

TULARE/KINGS COUNTIES PERSONNEL COMMITTEE
Board Room, Education Building
Tulare County Office of Education

September 5, 2008

Minutes

The Personnel Committee meeting was called to order at 8:30 a.m. Jeanne Nava welcomed those in attendance. Introductions were made around the table.

Members in attendance were:

Jeanne Nava	Jeanette McDonald	Suzanne Monroe
Cheri Barnes	Ken Stovall	Melanie Ruano
Ronald Koop	Fernie Marroquin	Jeri Higdon
Barbara Leal	Diane Davis	Patti Ernsberger
Donna Glassman-Sommer	Bernadine Landeros	Marie Macedo
Tom Addington	Cindy Gist	Rita Verde
Mary Suarez	Janet Jones	Enid Brinkman
Craig Drennan	Tom Giampietro	Carol Laird
Dennis Martinez	Barbara Zaino	Luis Castellanoz
		Norma Lovelace

Minutes Craig Drennan moved to approve the minutes of the May 2, 2008, Personnel Committee meeting; Dennis Martinez seconded the motion.

Alert Lozano Smith will be presenting an *It's An E-World* seminar on October 1st. This seminar will serve as the first of the four Education Law Seminars of the 2008-09 school year for consortium members. This seminar is also open to non-consortium members including district administrators from out of our two-county area. Space is limited, so interested parties were encouraged to submit their registration forms as soon as possible in order to reserve a spot. If you have questions, you may contact Jeanne Croson at jeannec@tcoe.org.

The firm of Fagen Friedman & Fulfroost in cooperation with Fresno COE will be presenting their *2008-09 Labor and Employment Consortia* on the following dates: September 11, 2008, November 5, 2008, January 12, 2009 and April 1, 2009. To register, go to www.fagenfriedman.com and click on seminars.

Atkinson, Andelson, Loya, Ruud & Romo will be presenting a *Comprehensive Seminar for Education Administrators* on November 13th in Cerritos; November 18th in Sacramento; and November 20th in Fresno. To register, contact Keesha Clark at 925-227-9200 x 3453.

The Labor Arbitration Institute will be presenting the San Francisco Program on *Labor Law and Labor Arbitration* on October 16-17, 2008. For more information, call 507-663-1220.

M. Lee Smith Publishers LLC will be presenting a Hiring and Retention Strategies Workshop featuring Carol Hacker, a leading HR consultant, as the speaker. For more information and/or to register, call 800-274-6774.

Kings COE is sponsoring a Beginner FRISK Professional Training Program at their county office on Friday, October 24th from 8:30 to 11:30 a.m. The cost is \$140.00 which includes the manual and training fees. The deadline to register is October 10th. For more information, contact Anna Biesbrock, Human Resources at Kings COE at 584-1441.

The School Employers Association of California (SEAC) will be presenting their Collective Bargaining Summits *Negotiating During Fiscal Crisis: Recommended Strategies for LEA Management*. The Summits will take place on September 29th in Sacramento; October 1st in Visalia; and on October 7th in Ontario. For more information, go to www.seacal.org.

The American Association of School Personnel Administrators will be holding their 70th Annual Conference in Seattle, Washington on October 15-18, 2008. For more information, call 913-327-1222.

A handout including the Table of Contents for the new CODESP Handbook was provided. This resource is available to member districts online.

Court Cases

A Miller Dannis *Client Bulletin* dated July 11, 2008, reported that in *Adair v. Stockton Unified School District (2008)* a Court of Appeal ruled that a negotiated salary schedule compression violated Education Code section 45028 insofar as the schedule measured teacher experience on a non-uniform basis. As a remedy, the court ordered the district to provide back pay for all teachers adversely impacted by the lack of uniformity; the district estimated the back pay amount could exceed \$1,000,000.00. The agreement to compress the salary schedule was made by both the district and the teacher association as a way to make the district's salary schedule more competitive with neighboring districts. District administrators were advised to consider potential salary compressions with caution.

A Lozano Smith *Client News Brief #22* dated July 2008, addressed the *California School Employees Association v. Bonita Unified School District (2008)* court case involving a district maintenance mechanic who was given a notice of termination and suspension that set forth nine causes and 24 reasons for the discipline. Prior to the notice, the district had not provided Roberts with progressive discipline which the Agreement required unless the "serious nature of the offense" warranted bypassing the steps of progressive discipline. The employee challenged his discipline through two methods: 1) he requested a traditional hearing before the District's Board; and 2) he filed a grievance under the Agreement, which provided that a grievance, if not informally resolved by the parties, is decided by an arbitrator whose award is "final and binding." The employee and the District agreed to conduct the Board hearing and the arbitration in a consolidated proceeding before a labor disputes arbitrator in order to streamline the decision making process." The arbitrator did not find the employee's offenses to be so serious as to require the District to bypass the progressive discipline steps. This case affirms the importance for a school district to follow any progressive discipline procedures required by the district's collective bargaining agreement. Additionally, this case cautions against consolidation of arbitration and discipline proceedings as such consolidation may have the effect of delegating to an arbitrator the employee discipline determinations statutorily vested with the school board.

A Lozano Smith *Client News Brief #30* dated August 2008, related that the Governor recently signed SB 1732 which makes certain changes to the Brown Act and the California Public Records Act which will go into effect January 1, 2009. This bill is intended to supersede the holding in *Wolfe v. City of Fremont* where the court held that a series of individual meetings by members of the legislative body, or communication through an intermediary, does not violate the Brown Act so long as such communication does not result in a collective concurrence as to action to be taken on an item by the legislative body. SB 1732 amends Government Code section 54952.2, subdivision (b)(1) which reads "prohibits a majority of the members of a legislative body, outside a public meeting, from using a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business within its jurisdiction." The Legislature added Subdivision (b)(2) which provides that this change in the law shall not prohibit public agency employees or officials from engaging in separate conversations or communications with members of a legislative body outside of a meeting to answer questions or provide information regarding a matter, as long as that employee or official does not communicate a member's comments or position on a matter to any other members.

A Lozano Smith *Client News Brief #26* dated July 2008, featured the *Quon v. Arch Wireless Operating Company* where the Ninth Circuit Court of Appeals held that the City of Ontario violated an employee's constitutional Fourth Amendment right against unreasonable search and seizure when the City ignored its informal policy and reviewed the content of text messages sent by the employee on his City-issued pager without the employee's consent. The City had a "computer usage" policy but no policy specific to pagers or text messaging. It was the policy of the City to collect overage charges from employees who exceeded the allotted number of characters for the billing period and it had done so on multiple occasions. On the last occasion, the City reviewed the content of the text messages and discovered sexually explicit and other personal text messages and Mr. Quon alleged that the City violated his Fourth Amendment right in doing so. The Ninth Circuit Court reversed the lower court's decision and determined that the City violated the Fourth Amendment because Mr. Quon had an expectation of privacy in the text messages. School districts were encouraged to review their policies, administrative regulations and practices governing employee use of agency-issued equipment to clarify the rules.

A discussion ensued pertaining to AB 2167 which was moved from the Senate Appropriations Committee Suspense File and passed by the House and Senate and is on the Governor's desk for approval. This bill prohibits the placement of false or unsubstantiated statements or documents in the personnel files of classified employees of school districts and community colleges. It grants the right to classified employees to challenge and have these statements or documents removed through the school district's grievance process. ACSA opposes this bill and has encouraged school district representatives to write letters to the Governor requesting that he veto this bill. A sample letter, provided by Tom Addington, was emailed to members of our Personnel Committee following the September 5th meeting.

Leave Does Not Count Towards 75%	Carol Laird, Deputy County Counsel, provided a handout which addressed the questions of whether a credentialed teacher can attain permanent status if they are off for sick leave, personal necessity, or other approved leave. Carol explained that the person must be physically present 75% of the days that school is in session. It is not enough to be in paid status alone.
Interns and Tenure	Carol Laird, Deputy County Counsel, provided a handout pertaining to the earning of tenure for interns. She explained that both <i>district</i> interns and <i>university</i> interns must be classified as probationary during the internship. Once the internship is completed and a credential is awarded, he/she must be classified as probationary 2 if re-employed by the same district in which the internship was served.
Employment References	Carol Laird, Deputy County Counsel, provided an in-depth presentation on employment references from the side of the prospective employer, as well as the side of a former employer who has been requested to give an employee reference. As far as pre-employment inquiries, employers were given acceptable and unacceptable questions that they may ask. Pertaining to references on former employees, the following topics were discussed: <ul style="list-style-type: none">• What you MUST provide - Public Record Information• What you MAY provide - Privileged References• What you MUST NOT provide: Half Truths or Misrepresentation• Recommendations• Ten Rules for References Handouts were provided.
Special Education Interns	Jeanne related that the intern program for prospective special education teachers is a three year program with the intern being eligible for a preliminary credential at the end of their second year. If they obtain the credential, they then lose the support from the intern program and are required to pay full tuition. Jeanne shared that she met with the TCOE CTA group to address this issue. As a result, language was added to the bargaining agreement. The sample language was provided as a handout.

Verification Process for Special Setting (VPSS)	Donna Glassman-Sommer provided information on the Verification Process for Special Settings (VPSS) which is a state-approved advanced certification process by which secondary teachers in “special settings” have an additional option to become compliant with NCLB legislation. Eligibility requirements as well as information on VPSS Tier I and VPSS Tier II Classes was provided.
Intern Credentials	Donna explained that there have been some changes in the process of recommending candidates to their intern program for Intern Credentials. She indicated that due to changes in legislation and a stricter adherence thereto, CTC will no longer allow programs to recommend candidates to be placed on an Intern Credential until the candidate meets all prerequisites and completes pre-service which in IMPACT includes <i>Frameworks</i> and <i>ELL</i> hours. Donna informed those present that districts will be contacted directly by their program in regard to potential interns. A copy of a letter from Donna to interested parties in this regard has been provided as an attachment. Donna shared that their intern programs have grown tremendously and that they are in need of practicum supervisors. If you know of anyone who would be qualified and interested, including retirees, please let her know. You may reach her by calling 559-730-2549 or donnags@tcoe.org
Credentials	Enid Brinkman shared a CTC Press Release which revealed that an analysis of teacher misassignment by the Commission indicated that 20% of all science teachers are under-prepared to teach science in California classrooms. The Commission approved a new Foundational-Level General Science Credential at its August 7-8, 2008, meeting which is intended to ease the shortage. Enid encouraged districts to let CTC know what they think about this new credential. Enid provided a CTC Coded Correspondence #08-09 dated July 3, 2008, which notified interested parties that effective September 1, 2008, the Commission on Teacher Credentialing will only provide credentials, certificates, and permits through an online view and print process. They will be available online to colleges, universities, employers and the document holder within 48 hours of issuance. They will now be considered the official legal document. Enid shared a CTC Credential Information Alert #08-10 dated August 13, 2008, which related that the Statewide Educator Identifier (SEID) Look-Up is available on the Commission’s Credential Information Guide (CIG) in the Tools section of Quick Clicks and in the Employment section of CIG Topics. Directions on how to access the CIG and SEID Look-Up are included on page 3 of the handout which can be found on the Personnel Committee website under the September 5 th meeting. Enid encouraged district representatives to have their employees renew their credentials before they expire. As of April 1, 2009, only online applications will be accepted. Pay could be held if a person doesn’t renew in time. Jeanne provided a list of significant dates in relation to CBEDS for 2008. She stressed the importance of making certain that all data entered is accurate in order to avoid Compliance, Monitoring, Intervention and Sanctions (CMIS) by the California Department of Education who takes their information from CBEDS. Nineteen districts in our region were found to be in CMIS this year, however, many errors in the CBEDS reporting were discovered during the process. It will soon be announced what districts are in CMIS this year based on the data that was submitted last year.
Other	Jeanne asked the group if there were any trainings needed for HR or administrative staff. It was decided that Jeanne would do another Sexual Harassment Training for Supervisors as well as a workshop on Leaves for HR Support Staff. More information will follow.
Adjourned	The meeting adjourned at 10:35 a.m. The next meeting will be held in the Board Room of the Tulare COE Building beginning at 8:30 a.m. on October 3, 2008.

Meeting Dates for 2008-09

November 7, 2008
December 5, 2008
February 6, 2009

March 6, 2009
April 3, 2009
May 1, 2009

Upcoming Tulare/Kings Counties' Teacher Recruitment Fairs:

- **March 21, 2009**
- **March 20, 2010**
- **March 19, 2011**
- **March 17, 2012**

Personnel Committee agendas, minutes and meeting handouts are posted on the TCOE HR Personnel Committee website . The website is as follows: <http://www.tcoe.org/HR/PersonnelCommittee>