

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

**Regular Meeting Minutes**

3:30 P.M., May 14, 2019  
710 Encinitas Blvd., Encinitas, CA 92024  
San Dieguito Union High School District Office - Board Room

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**REGULAR MEETING/OPEN SESSION**

1. CALL TO ORDER

The meeting was called to order at 3:40 p.m. by JOHN BAIRD.

2. PLEDGE OF ALLEGIANCE

Commissioner Baird led the pledge of allegiance.

Members in Attendance

John Baird  
Jeff Charles  
Justin Cunningham

Staff in Attendance

Susan Dixon, Director  
Barbara Bass, Human Resources Analyst  
Kathy Potter, Human Resources Technician

Guests

Laura August	Agustin Lopez Clemente
Carmen Blum	Omar Mendoza
Matt Colwell	Marley Nelms
Tina Douglas	Lori Nelson
Sheila Graciano	Tina Peterson
Debbie Johnson	

3. APPROVAL OF THE AGENDA FOR THE MAY 14, 2019, PERSONNEL COMMISSION REGULAR MEETING.

It was moved by JUSTIN CUNNINGHAM, seconded by JEFF CHARLES, to approve the agenda for the May 14, 2019, Personnel Commission Regular Meeting.

*Passed unanimously with 3 Ayes*

4. APPROVAL OF THE MINUTES FOR THE APRIL 9, 2019, PERSONNEL COMMISSION REGULAR MEETING.

It was moved by JUSTIN CUNNINGHAM, seconded by JOHN BAIRD, to approve the minutes (with edit to include second PERB decision, Item 6C) for the April 9, 2019, Personnel Commission Regular Meeting.

*Passed with minor addition, 2 Ayes, Commissioner Charles abstained due to absence April 9, 2019*

**ACTION ITEMS**

5. ELIGIBILITY LISTS TO BE APPROVED

It was moved by JEFF CHARLES, seconded by JUSTIN CUNNINGHAM, to approve an Eligibility List for NUTRITION SERVICES ASSISTANT I, SR-25, Open/Promotional-Dual Certification, eligibility from 4/30/19.

*Passed unanimously with 3 Ayes*

6. ELIGIBILITY LISTS TO BE ESTABLISHED

A. It was moved by JUSTIN CUNNINGHAM, seconded by JEFF CHARLES, to establish an Eligibility List for HUMAN RESOURCES TECHNICIAN, SR-42, Open/Promotional-Dual Certification, six months eligibility.

*Passed unanimously with 3 Ayes*

B. It was moved by JEFF CHARLES, seconded by JUSTIN CUNNINGHAM, to establish an Eligibility List for INSTRUCTIONAL ASSISTANT SP ED-BEHAVIOR INTERVENTION SR-36, Open/Promotional, six months eligibility.

*Passed unanimously with 3 Ayes*

7. 2019-20 PROPOSED PERSONNEL COMMISSION BUDGET APPROVAL

A. Opened Public Hearing

B. Call for Public Comment - No concerns were expressed; a couple questions were asked and clarifications provided.

C. Closed Public Hearing

D. It was moved by JUSTIN CUNNINGHAM, seconded by JEFF CHARLES, to approve the 2019-20 Personnel Commission Budget as proposed.

*Passed unanimously with 3 Ayes*

8. CLASSIFICATION REVIEW-Nutrition Services Operations Supervisor

A. It was moved by JEFF CHARLES, seconded by JUSTIN CUNNINGHAM, to establish a new classification of Nutrition Services Operations Supervisor as presented on the attached job description.

B. It was moved by JUSTIN CUNNINGHAM, seconded by JEFF CHARLES, to recommend to the governing board the establishment of a new salary range on the Supervisory Salary Schedule (Range 11) which compensates the classification at the average maximum rate for comparable classifications among our comparison districts.

Director Dixon explained why this new classification is a better match for the current needs of the Nutrition Services Department than any existing classifications.

*Both passed unanimously with 3 Ayes*

**DISCUSSION/INFORMATION ITEMS (See Supplements)**

9. NEXT STEPS IN THE CONTINUATION OF THE APPEAL OF EMPLOYEE DISCIPLINE

Director Dixon stated this item is on the agenda today so the commission can direct her as to how the item should appear on the June 11 meeting agenda. Her understanding is that it is a continuation of the ongoing hearing. She had hoped to have heard from the hearing officer as to when the commissioners would receive her recommendation but she has not yet received a reply to an email inquiry. Another point to discuss is whether the commissioners would like the hearing officer to facilitate the deliberations.

Commissioner Baird stated he was a little concerned about the hearing officer being in attendance based on a previous experience. He also inquired if the deliberations would be in closed session. Director Dixon replied that the agenda the commissioners approved on January 16 specified the deliberations would be in closed session. The discussion then progressed to open versus closed deliberations and opportunities for comments from the public. Commissioner Cunningham pointed out that the evidentiary hearing in open session allowed for transparency when this concern was raised by Commissioner Baird. Commissioner Cunningham stated that he prefers the hearing officer facilitate the deliberations to ensure the process is followed correctly. Commissioner Charles believes it will be helpful to have the hearing officer on hand for a number of reasons. Commissioner Charles cited several reasons why he believes it is best to have the deliberations in closed session. Commissioner Baird stated he is okay with conducting deliberations in closed session. The discussion then circled back to public comments and that if the deliberations appear as part of the regular June 11 meeting agenda there will be a public comments section on the agenda. Commissioner Baird emphasized that

you cannot limit someone's right to make public comments. The discussion then progressed to reporting out any decision made during closed session. Commissioner Charles shared his experience from past commission service is that best practice procedurally may be to adjourn the regular meeting and start a new meeting for the deliberations/continuation of the hearing rather than have this within a regular agenda. This was acknowledged and ended the discussion.

10. PROPOSED RULE REVISION 13.1

Commissioner Baird reminded those in attendance that this item was brought back as a discussion item given that Commissioner Charles did not hear the comments or participate in the discussion at the previous meeting.

Public Comments:

Carmen Blum: Provided a history of how this item was first introduced to the commission in January because of the confusion she witnessed at a board meeting related to understanding the language of (13.1 A.1.a.). She felt it would be good to look into this rule and has researched the state guidelines (CSPCA) as well as language used in other districts (handout provided) both of which have (13.1 A.1.a.) separated into different parts.

Commissioner Baird commended Ms. Blum for gathering the data she presented.

Commissioner Charles asked the CSEA chapter if the chapter leadership is posted on the website. Mr. Colwell stated there should be a link on the chapter website to a list of all the officers.

Director Dixon stated in was her intent, after the public comments, to have both District leadership (Cindy Frazee or Tina Peterson) and CSEA leadership (Matt Colwell) speak since she works closely with them on rule revisions. She summarized that there is consensus between the District and CSEA on the majority of the rule and she has relied on their input on this particular revision since they work with the application of this rule and she does not. She shared that neither side wishes to pursue the updated revisions she brought to a previous meeting; the preference is to revert back to the changes proposed initially. The only point of disagreement at this time is the number of days which defines abandonment of position – the District wants to revise it to three days whereas CSEA wants to retain it at more than five days.

Commissioner Baird stated he has concerns with other parts of the rules. Commissioner Charles said it seems this item can be broken into two sections: the non-substantive issue of breaking down the infractions of (13.1 A.1.a.) and the substantive issue of changing the rules.

Director Dixon suggested that the goal today be to listen to all perspectives and then hear from the commission so when she prepares this item for its eventual second reading she can be as close as possible to the final product.

Matt Colwell, CSEA President: The chapter did not want to go down this avenue. Over the last several months the revisions have gotten out of control so much so that he scheduled a meeting with CSEA Leadership which does not support the expanded revisions. Regardless of how someone is charged with an offense, CSEA is going to be there to help them if they request it. No matter how the rule was written, the current case was going to end up with the Personnel Commission. Chapter Leadership is concerned that changing job abandonment to three days could be a problem; for example, if an employee is out of the country and gets hurt and does not have a resource or means to call in.

Tina Peterson, Director of Human Resources: Agrees with Matt that there is not a need to break out (13.1 A.1.a.), there's no substantive change. In regards to 13.1 A. 12., she stated that the District is looking to be more consistent with other districts and the merit system model rules which have a three day definition for job abandonment. HR always reaches out if someone is absent without any communication and makes every attempt to get ahold of the employee or their emergency contacts to make sure they are okay. Three days is sufficient to qualify as job abandonment.

Director Dixon reiterated that at this time, both parties are interested in the revisions as presented in the first version with the exception of the disagreement as to what constitutes job abandonment.

Commissioner Baird stated he is okay with (13.1 A.1.a.) if the District and CSEA leadership want to leave it as is. However, as mentioned last month, he has concerns with (13.1. A. d.) specifically, holding an employee accountable for violating an education code if they have no knowledge of it; you have to have knowledge of it in order to violate it. Director Dixon suggested it is likely since the rule states

“persistent violation” the employee would have been made aware of the Education Code. Director Dixon asked Mr. Colwell if he had any thoughts on that and he stated he would hope the progressive discipline process would sort any situations like that out and if management sought to discipline for an incidental piece of Ed Code the commission would take that into consideration and overturn any sort of discipline. Commissioner Baird stated that sounded reasonable. The discussion then turned to (13.1 A. 3. a.) Points discussed included: clarification of the interpretation, the board policy prohibiting alcohol on district property, new legislation regarding alcohol on school property, whether the discipline is intended for employees at after-school events when they are not working, and distinctions between “under the influence of” and “use of”. Director Dixon stated she would continue to work with District and CSEA leadership on the wording of the rule. (13.1 A. 3.b.) was the next rule discussed, specifically that even though controlled substances such as marijuana are now legal in California, the Federal government has not legalized its use. There was agreement among the commissioners that “use of” or “possession of” an illegal controlled substance, whether under State or Federal law, would be a violation of the rule. Rule (13.1 A. 6.) was the next rule discussed. Commissioner Baird stated the term “excessive absence” was very nebulous to define; he would like to see that clarified. Director Dixon stated she would work on the language for Rule (13.1 A. 7.) based on Commissioner Baird’s concern that it seems contradictory as currently written. Commissioner Charles provided a suggestion for rearranging the order of the wording to make it more logical and have it follow the process. Commissioner Baird expressed concern for (13.1 A. 11.); the current wording seems potentially illegal. Director Dixon stated that the District has not applied the rule in the manner it is written since she has been at the District. The last rule discussed was (13.1 A. 12.). Commissioner Baird questioned the need to change the definition of job abandonment. Commissioner Cunningham stated that three days seems to be appropriate and that if there had been an accident that was keeping an employee from reporting to work, the District would understand that. Director Dixon reminded the commissioners that (13.1 A.) states “may” so the District could use its discretion if an employee had a reasonable explanation for why they had not reported to work. Director Dixon asked for direction from the commission as to how many days should define job abandonment. Further discussion included whether the Education Code or other government code provides a definition for job abandonment and that local districts had a mix of three and five days. In light of the inability of the District and CSEA to come to agreement on how many days constitutes job abandonment, the parties are asking the commission to make the determination. Further discussion from the commissioners about the likelihood of finding a legal definition prompted the Director to say she will do additional research before bringing the item back.

11. STAFF COMMENTS ON PERSONNEL ACTIVITIES

- A. Vacancy Report
- B. Personnel List Report
- C. Other: Reminder to come next Tuesday at 2:30pm for Classified Employee of the Year Celebration

12. CORRESPONDENCE- None

13. 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 – CSEA President, Matt Colwell thanked Director Dixon for facilitating the conversation regarding rule revision.
- B. San Dieguito Union High School District – Tina Peterson reiterated that Mr. Colwell, Ms. Dixon and herself have a great working relationship and she appreciates the collaboration.
- C. Public – Carmen Blum shared that CSEA is going to develop a process to address requesting a rule revision.

14. NEXT PERSONNEL COMMISSION MEETING

The next regular meeting of the Personnel Commission is scheduled for Tuesday, June 11, 2019, at 3:30 P.M. at San Dieguito UHSD office, 710 Encinitas Boulevard, Encinitas, CA 92024.

15. ADJOURNED – 5:24 PM