

MINUTES
BASSETT UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION MEETING
PERSONNEL COMMISSION OFFICE – ROOM 12 – FLANNER
JULY 10, 2007
5:00 P.M.

1. The meeting was called to order by Chairperson Wallery at 5:00 p.m.

2. MEMBERS PRESENT

Mrs. Vern Wallery, Chairperson
Mrs. Susan Hartley, Vice-Chairperson
Mrs. Frances Alvarado, Member

3. STAFF PRESENT

Patrick Maher, Personnel Director
Marina Mihalevsky, Personnel Analyst

4. PRELIMINARY

A. Flag Salute

5. STAFF REPORTS

A. Personnel Director

Mr. Maher reported that the competency dictionary had been widely distributed and there had been a lot of very good feedback. Comments such as “You guys are amazing. Congrats for ‘doing it right,’” and “Your work is impressive ... Congratulations.” Also, the Northern Commissioners association has invited us to make a presentation on the dictionary at their conference in October.

Mr. Maher stated that one classified manager and two classified employees had availed themselves of the merit academy, and that our Analyst was also attending, giving us a good presence in the professional development opportunities.

B. Personnel Commission

Mrs. Wallery welcomed all of the guests and hoped that more will attend future meetings.

6. APPROVAL OF AGENDA

On the motion of Mrs. Hartley, seconded by Mrs. Alvarado, and unanimously carried, the Commission approved the agenda for the regular meeting of July 10, 2007 as submitted.

7. APPROVAL OF MINUTES

A. On the motion of Mrs. Alvarado, seconded by Mrs. Hartley, and unanimously carried, the Commission approved the minutes of the regular meeting of June 5, 2007 as submitted.

8. REQUESTS TO SPEAK

Cyndy Byrd, Assistant Superintendent-Human Resources, reported that the construction projects taking place throughout the District are progressing well; and that Bassett HS has received a 6 year accreditation

Irma Quesada, CSEA President, addressed the issue of a substitute being given an assignment during the summer, when such assignments are reserved for classified employees. Ms. Quesada expressed her disappointment that management had directed classified staff in the Accounting department to perform duties outside of their classification. Ms. Quesada asked that an investigation be conducted to determine why the procedures weren't following in securing limited relief according to the provisions of the Personnel Commission rules, the Education Code, and CSEA contract.

General Public Comments

Elizabeth Rojas, Accounting Technician I, read a statement to the Commission in response to the issue concerning the request for a substitute to backfill for her while she was on vacation. Ms. Rojas made the following points:

She was instructed by Connie Wu, her supervisor to arrange for a substitute during her absence; she called Carol Mendias and she informed her that the required form had not been submitted and that summer assignment subs were no longer available; and that she was instructed by Carol Mendias to call HRD and request a substitute. Ms. Rojas wanted to state for the record that she would not have taken it upon herself to request a substitute without going through the proper channels, and that she feels she acted at the direction provided to her by others.

Barbara Silva, Accounting Technician II, conveyed to the Commissioners that a substitute was taken away from the Accounting department during a very critical time. Ms. Silva asked for an investigation into the matter as it was a very critical time for the Accounting department, and it impeded the work getting done. Ms. Silva expressed her concern as to why when the substitute was taken away no one was sent through summer assignment to replace her.

9. REVISIONS TO PERSONNEL COMMISSION RULES

- A. On the motion of Mrs. Alvarado, seconded by Mrs. Hartley, and unanimously carried, the Commission adopted Chapter 4 (Administration of Salary Plan) of the Personnel Commission Rules as submitted (second reading and adoption).
- B. On the motion of Mrs. Hartley, seconded by Mrs. Alvarado, and unanimously carried, the Commission deleted Chapter 70 (Wage and Salary) Provisions) of the Personnel Commission Rules in its entirety (second reading and adoption).
- C. On the motion of Mrs. Alvarado, seconded by Mrs. Hartley, and unanimously carried, the Commission revised Rules 7.3.1 through 7.3.4, and Rule 7.3.6 (Limited Term Assignments) of the Personnel Commission Rules as submitted (second reading and adoption).

10. INITIAL STEP PLACEMENT

Mrs. Hartley moved, and Mrs. Alvarado seconded that Gabriela Abarca, be given an initial step placement to Step D, effective her date of hire. Following discussion, Mrs. Alvarado moved that the original motion be amended to give Gabriela Abarca, an initial step placement to Step C, effective her date of hire. The Commission unanimously passed the amended motion.

Delia Castaneda, Director of Child Development, briefly summarized the education, training, and experience of Ms. Abarca that significantly exceeded the minimum qualifications for the position, and discussed the difficulty in recruiting sufficient candidates for the position. She also indicated that Ms. Abarca was taking significant reduction in pay to come to Bassett.

11. EXTENSION OF ELIGIBILITY LIST

On the motion of Mrs. Alvarado, seconded by Mrs. Hartley, and unanimously carried, the Commission extended the eligibility list for Secretary II (Exam # 06-012) for 4 months (September 16, 2007).

12. ELIGIBILITY LISTS

On the motion of Mrs. Alvarado, seconded by Mrs. Hartley, and unanimously carried, the Commission approved /ratified the following eligibility lists:

Instructional Assistant, Special Education	Exam #06-048(3)
Secretary III	Exam #07-002

13. EXAMINATIONS

The Commission received the following examination bulletins:

Instructional Assistant	Exam# 07-005
Library Media Technician	Exam# 07-006
Accounting Technician II	Exam# 07-007

14. NEXT COMMISSION MEETING

The next regular Personnel Commission meeting will be held on August 14, 2007 at 5:00 p.m. in the Personnel Commission office.

15. CLOSED SESSION

The Commission adjourned to closed session at 5:40 p.m. pursuant to Government Code Section 54957 to discuss:

PUBLIC EMPLOYEE DISCIPLINE, DISMISSAL, RELEASE

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: Personnel Director

The Commission reconvened into open session at 6:50 p.m. and reported on the following action taken in closed session:

On the motion of Mrs. Alvarado, seconded by Mrs. Hartley, and unanimously carried, the Commission made the following findings and took the following actions:

The investigator, in one or both investigations, committed the following errors:

- 1) Violated the substantive due process rights of the subject employee by

- (a) Not giving him an opportunity to respond to specific findings of alleged misconduct prior to making a finding.
 - (b) Failing to conduct an objective, independent investigation.
 - (c) Not interviewing two witnesses identified by the subject simply because these witnesses were union officials.
 - (d) Failing to prepare a report that met the industry standard of adequate documentation and reporting of the investigation.
 - (e) Making a finding of misconduct contradicted by other findings that found no misconduct.
 - (f) Failing to investigate and make findings on the explanation offered by the subject employee as to the reason for his decisions and actions.
- 2) Failed to properly and fully assess all applicable Commission Rules and the duties and responsibilities of the subject employee in making findings adverse to the interest of the subject employee.
 - 3) Demonstrated by the quality of the investigation and the investigation report that he was not qualified to conduct administrative investigations of classified employees, especially those involving allegations of the type and complexity that were the subject of these investigations.
 - 4) Demonstrated a bias or lack of objectivity in conducting investigations involving classified staff interactions with certificated staff.
 - 5) Failed to act at all times as an independent, neutral investigator and during the investigative process solicited and acted on investigative decisions of the superintendent.
 - 6) Rendered personal subjective opinions not based on a reasoned conclusion, supported by substantial evidence gathered through an adequate investigation.
 - 7) Intruded into the rule making interpretation and the supervisory authority of the Personnel Commission.

The two investigative reports and their purported findings are null and void and may not serve as the basis for disciplinary action.

The Commission directed the Personnel Director to prepare and submit to the Commission revised rules on disciplinary action that

- 1) Allow the Commission to take remedial action when the substantive due process rights of a classified employee have been violated and the employee has an appeal pending before the Commission.
- 2) Clearly define the substantive due process rights of classified employees who are subject to discipline and require that the district adhere to them in bringing disciplinary action against a classified employee.
- 3) Clearly define the minimum requirements of an investigation and the resulting report that serves as the basis for disciplinary action to be taken against a classified employee.

The Commission authorized the Chair to prepare a letter that notifies the superintendent that:

- 1) The investigator violated the substantive due process rights of the subject employee.
- 2) The investigative findings in both reports were not sustained by a preponderance of the evidence.
- 3) The investigator is not qualified to conduct administrative investigations of misconduct of classified employees.
- 4) The Commission recommends that the district no longer employ the investigator to conduct future investigations.

16. ADJOURNMENT

On the motion of Mrs. Hartley, seconded by Mrs. Alvarado, and unanimously carried, the Commission adjourned the meeting at 6:55 p.m.