissioner Baird made an amendment to the motion which was seconded by Commissioner Charles as follows: The Personnel Commission shall appoint a hearing officer to conduct the disciplinary hearing and report findings and recommendations to the commission. The commissioners may participate in the disciplinary hearing. Director Dixon asked the commission to verify that her next step is to identify hearing officers who would be willing to serve in the capacity just discussed. Director Dixon stated she had the names of three hearing officers who had been recommended or were affiliated with CSPCA. Commissioner Baird said he would rather have bios on the individuals and Director Dixon stated those were in their informational packets. She presented the three individuals to the commissioners. Commissioner Baird informed everyone that he had worked previously with one of the individuals in the capacity of a mediator and that he found that individual to be outstanding, extremely fair and right in the middle and Commissioner Baird would strongly recommend this individual. He had concerns about the other two individuals including cost and location and that the individual he recommended is local so that would be a cost savings. Director Dixon asked if she should follow up with that hearing officer to see if he was willing to work in the capacity discussed and to find out the daily rate (including travel) of one of the individuals who had not provided that information. Suggestions as to other sources of recommended hearing officers were discussed.

- B. It was moved by JUSTIN CUNNINGHAM, seconded by JEFF CHARLES, to discuss possible dates for the employee disciplinary hearing. Commissioners, labor representation and district representation shared their availability.
Both passed unanimously

9. JOB DESCRIPTION UPDATES

- A. It was moved by JEFFERY CHARLES, seconded by JUSTIN CUNNINGHAM, to approve class description revisions for Receptionist as proposed.
- B. It was moved by JUSTIN CUNNINGHAM, seconded by JEFFERY CHARLES, to approve class description revisions for Executive Assistant as proposed. Director Dixon explained how benefits are included in salary for Management, Confidential and Supervisory positions.
Both passed unanimously

DISCUSSION/INFORMATION ITEMS (See Supplements)

10. STAFF COMMENTS ON PERSONNEL ACTIVITIES

- A. Vacancy Report – Director Dixon reported that School Bus Driver summer classroom trainees are now completing Behind the Wheel training with our Driver Trainer.
- B. Personnel List Report
- C. Other

11. CORRESPONDENCE- Director Dixon announced CSPCA Conference dates are February 7 – 10, 2019 in Anaheim.

12. PUBLIC COMMENTS

The Public Comments Section of the meeting provides the opportunity for individuals to address items that are not on the agenda. In accordance with the Brown Act, Personnel Commissioners may not engage in a discussion of non-agenda items or issues raised during public comments except to 1) acknowledge receipt of the information, 2) refer to staff for further study, or 3) refer the matter to the next agenda.

- A. California School Employees Association – Jose Sanchez commented on the method of recording the disciplinary hearing such that accurate transcripts can be provided.
- B. San Dieguito Union High School District – Tina Peterson stated that the Personnel Commission staff has been busy filling positions.
- C. Public - None

13. NEXT PERSONNEL COMMISSION MEETING

The next regular meeting of the Personnel Commission is scheduled for Tuesday, November 13, 2018, at 3:30 P.M. at San Dieguito UHSD office, 710 Encinitas Boulevard, Encinitas, CA 92024.

14. CLOSED SESSION – Director’s evaluation was postponed to next month.

15. ADJOURNMENT – 6:05 PM