



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item 9.2

Meeting Date: March 21, 2019

Subject: Approve Resolution No. 3073: 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: 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 No. 3073: Resolution in the Event of a Concerted Refusal to Work by Employees (Available on or before the Board Meeting on March 21, 2019)

Estimated Time of Presentation: 10 min

Submitted by: Cancy McArn, Chief Human Resources Officer

Approved by: Jorge A. Aguilar, Superintendent

Board of Education Executive Summary

Human Resource Services

Approve Resolution No. 3073: Resolution in the Event of a Concerted Refusal to Work by Employees

March 21, 2019



I. Overview/History

The Sacramento City Teachers Association (“SCTA”) leadership has reported that on February 15, 2019, its Rep Council “unanimously passed a motion that directed moving forward with a membership-wide strike vote” and that on March 15, 2019 at a press conference, SCTA leadership, announced that SCTA is “setting this potential strike to protest those and other unlawful actions by the District”. The District must appropriately prepare to help ensure student safety and access to educational experiences.

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 proposed resolution.

**SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION**

RESOLUTION NO. 3073

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

WHEREAS, the Board of Education finds that a strike, work slowdown, sick-out, work stoppage or other withdrawal of services by a substantial number of certificated employees would interfere with, impede or have the effect of interfering with or impeding the normal operation of the school district;

WHEREAS, the Board of Education finds that such withdrawal of services will result in great and irreparable damage to the schools and the pupils of the school district;

WHEREAS, the Sacramento City Teachers Association (“SCTA”) has made allegations of unfair practices by the District without detailed evidence; that in its “Messenger” on January 25, 2019, SCTA reported that its Executive Board “unanimously passed a resolution that if the District doesn’t cease its unlawful activities and the District proceeds with its efforts to ‘solve’ its budget fiasco by reducing services to students rather than addressing the bureaucratic bloat, we will bring the resolution to the Rep Council meeting on February 7th to begin strike votes thereafter”; that on February 15, 2019, SCTA reported that its Rep Council “unanimously passed a motion that directed moving forward with a membership-wide strike vote” and that SCTA expected the strike voting to conclude the second week of March; that on February 22, 2019, SCTA stated that it “might be forced to strike here in Sac City if the District continues its unlawful behavior,” and that “[t]o date, we have conducted strike votes at approximately 15 sites with strong turnout and good support”; that on March 15, 2019 at a press conference, David Fisher, president of SCTA, announced that SCTA is “setting this potential strike to protest those and other unlawful actions by the District”; and that on March 15, 2019, SCTA announced that 92% of its members voted to authorize SCTA Executive Board to call a strike if “[Superintendent] Aguilar, [Board President] Ryan and the District persist in their unlawful behavior and avoid taking measure to correct their unlawful behavior”;

WHEREAS, the District vehemently denies that it has committed any unfair practices that would justify a strike;

NOW, THEREFORE, BE IT RESOLVED it is the position of the Board that any actual or serious threat of concerted refusal to work by employees will constitute a legitimate emergency, and that the Board of Education hereby determines that a legitimate emergency exists as defined by California law, Board of Education policy and Administrative Rules and Regulations, effective immediately and lasting until the Board takes formal action to rescind this Resolution;

Authority of Superintendent

BE IT FURTHER RESOLVED that the Superintendent, in conjunction with the appointed Fiscal Advisor, is hereby authorized to contract with individuals, firms, or other public entities

for services, as needed, to keep the schools operating in a normal manner, when a work stoppage is imminent or at any other time the Superintendent deems the situation warrants such emergency action;

BE IT FURTHER RESOLVED that the Superintendent or his designated representative shall be the sole district employee authorized to close any of the district's education facilities and suspend all extra-curricular activities and events, including sports, student clubs, ASB, after school programs and student supports. Such facilities shall be closed, and activities and events suspended, when in the opinion of the Superintendent or his designated representative the physical welfare of the students or staff on that school site is in jeopardy because of the inadequate staffing or disruptive activities which take place on or within the vicinity of the site;

BE IT FURTHER RESOLVED that the Superintendent or his designated representative may authorize any appropriate legal action or defense in regard to matters relating to the emergency;

BE IT FURTHER RESOLVED that the Superintendent or his designee is directed 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;

BE IT FURTHER RESOLVED that the Superintendent or his designee shall undertake appropriate action to implement this resolution, including, but not limited to, action necessary to insure and protect the physical and educational well-being of all students and the safety and property of the school district, including its agents, employees, representatives and all persons acting for or on behalf of the school district;

Employee Participation in Strike

BE IT FURTHER RESOLVED that all unauthorized absences shall result in the deduction of salary and paid benefits for each day of absence;

BE IT FURTHER RESOLVED that during any actual work stoppage, or any other time the Superintendent deems the situation warrants emergency action, the Superintendent or his designee is granted discretionary authority to remunerate employees beyond the salary schedule (premium pay) for performing additional assigned duties;

BE IT FURTHER RESOLVED that only authorized personnel may be allowed on school premises during a walkout or strike or any other work stoppage. Employees who are on strike or other unauthorized absence shall not enter school premises;

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent shall report to the Board all such actions taken in accordance with this Resolution;

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized and directed to reassign and replace any management, supervisory and confidential employee who is performing in an unsatisfactory fashion during an emergency;

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized to allow in his discretion the use of volunteers at any school facility during an emergency; these volunteers will be under the direction of a credentialed employee. All volunteers shall receive clear instructions regarding their responsibilities. The use of and the work performed by volunteers shall be in conformance with all applicable laws and regulations;

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 accordance with section D of Article 9.6 of the collective bargaining agreement. Under that section, personal necessity leave may be used only for the following purposes:

1. Death of a member of a unit member's immediate family. This would be in addition to bereavement leave as granted under the terms of this agreement. Members of the immediate family are defined as the following relatives of the unit member or his/her spouse: mother, father, grandmother, grandfather, son, daughter, niece, nephew, aunt, uncle, grandchild, brother, sister, any relative or person sharing the immediate household of the unit member, or a close friend;
2. Serious illness of a member of the unit member's immediate family as identified in section 2a, or accident involving his/her person or property, or the person or property of a member of his/her immediate family as identified in section 2a;
3. Placement of a child with the unit member through adoption or foster care; or
4. Observance of a religious holiday of the unit member's faith.

District employees who take personal necessity leaves during a strike for one of the above reasons may be required to file with the Board satisfactory evidence of entitlement to such leave.

BE IT FURTHER RESOLVED AND ORDERED that:

- a. In the event there is a suspected concerted withdrawal of services by employees, it shall be District procedure to require a physician's certification from any employee who is absent on the date of said suspected withdrawal of the services and who files a claim for sick leave benefits or other entitlements for the absence.
- b. Said certificate must be filed immediately upon return to work. In the event a District employee fails or refuses to furnish said certificate, said absence shall be treated as and be deemed to be unauthorized absence without pay.

BE IT FURTHER RESOLVED AND ORDERED that all vacations and professional leaves are suspended during the period of the emergency except by special authorization of the Superintendent or his designee.

BE IT FURTHER RESOLVED AND ORDERED THAT reasonable verification of absences may be required in addition to those specified above.

Emergency Replacement Teachers, Substitute Employees, and Independent Contractors

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized to employ, subject to only subsequent ratification of the Board and according to law, emergency Replacement Teachers, substitute employees, and independent contractors:

- c. To ensure and protect the welfare, safety and educational wellbeing of all students;
- d. 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;
- e. To protect District property;
- f. To ensure and protect the personal property of persons working for the District when such property is on District grounds; and/or
- g. To provide necessary staffing and instruction.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized to employ Replacement Teachers 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;

Effective Date and Application of this Resolution

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

PASSED and ADOPTED by the Governing Board of the Sacramento City Unified School District this _____ day of _____, 2019.

AYES _____

NOES _____

ABSENT _____

ABSTENTION _____

GOVERNING BOARD OF THE
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

President