



Putting
Children
First

Sacramento City Unified School District BOARD OF EDUCATION SPECIAL MEETING

Board of Education Members

Jay Hansen, President (Trustee Area 1)
Jessie Ryan, Vice President (Trustee Area 7)
Darrel Woo, Second Vice President (Trustee Area 6)
Ellen Cochran, (Trustee Area 2)
Christina Pritchett (Trustee Area 3)
Michael Minnick (Trustee Area 4)
Mai Vang by teleconference (Trustee Area 5)

Thursday, October 12, 2017

6:00 p.m. Closed Session

7:30 Open Session

Serna Center

Community Conference Rooms

5735 47th Avenue

Sacramento, CA

AGENDA

2017/18-7

6:00 p.m. **1.0 OPEN SESSION / CALL TO ORDER / ROLL CALL** *Allotted Time*

Teleconference location: Board member Mai Vang will participate at 1634 Neil Armstrong Street, Montebello, CA.

2.0 ANNOUNCEMENT AND PUBLIC COMMENT REGARDING ITEMS TO BE DISCUSSED IN CLOSED SESSION

6:05 p.m. **3.0 CLOSED SESSION**

While the Brown Act creates broad public access rights to the meetings of the Board of Education, including any teleconference location referenced above out of closed session, it also recognizes the legitimate need to conduct some of its meetings outside of the public eye. Closed session meetings are specifically defined and limited in scope. They primarily involve personnel issues, pending litigation, labor negotiations, and real property matters.

3.1 Government Code 54956.9 Conference with Legal Counsel – Anticipated Litigation:

- a) Significant exposure to litigation pursuant to subdivision (d)(2) of Government Code section 54956.9
- b) Initiation of litigation pursuant to subdivision (d)(4) of Government Code section 54956.9

3.2 Government Code 54957.6 (a) and (b) Negotiations/Collective Bargaining CSA, SCTA, SEIU, Teamsters, UPE, Unrepresented Management

3.3 Government Code 54957 – Public Employee Discipline/Dismissal/Release/Reassignment



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 6.0

Meeting Date: October 12, 2017

Subject: Resolution 2962; Emergency Resolution in the Event of a Concerted Refusal to Work by Employees.

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: _____)
- Conference/Action
- Action
- Public Hearing

Division: Human Resource Services

Recommendation: Adopt Emergency Resolution in the Event of a Concerted Refusal to Work by Employees.

Background/Rationale: A factfinding hearing to review the District and SCTA's bargaining proposals was held on October 2, 2017. The panel chairperson/arbitrator must now prepare an advisory decision making findings of fact and recommendations for settlement pursuant to the Educational Employment Relations Act (EERA). (Government Code § 3548.3). The District anticipates the advisory decision will not be available until late October. The District will then have 10 days to review the decision before sharing it with the public. However, on October 4, 2017, SCTA Leadership notified District staff of their intent to engage in a work stoppage and strike on November 2 and 3, 2017. Accordingly, the purpose of this item is to adopt an emergency resolution authorizing the Superintendent and his designees to take such action necessary in the event of a concerted refusal to work by employees.

Financial Considerations: Impact to the budget is speculative at this time. However, school closures due to work stoppage may result in lost ADA funding.

LCAP Goal(s): Safe, Emotionally Healthy and Engaged Students

Documents Attached:

1. Executive Summary
2. Resolution 2962; Emergency Resolution in the Event of a Concerted Refusal to Work by Employees

Board of Education Executive Summary

Human Resource Services

Resolution 2962; Emergency Resolution in the Event of a Concerted Refusal to Work by Employees
October 12, 2017 Special Board Meeting



I. Overview/History of Department or Program

A factfinding hearing to review the District and SCTA's bargaining proposals was held on October 2, 2017. The panel chairperson/arbitrator must now prepare an advisory decision making findings of fact and recommendations for settlement pursuant to the Educational Employment Relations Act (EERA). (Government Code § 3548.3). The District anticipates the advisory decision will not be available until late October. The District will then have 10 days to review the decision before sharing it with the public. However, on October 4, 2017, SCTA Leadership notified District staff of their intent to engage in a work stoppage and strike on November 2 and 3, 2017. Accordingly, the purpose of this item is to adopt an emergency resolution authorizing the Superintendent and his designees to take such action necessary in the event of a concerted refusal to work by employees.

II. Driving Governance:

Article I, Section 28, of the California Constitution declares that "[a]ll students and staff of public, primary, elementary, junior high, and senior high schools . . . have the inalienable right to attend campuses which are safe, secure and peaceful."

Education Code section 35161 permits the Governing Board ("Board") to delegate to an officer or employee of the District any of the Governing Board's powers and duties.

III. Budget:

Impact to the budget is speculative at this time. However, school closures due to work stoppage may result in lost ADA funding.

IV. Next Steps:

Approve the emergency resolution.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

RESOLUTION NO. 2962

EMERGENCY RESOLUTION IN THE EVENT OF A CONCERTED REFUSAL TO WORK BY EMPLOYEES

RECITALS

WHEREAS, Education Code section 35161 permits the Governing Board (“Board”) to delegate to an officer or employee of the District any of the Governing Board’s powers and duties; and

WHEREAS, the Board is desirous of delegating to the District Superintendent or designee certain powers and duties; and

WHEREAS, students of a school district have constitutionally protected rights, and a public school district must engage in lawful acts in order to afford such constitutionally protected rights to students; and

WHEREAS, the fundamental purpose of the District and its Board and staff is to further the educational mission of the District, protect students, and enforce the rule of law; and

WHEREAS, Article I, Section 28, of the California Constitution declares that “[a]ll students and staff of public, primary, elementary, junior high, and senior high schools . . . have the inalienable right to attend campuses which are safe, secure and peaceful;” and

WHEREAS, it is the moral and legal responsibility of the Board to provide students, staff, and public with safe, secure, and peaceful campuses and worksites as required by the Constitution; and

WHEREAS, it is the further responsibility of the Board to be prepared for all foreseeable emergencies that may occur within the District; and

WHEREAS, the absence of a large number of employees from the District or from any work site will jeopardize the safety and security of students and cause a breakdown in the educational program, which will constitute an emergency; and

WHEREAS, based upon SCTA’s statements throughout the bargaining process that they were prepared to strike if they did not secure the increases in salaries they sought; the statements made in SCTA’s newsletter entitled “The News Messenger” dated September 18, 2017, wherein SCTA admits that prior to bargaining, the SCTA Rep Council authorized the bargaining team to begin strike votes if the bargaining team determined negotiations had stalled, implicitly admitting that they will not bargain in good faith at future bargaining sessions; and most recently, SCTA’s “The News Messenger” on September 22 and 27, 2017 and again on October 5, 2017 explicitly states that strike votes are taking place. District staff reported that strike votes are in fact taking place at school sites as stated in SCTA’s “The News Messenger.” District staff have further reported and confirmed that during a meeting on October 4, 2017 between District staff and SCTA Leadership, SCTA Leadership stated their intent to

however, the Superintendent has the authority to close a school or schools, modify school schedules, cancel or modify specific educational programs or courses, and cancel or postpone any extracurricular activities. Only the Superintendent has such assigned authority, and such assigned authority shall only be utilized when it is the opinion of the Superintendent that the concerted refusal to work has caused or may cause an actual violation of the District's duties and obligations under Article I, Section 28 of the California Constitution, as defined above, or has caused a breakdown in the educational process.

BE IT FURTHER RESOLVED AND ORDERED that once any school is open and students are present, every reasonable effort shall be made to provide a quality educational program. If a site administrator concludes at any time that a school should be closed, this report should be communicated to the Superintendent for action. The Superintendent shall immediately notify the Board and community when such action is taken. The Superintendent shall close a school when it is evident that sufficient staff is unavailable to maintain adequate supervision of students or the safety and welfare of persons or property are in serious jeopardy.

BE IT FURTHER RESOLVED AND ORDERED that when a school is closed before the end of the instructional day, every effort shall be made to provide transportation to those normally assigned busing. If transportation cannot be provided immediately, those pupils shall be held at school until buses arrive. All staff members shall remain in the school for the completion of the work day.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is directed to take and have other administrators take action against individuals who are involved in acts of malicious mischief, vandalism, disturbing the peace, assault, harassment, unlawfully disrupting the educational program, trespass, prevent the normal ingress and egress to school property and other violations of the law.

BE IT FURTHER RESOLVED AND ORDERED that all student grades given during the emergency will stand as recorded and will not be made up or modified at the end of the emergency.

Employee Participation in a Strike

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent shall implement appropriate administrative procedures so that employee participation in any concerted refusal to work shall be documented. In no case shall an employee be allowed to use sick leave, personal necessity, or other authorized leaves when it is apparent that the employee is participating or participated in any concerted refusal to work for that period.

BE IT FURTHER RESOLVED AND ORDERED that no compensation shall be paid to or on behalf of any District employee unless the Superintendent, whose duty is to draw the warrants, is satisfied that the employee has faithfully performed all of his or her prescribed duties (Education Code section 45055). The term "compensation," as used herein, shall include but shall not be limited to, employer contribution, if any, toward the cost of any health, welfare or group benefits, STRS/PERS retirement programs, and unemployment insurance. "Compensation," as used herein, shall not include dues deduction or other rights protected by the Educational Employment Relations Act.

BE IT FURTHER RESOLVED AND ORDERED that, unless otherwise permitted by law, personal necessity leave may only be used by Sacramento City Teachers Association members in

- i. To ensure and protect the welfare and safety of persons working for the District which shall include its agents, employees, representatives and all others acting for or on behalf of the District;
- j. To protect District property;
- k. To ensure and protect the personal property of persons working for the District when such property is on District grounds; and/or
- l. To provide necessary staffing and instruction.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized to employ Replacement Teachers employees to be paid whatever rate he deems necessary to assure availability of Replacement Teachers. Such rate shall not exceed \$500 per day unless otherwise approved by the Board.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized to employ Replacement Teachers or other substitute employees with bilingual certifications, or other evidence of fluency in the Spanish language deemed sufficient by the Superintendent, at a daily rate that shall not exceed \$500 unless otherwise approved by the Board.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized to enter into contracts for performance of supplemental assignments or extracurricular activities, affecting those employees or units of employees participating in or supporting the concerted refusal to work, for the duration of the emergency.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized to employ credentialed and classified part-time personnel and special lecturers for the duration of the emergency at the most appropriate rate. Such rate shall not exceed \$500 per day unless otherwise approved by the Board.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized to retain whatever additional security, transportation, food, telephone, or other services which are necessary for the duration of the emergency. Such additional services may include the employment of individuals and the contracting with independent contractors which provide such services.

Employment and Authorization of Legal Counsel

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized to retain legal services relating to an actual or serious threat of a concerted refusal to work by employees. Any attorney employed by the Superintendent shall be authorized to represent the District at the direction of the Superintendent in any legal action relating to the emergency. The Superintendent shall have the authority to direct the attorney to pursue any available legal remedies deemed appropriate by the Superintendent.

BE IT FURTHER RESOLVED AND ORDERED that it is the position of the District that students shall not be directly involved in the negotiations process during instructional time in the classroom. No employee or visitor at any school site shall discuss the progress of negotiations nor the merits or lack thereof of any issue in negotiations with students during their instructional periods.

BE IT FURTHER RESOLVED AND ORDERED that the District may take disciplinary action up to and including dismissal against any employee who violates any directive as authorized by this Resolution.

District Property

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent or his designee is authorized to secure the necessary legal assistance from County Counsel or retained legal counsel to require that any District property held by District employees be immediately delivered to him or his designated representatives. As used herein, "District property" includes, but is not limited to, keys, audio-visual equipment, instructional materials, grade books, attendance records, posting charts, and pupil scholastic data.

Effective Date and Application of Resolution

BE IT FURTHER RESOLVED AND ORDERED that this Resolution is a declaration of existing law and authority of the Board to comply with the California Constitution.

BE IT FURTHER RESOLVED AND ORDERED that should any portion of this Resolution is held invalid, the invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provisions or application and to this end the provisions of this Resolution are declared to be severable.

BE IT FURTHER RESOLVED AND ORDERED that this Resolution is an emergency measure within the mandate and jurisdiction of the Board and is necessary for the immediate welfare of the students and schools thereof. Therefore, this Resolution shall become effective immediately upon its adoption and shall remain in effect until repealed by formal Board action.

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTESTED TO: _____

Date: _____

Jorge A. Aguilar
Secretary of the Board of Education

Jay Hansen
President of the Board of Education

CC: Dave Gordon, Superintendent, Sacramento County Office of Education