

**Minutes of the Special Meeting of the Personnel Commission  
July 23, 2004**

**CALL TO ORDER**            The meeting was called to order by Dr. Klonecky at 11:04 a.m.

**PRESENT**                    Personnel Commissioners:

Dr. Harold M. Klonecky  
Dr. Owen Griffith  
Mr. Steven Busch

Dr. Donald R. McCann, Director-Personnel Commission  
Ms. Kris Koga, Personnel Analyst (Excused Absence)  
Mrs. Hiroko Sumi, Staff Assistant-Personnel Commission  
Mrs. Beverly Mautino, Substitute Personnel Analyst

Attendees (in order of presentation to Commission):

Ms. Alicia Loncar, SEIU Local 99  
Ms. Kay Tipsord, CSEA  
Mr. Walt Heath, CSEA  
Ms. Peggy Shannon, CSEA  
Ms. Robyn Lane, CSEA  
Mr. Isidro Herrera, SEIU Local 99

**PLACE AND DATE  
OF MEETING**            Torrance Unified School District Board Room  
2336 Plaza del Amo, Torrance, July 23, 2004.

**PLEDGE OF  
ALLEGIANCE**            The Pledge of Allegiance was led by Mr. Busch.

**DISCUSSION OF  
CALIFORNIA  
EDUCATION CODE  
§ 45319**                    Dr. Klonecky noted that this meeting was called in order to discuss the communication from the Superintendent regarding California Education Code §45319, which could lead to a vote of the electors to terminate the Torrance Unified School District Personnel Commission. Dr. Klonecky asked the Commission members if they had any comments to make regarding this situation.

Mr. Busch requested that the minutes of this meeting be sent to the TUSD Board of Education, Personnel Commissioners; City of Torrance Mayor Dan Walker, Torrance City Council members; City Manager Leroy Jackson, City Clerk Sue Herbers; State Assemblyman George Nakano; State Senator Debra Bowen; Superintendent of Public Instruction Jack O'Connell; Los Angeles County Board of Education Superintendent; Bill Lloyd, Local 99; Peggy Shannon, CSEA, Leonard Bonilla, California School Personnel Commissioners Association and Jack Hayes, California School Personnel Commissioners Association.

Mr. Busch then asked Dr. McCann:

1. Could you first tell us how the concept of the Personnel Commission came into the Education Code?

Dr. McCann recounted that the California Education Code controls the Personnel Commission and the Merit System for K-12 and community college districts. In 1934, four board members of the Los Angeles Unified School District were up for election and during that period of time, the spoils system was still in effect. All the classified employees were fired and after the election the employees were promised jobs if they voted right. Certificated teachers were protected by tenure from being similarly terminated. After the election about 2000 people showed up for 700 jobs that the employees had been fired from, and the 2000 people created a minor riot in the City. As a result, the LAUSD's Business Manager formed a team to create a Merit System law for

classified school employees and that got passed through the State legislature. That is the current Merit System law that is in the Education Code with very few changes. In the State of California a couple of years before 1934, the same process occurred for State employees to create a Merit System. Details are in the excerpt from the 1981 California appellate court case of Pacific Legal Foundation v. Brown. This material is relevant because as the philosopher Santayana said: "Those who cannot remember the past are condemned to repeat it."

2. To the best of your knowledge have elections taken place in the State of California to eliminate a personnel commission by an initiative process and if so were any of the elections successful?

Dr. McCann's noted that he had an opportunity to discuss this issue with some peers a few weeks ago during lunch. In approximately 1996, using the same Education Code §45391, the school districts in Hacienda La Puente, Barstow and Bassett, experienced this same initiative process. The initiative effort to eliminate the Commissions lost by a margin of 40 percent to 60 percent of the vote in favor of maintaining the Merit System, and each of the three districts have a Merit System to this very day. The unions and employees were instrumental in assisting with the defeat of the measure.

3. If there was no Personnel Commission for a school district and an employee was terminated by the school district, then the employee is terminated by the Superintendent of the school district, is that correct?

Dr. McCann's responded, "Yes, based on the Superintendent's recommendation, but the Board takes the final action."

Mr. Busch, "When you have no Personnel Commission and the employee is terminated and the recommendation by the Superintendent is upheld, the employee's recourse would be to seek civil action in a court of law, is that correct?"

Dr. McCann, "Yes, that is always an option. The employee could also ask the Board to reconsider the action."

Mr. Busch, "And if it is denied and if they choose, would they have to file a civil suit?"

Dr. McCann, "Yes that would be their main recourse."

Mr. Busch, "And that civil action knowing the cost of courts the District would have to retain legal counsel to try to sustain their position. That could prove to be a substantial cost in legal fees to the District."

At this point Mr. Busch referred to the Notice of Intent to Circulate Petition which states: "Efficiency demands a single department servicing all employees."

Mr. Busch, "Dr. McCann, does a Human Resource department perform by code all the duties of a Personnel Commission and if not, what duties can they not perform?"

Dr. McCann, "We have about a dozen pages of duties by provisions of the Education Code, and this information is from the California School Personnel Commissioners Association in 1989. The information shows the responsibilities of the Commission and the Board of Education. The Human Resources Department is accountable for the Board's duties. The Personnel

Commission performs the classified recruitment and testing procedures, which is the core of the Merit System. This process prevents political patronage appointments by creating eligibility based on merit. The Personnel Commission provides a service to the District, which is very cost effective. These service functions are required duties of the school district."

Mr. Busch, "So if there were no Personnel Commission, the Human Resource Department would have to assume the duties and that would require additional staffing?"

Dr. McCann, "Yes it would."

Mr. Busch, "So in Item 3, which states: "We can no longer afford this luxury"--this Commission is not a luxury at all because it serves a valuable and important purpose upholding the Merit System."

Dr. McCann, "That's correct and we now have a vacant position which has remained frozen for the past year. The \$350,000 budgeted amount will therefore not be fully utilized and a good portion will return to the District General Fund."

Mr. Busch, "Is it not true that some of the \$350,000 budgeted is also reimbursed by the state?"

Mr. McCann, "Yes, in prior years, it has been about 15 percent reimbursement from the State for mandated costs. For the last year it will be 37 percent, and we expect it to be about the same for this year. This information is documented in our annual report. This reimbursement is generally associated with the collective bargaining process that includes salary surveys to ensure that people are paid equal pay for equal work, which is a merit principle. Additionally, the Personnel Commission performs other duties required by the two classified employee labor agreements to carry out Merit System principles. The State of California has always honored mandated cost reimbursement claims when the State's budget is restored."

4. To the best of your knowledge have any of the three proponents attended any Commission meeting

Dr. McCann, "Not in the five years that I have served as the Director."

Mr. Busch, "Returning back to the Human Resources Department, if an employee is terminated by the school district, can they appeal to the Human Resource Department if there is no Personnel Commission?"

Dr. McCann, "No, it's just the other way around. The Board can overturn the Human Resource Department."

Mr. Busch, "If an employee is terminated by the Board on the recommendation of the Superintendent can the Personnel Commission overrule the Board?"

Dr. McCann, "Yes, by law to protect employee employment interests, the Commission acts in an appellate role to review Board disciplinary actions. The Commission has conducted several hearings to insure that employees were fairly treated and their Skelly due process rights were upheld as Human Resources and the Board was processing them. We work closely with the employees, unions and the District to explain our rules and regulations, which are binding on the Board of Education under the California Education Code. We perform a valuable service and there are no pending litigation issues as a

result of any Personnel Commission actions, which probably save a lot of money for the District.”

Mr. Busch, “Approximately how many Personnel Commissions are there in the state of California?”

Dr. McCann, “About 97, which covers about 60 percent of all classified employees in the school districts.”

Mr. Busch, “Has the number of personnel commissions expanded in the last several years?”

Dr. McCann, “It started with LA Unified in about 1934 and has pretty much stabilized in the last several years.”

Mr. Busch, “I believe it should be emphasized that the Personnel Commission for the Torrance Unified School District was brought in by the vote of the classified employees. They wish to have a Personnel Commission and a Merit System. Too often we overlook the fact that the backbone of a school district is the classified employees. As a probation officer my initial contact is often with a classified employee. I am very proud of the classified employees of the school district, and I think the fact that we have a Personnel Commission helps retain our employees and encourages the recruitment process. When they come to a district with a Personnel Commission they believe their rights will be protected. This fosters recruitment and helps retain excellent employees. I strongly believe the Personnel Commission should be maintained.”

Dr. Klonecky, “I think they slightly exaggerate item 2 which states, “The School Board does not control the budget of the Personnel Commission.” It needs to be mentioned that the District has requested a number of times that we reduce our budget because the District was facing financial problems. We have honored such requests in each and every instance. We have honored a request this year, and we are still short one person in the office. We have not hired because of the District's financial problems. Item 3 also needs to be spoken to when it refers to cutting music and reading programs. Nobody likes to see that happen. But if we look at the actual figure of \$350,000, and if you subtract out the salaries of the three budgeted “Secretaries, Clerks” staff positions (of which one is vacant and frozen for six months), and if the Commission were eliminated, then these individuals still will have to be absorbed by the District because they are or will be employees of the District and they have a right to their classified positions according to Education Code §45114, and as members of a collective bargaining unit. So if you take their salaries and their fringe benefits out of the Personnel Commission budget, and in addition to that, take out the amount of money that we have saved the District by prudently filing mandated cost reimbursement claims with the State, then the Personnel Commission Budget amounts are much less than \$100,000 – so what you are talking about is a relative pittance. That amount will in no way save the music and reading programs and the class size.”

Dr. Owen Griffith, “I have been on this Commission about five years and prior to that was on the School Board for over 28 years. I was on the Board when the classified employees had their election to form the Commission. I worked with the Commission from the School Board side for over seven years and during that time; we had excellent recognition and working conditions. Having worked both with the Board and the Commission, I understand that each has separate functions and the Commission has performed both effectively and efficiently over the past 15 years. The classified employees, unions, and the Board can be pleased with the operation and

results of the Commission. I also agree with the remarks of the other two Commissioners and I will do all that I can to promote the operation of the Personnel Commission.”

Alicia Loncar, SEIU, Local 99, “Local 99 would like to express its opposition to the initiative to terminate the TUSD Personnel Commission. We believe that the Commission insures that we do not have graft and corruption and that there are standards that must be met to be employed. We wholeheartedly oppose the initiative.”

Kay Tipsord, CSEA member, “I have a question on what the total District budget is and what percentage of that budget is the \$350,000 Commission budget.”

Dr. McCann, “It is two tenths of one percent.”

Ms. Tipsord, “My second question is how many signatures are needed for the petition to pass?”

Mr. Busch, “In a recent Board election, the most votes received by a candidate was 7,499 so an estimate is that he received about 75 percent of the votes. Approximately 8,500 votes were cast and 10 percent of that figure would be 850. A 20 percent cushion above that would be 1,100 to 1,200. To qualify for the November 2004 ballot, the signatures must be turned in by August 3, the first Tuesday, according to currently available information.”

Walt Heath, past CSEA President, “ I was here as an employee the year the Commission was put in place and I took part in the election. I voted for the Commission and I really resent anybody trying to take it away from us without our consent. It serves many useful purposes for the employees as well for the District and as pointed out the work would have to be done by someone else. It's not going to save a lot of money to get rid of it and I take it as a personal affront to me as a classified employee that some citizens want to use this as a financial football and their arguments are invalid. The Commission functions, as an impartial body, and I don't want to flush that down the drain. There are many employees in the District who are not represented by a union and the Commission is the only body they can depend on to insure fairness in hiring practices and other issues affecting their jobs. I believe this is an attack on classified employees of the same ilk that is going on in Sacramento right now.”

Peggy Shannon, Labor Relations CSEA, “I have been a representative for classified employees for over seven years. Most of those years were with LA Unified and therefore I am experienced in working with the Commission. In a large school district a Personnel Commission is necessary because the process of hiring classified employees is much more open and transparent and the process is governed by rules. If there is no Commission, the hiring process is at the whim of the administration. I now service six districts, three of which are Merit System and three are not. The three that do not have Merit Systems have serious problems. I believe that any proposal to eliminate a Merit System in a district of this size is pennywise and pound-foolish. To open the door to cronyism, nepotism or whatever existed prior to the establishment of the Merit System in 1934 is really scary, and I cannot believe that the citizens of Torrance would support the termination of the Commission.”

Robyn Lane, CSEA Member, “I honestly feel that if the Personnel Commission were to be removed, it should be the responsibility of the classified employees who put it in place. Too often the classified employees are overlooked for the intelligence that they bring, for the hard work that they do

and this is just another slap in the face that our opinions don't count. I think that we can do the job that needs to be done if it needs to be done. If things are right the way they are, then we should be the ones to tell them that it should stay as it is."

Isidro Herrera, Local 99 Shop Steward, "I agree with the last lady who talked and said it was a slap in the face. As a Custodian, I feel safe that we have a Commission. I have read who proposed this initiative, a Mr. Rick Marshall. I live in Torrance and I see the rich people always try to slap the poor people in the face. Rick Marshall once before tried to run for the City of Torrance as mayor and also to the Board of Education and didn't get it. And now he is trying to hurt us because we are little people. We need to stop him."

Mr. Busch, "We appreciate CSEA and SEIU members who came in support of the Commission and spoke in strong terms. We encourage them to inform all their members of this proposal."

Dr. Klonecky, "I believe that what is written in the petition should be honest and valid. I feel that the Board needs to examine the validity of these statements by G. Rick Marshall, Steve Hemingway and Newton Young. If it's not true and does not reflect a saving of \$350,000 and that it will not impact the teacher-pupil ratio or the music and reading program, then the Board needs to say that it's not true. If the petition goes through, then it needs to be honest."

**ADJOURNMENT**

The meeting was adjourned at 11:50 a.m.