



Teachers Association of Long Beach, CTA/NEA

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VIA ELECTRONIC PDF & U.S. MAIL

Memorandum

**To: Mary Stanton, School Board President
Long Beach Unified School District**

**Chris Steinhauser, Superintendent
Long Beach Unified School District**

**From: Joe Boyd, Executive Director
Teachers Association of Long Beach**

**CC: For TALB – Mike Day, TALB Board of Directors, Chris Callopy,
Marianne Reinhold
For LBUSD – Felton Williams, Jon Meyer, David Barton, John McGinnis
Ruth Ashley, Kim Stallings, Debra Ecung**

Date: February 21, 2010

**RE: Layoffs and Budget Reductions –
Request for Information & Demand to Bargain**

I write regarding the pending Reduction in Force (Layoff) of TALB members.

Request for Information

I corresponded with Ruth Ashley on November 1, 2009, concerning the ongoing layoff process. That letter, attached for your convenience, included a number of requests for information. In a correspondence sent to me on November 12, 2009, Ms. Ashley indicated that she would respond to our requests for information “within a reasonable time.”

It is now February 10, 2010, and the District has not provided the requested information. I hereby renew my request and remind the District this is necessary and required information for TALB to represent our members in matters within the scope of the EERA. Additionally, please consider this as a request under the Public Records Act.

Specifically, the District has not responded to items #2 - #19 on pages 4, 5, and 6 of the November 1 letter. Of specific concern, the District has not provided the required seniority list (request #2) which both hinders TALB’s ability to represent our members and denies our members the right to access the single most important piece of data involved in the layoff process.

We believe that by any reasonable standard the District has had more than adequate time to respond to our request. Therefore, we ask the District to provide the requested information within five (5) working days of receipt of the memorandum.

This request is also in coordination with correspondence you will receive from Marianne Reinhold, who will be representing TALB members in the layoff hearing, and may require additional information in the near future.

All other instructions regarding the transmittal of the documents and the specific nature of the request remain as described on page 6 of the November 1, 2009, memorandum.

Request for Coordination

Please provide the following:

1. The name, assignment, school site, and home address of TALB bargaining unit members who will receive a March 15 notice. If possible, please provide this data electronically in an Excel format. If you are unable to provide this request in Excel please provide the information on pre-printed labels with the name and home address.
2. The date that you intend to provide layoff notification letters.
3. The date, location, and time of the required hearing.

This information will help us coordinate with our members and the District and assure that our members rights to a hearing are upheld.

Dissemination of Inaccurate Information

The District has apparently determined that site managers will be the conduit for District communication on layoff and budget information and distribution of RIF notices. The District has reported that it believes this is a more "humanistic" approach.

Unfortunately, this approach is causing several very serious problems. Site managers are providing inconsistent and inaccurate information about the layoff process and rights of impacted employees. For example, TALB has received many calls from teachers reporting that their manager has told them that they will lose all of their seniority if they are rehired. This should generally not be true for employee hired back within the 39/24 month window into jobs that result from the restoration of previously eliminated programs. Another example is the site manager who has reportedly told staff that they will be placed at the beginning of the salary schedule if they are rehired. The result is confusion, anger, and additional stress in what is already an awful situation. Please provide TALB with the exact information you are providing to RIF'd employees.

The District may also want to more carefully consider the stated plan to have site managers deliver layoff notices. Providing notices during the work day via meetings with site administrators may have unintended consequences. Some members have indicated that it would be more professional and dignified to receive such a notice privately at home. Other members have reported that their site manager has already told those who are getting a layoff notice to "make an appointment" to get their pink slip. It is stressful to get notice that you may lose your job, but it is disrespectful and degrading to be told you need to "make an appointment" to get the news.

Impact Negotiations

The pending layoffs create the need to negotiate the impact of the layoff on terms and conditions of employment. For example, the plan to move high school sports to afterschool cannot be implemented without a negotiated agreement between the parties. The current coaching period is a mutual past practice and negotiable condition of employment that is directly tied to the modest stipends coaches are paid. Unilateral action to eliminate the coaching period will result in an Unfair Labor Practice under the E.E.R.A. On a related note, elimination of this program will cost money, not save it, as the District will need to deal with staffing costs for PE requirements of students formerly in athletics classes staffed by coaches and increase coaching stipends. The unintended consequence will also be the need to hire dozens of off-campus coaches to replace on-campus coaches due to the all but certain exodus of our current on-campus coaches.

There may also be issues impacting transfers, assignments and other matters not known at this writing. We expect most teachers currently electing to teach Full Day Kindergarten at 20/1 will opt to return to the regular schedule as provided in the contract if their class size increases.

We also believe the decision to close DeMille and to move to a 6th grade self-contained model at selected middle schools will also result in a need for impact negotiations. Irrespective of any debate over the merits of these policy decisions, both changes will unnecessarily exacerbate a predictably chaotic transfer and reassignment situation resulting from layoffs.

Please coordinate with this office and make necessary arrangements to conduct the necessary negotiations as requested.

Priorities

TALB has stated in public comment at recent School Board meetings that we understand the ongoing and severe nature of the LBUSD's budget shortfall. The need for budget cuts, and the resulting layoffs, are the result of the economy, poor decision making and misplaced governmental priorities at the State level, and the community's current unwillingness to provide tax revenues for local schools. This all has resulted in the layoff of approximately 651 teachers directly serving the students of the greater Long Beach school community.

By any measure the layoff of these 651 teachers is tragic. For the 651 teachers who get a layoff notice it is a professional, economic and personal loss. For the tens of thousands of students they would have taught and lives they would have enriched, it is an unquantifiable loss of an adult role model that may have made *the* difference in *their* lifetime. For the teachers who are left behind to do more with less, and without their colleagues, the challenge will be to keep the schools functioning with resourcefulness, spit and bubble gum – and avoid the naturally demoralizing impact of these devastating layoffs on our schools.

Moving forward, we can all agree that we need to come together and lobby our local legislators and the Governor to stop the state funding cuts that are the primary cause of these layoffs. But the School Board can also mitigate the impact of these budget cuts by better defining local priorities. Under the January 29, 2010, "School Board Report" the District recently stated the following:

“For example, in 2008-09, the most recent year for which official data are available, LBUSD had 345 students for every one administrator. The more students per administrator, the leaner the ratio is, meaning more efficient operations. LBUSD’s ratio is significantly leaner than the county average (206 students per administrator) and the state average (224 students per administrator). That is because, while LBUSD has reduced the number of administrators by 18 percent between 2004 and 2009, the county and the state increased by 6 percent and 7 percent. During this time period LBUSD saw no change in the student-teacher ratio district wide.”

The District claims to have a “lean” administration and to have cut the number of administrators by 18% in the last five years. Yet the data provided by the District ten days earlier, on January 19, 2010, documented that there are 1,035 district managers. According to the District website, the school District has 88,000 students. The resulting ratio according to LBUSD published data is about 85 students for every District manager – not the 345 to 1 claimed by the District.

We may reasonably disagree on priorities, but we should try to agree on the facts. Why is the District claiming such a low number of managers when District provided data seems to tell a different story? We would be interested in knowing what figures the District used to calculate the ratio provided in the January 29 School Board Report. We also request information supporting the District claim that the LBUSD “reduced the number of administrators by 18 percent between 2004 and 2009.”

The District’s management ratios, based on District figures, appear to be high. Therefore, it is mildly surprising that 87% of the layoffs are teachers while 11% are managers. Currently only 58% of all employees are teachers, nurses, or librarians, and 14% are managers. If this pattern continues, it appears that the management ratios will actually increase as a result of this budget crisis.

It is also unfortunate that the School Board appears to have elected to lay off more teachers than necessary. The District has made it clear that it plans to retain CSR in some schools by use of categorical funds. This means many of the teachers who are on the layoff list due to the elimination of CSR will actually be rehired. The District has failed to account for even a conservative number of retirements in the layoff calculations. And, as previously stated, the layoff appears to protect management positions at the expense of classroom teachers.

Add it all up and there are probably at least 200 teaching jobs that should not even be slated for reduction (and this does not include leaves of absence which will further reduce the layoff). It is not clear why the District is taking this approach after working so hard to preserve the classroom program last year. In the case of the elementary CSR it appears to be a misguided and possibly illegal gambit to rehire formerly probationary and permanent elementary teachers into temporary jobs. Or it may be an attempt to use the shock value of the layoff figures to pressure TALB to accept reductions in salaries and benefit cuts. Whatever the reason, we urge the District to not put any more employees through this process than is absolutely necessary.

In closing, we ask that you reassess your layoff decisions and protect classroom instruction in a manner that is consistent with the core mission of the LBUSD. We look forward to working with you to stop further statewide cuts in our school funding. As always, please contact me if you have any questions or concerns about this matter.

Enclosure: 11/1/09 Letter to Ruth Ashley



Teachers Association of Long Beach, CTA/NEA

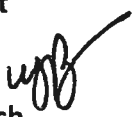
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Memorandum

TO: Ruth Ashley, Assistant Superintendent
Long Beach Unified School District

FROM: Joe Boyd, Executive Director 
Teachers Association of Long Beach

CC: For TALB -- Mike Day, TALB Board of Directors, Chris Callopy,
For LBUSD – Mary Stanton, Felton Williams, Jon Meyer, David Barton,
Chris Steinhauser, Kim Stallings, Debra Econg

DATE: November 1, 2009

RE: CERTIFICATED SENIORITY/CREDENTIAL VERIFICATION

I write regarding the District's upcoming electronic survey of 900 certificated bargaining unit members. TALB understands the survey is intended to "verify" existing seniority and credential data of certain bargaining unit members in anticipation of possible layoff notification later this year.

We recognize the District's decision to conduct a layoff is legally permitted. We also recognize that the recent funding cutbacks have placed our schools in a challenging situation as we all try to maintain quality schools in the context of inadequate school funding.

TALB opposes the layoff of our certificated bargaining unit members as it will cause harm to the core classroom programs in the LBUSD. Before the District considers a layoff of classroom critical employees (e.g., teachers, nurses, and librarians) we urge the District to take the following steps:

1. Make reductions away from core student programs and support services. For example, there remain several positions in administration that can be reviewed and either eliminated or reduced. This includes, but is not limited to, several former site managers and central office administrators who remain on District payroll.
2. Review and eliminate consulting services and positions (generally found under SACS #5600).

3. Work with TALB to implement an early retirement incentive if it will have the effect of mitigating or eliminating layoffs.
4. Utilize funding flexibility already provided by the last Budget Act to backfill core programs using categorical reserves and general fund reserves.
5. Use upcoming Federal stimulus funds to save core programs.

In some cases (e.g. items #4 and #5), the District has, to date, pursued these strategies and this has helped to mitigate layoffs. In other areas (e.g., items #1, #2, and #3), we believe the District can still take steps that will result in eliminating, mitigating, or delaying layoffs.

We also have specific concerns regarding the ongoing electronic seniority and credential verification survey process, as follows:

1. The electronic verification form only allows the user to “agree” or “disagree” to the data presented. While there is a “comment” section, it seems prudent to also include a third option indicating “not sure”, or a similar response. We believe many unit members will be unable to accurately verify their information based on the nature of the form. Most people, if they are unsure, will need to respond with “disagree” in lieu of a third option.
2. We are concerned that the District may use the responses from our members against them in a potential layoff hearing. Verbally, you have agreed that this will not be the case. However, we request written verification that the District will not use the information solicited or the responses received from members as a District defense against those unit members who elect to challenge their layoff. In the absence of a formal agreement, we will instruct our members to “disagree” to the verification information in order to protect their rights in a potential layoff hearing.
3. The verification request includes data on issues beyond credential and seniority (training experience, etc.). TALB believes much of the requested information will create further confusion in any potential layoff as it is, in many cases, subjective. We are unclear how this information will be used. The District has indicated that some of the information will be used for a “tie-breaker”. While the District may develop a tie breaker for use when several employees are hired on the same day, the criteria for tie breakers should be developed in a vacuum to benefit the District and not based on some advance analysis of how they will impact specific employees who have answered the survey questions.
4. The District has indicated that some information (e.g., Board Authorized certification) will be used in-lieu of an actual credential, thereby allowing the District to layoff higher seniority employees and keep lower seniority employees with the same credentials. We

believe the District should carefully assess this situation as it relates to carrying out the layoff process via the Education Code, and clearly report its intentions to TALB before the approval of a layoff. Further, if the District is considering the manner in which it intends to administer a tie-breaker, TALB requests negotiations on a mutually agreeable method.

5. We understand that the District has elected to send the verification to some 900 bargaining unit members who could be impacted by a potential layoff in some way through actual layoff, bumping, etc. The District should maintain an accurate seniority and credential list for all bargaining unit employees. In fact, without access to the existing "seniority list" it is difficult for many impacted employees to verify their information since much of what employees know is not isolated to their situation, but in context of others (for example, if Mr. Jones knows he was hired on the same day as Ms. Smith, but has a seniority date that is three years later than Ms. Smith, he might be alerted to a possible error in his contract status for all or part of those three years. If Mr. Jones gets this information in isolation, he won't have the context to know that an error may exist).
6. It appears that there is currently no clear process for employees to use if they wish to resolve concerns with their data, except with this untested electronic response.
7. The technology does not exist at some schools to implement this kind of system. Further, the District has not made it clear that there will be time provided during the workday to respond to the survey.
8. The District continues to issue Special and Temporary contracts. In many cases, these contracts may be appropriate (excepting our previous and ongoing objections to the localized use of "Special" contracts). In other cases, we believe that individuals who are fully credentialed have received such contracts when they were entitled to receive a probationary contract. TALB has been pursuing this concern independent of the layoff process, however, if credentialed unit members have been incorrectly classified it will result in challenges to the layoff as well as legal challenges if currently classified Temporary and Special contracted teachers are let go without layoff rights.
9. We are receiving reports that some site administrators are having group and individual meetings with teachers who may be subject to Reduction in Force. In many cases, they are providing confusing and inaccurate information.

Based on the above referenced concerns as well as our ongoing need to represent our members, TALB hereby requests the following:

1. Immediate written confirmation that the District will not use the information solicited as a part of this process, or the responses received from members, as a District defense against those unit members who elect to challenge their layoff.

2. The currently existing seniority list (prior to the verification request) and credential data for all TALB bargaining unit members. We request that the District provide the data alpha by school site and District wide – in other words, two lists (a school list was sent to TALB Asst. Executive Director Chris Callopy recently -- that list appears to be incomplete and include only selected unit members). We specifically request that the list include the following:
 - a. Full Name
 - b. Employee's classification (Temp, Prob, Perm, etc.)
 - c. Employee's current assignment
 - d. Employee's current FTE
 - e. Employee's current school site
 - f. All credentials, certificates, authorizations, and permits held by the employee
 - g. The employee's date of hire
 - h. The employee's date of first paid service
 - i. The employee's seniority date (if different from date of hire)
 - j. The subject(s) and/or subject area(s) in which the District deems the employee to be "highly qualified" pursuant to the requirements of the Elementary and Secondary Education Act (aka No Child Left Behind).
3. Any new or modified seniority list that is developed after the seniority/credential verification process is completed.
4. District plans for determining layoff tie breaker and any and all documents that refer or relate to the District's tie breaking criteria and application thereof.
5. Any and all documents that refer or relate to the District's basis for determining who was placed included in the seniority verification survey. This includes information related to why certain employees were selected, what particular kinds of service are under consideration for elimination, and any list or lists that were use to select the targeted employees.
6. Any and all documents that refer or relate to the District's bumping criteria and application thereof.
7. Any and all documents that refer or relate to the District's basis for determining employee's seniority dates. This includes, but is not limited to, any information or documents provided to site managers and used in conducting recent site level meetings with selected employees.

8. A list, by employee name and period of leave(s) of all certificated employees on leave of absence during any part of 2008/09 and 2009/10 school years, including the start and ending dates of said leave(s).
9. A list, by school year, of all employees whom the District classified as "temporary" or "special" for any part of the 2008/09 and 2009/10 school year.
10. Any and all employment contracts, agreements, and or notices pursuant to E.C. section 44916 issued by the District since July 1, 2008, to any certificated employee whom the District classified as "temporary" or "special."
11. Any and all documents identifying all certificated employees whom the District classified as "temporary" or "special" for any part of 2008/09 or 2009/10, including but not limited to:
 - a. All employees assigned, pursuant to E.C. 44909, to categorically funded positions and all employees assigned to "backfill" for individuals assigned to categorically funded positions.
 - b. All employees assigned, pursuant to E.C. 44920, to replace individuals on leave of absence.
12. For every employee identified as "temporary" or "special" in response to No. 9 above, all documents pertaining to that employee's service with the District that refer and/or relate to the employee's assignments, employment contracts, number of days served in the 2008/09 and 2009/10 school years, and prior classification given such employee by the District.
13. Any and all documents that refer to or relate to the effects of the District's plans or possible plans for reduction or elimination of particular kinds of service on the District's implementation of class size reduction at the elementary and/or secondary levels.
14. Any and all documents that refer to or relate to the effects of the District's plans or possible plans for a reduction or elimination of particular kinds of service on the Collective Bargaining Agreement.
15. Any and all documents that refer or related to resignations, retirements, deaths, dismissals, non-reelections, and or other known attrition of any certificated employee between July 1, 2008, and this date.
16. A listing by name, assignment and FTE of all non-bargaining unit certificated employees and administrators (both certificated and classified).
17. Any and all documents related to communications made by the District since January 1, 2009, to the public at large, including but not limited to, press releases, school

publications, websites, newsletters, faculty announcements or parent correspondence from the Superintendent or member of the governing board that relate to either the intent to conduct a layoff or the District's financial condition.

18. Any and all District policies, contracts, administrative regulations or other documents which report the minimum level, if any, for all service provided in the District (e.g., class size, nursing ratios, teacher-librarian ratios, administrative ratios, etc.).

19. Any and all documents, worksheets or materials which report or reflect the projected budget for the current fiscal year (2009/10) and 2010/11.

This request is ongoing. TALB reserves the right to make modifications and additions to this request as necessary to represent our members. This request should also be considered separate from additional requests for information that will be required for negotiations.

Please consider requests for documents to include all documents, lists, statements, reports, computer printouts, emails, documents of any kind whether signed or authenticated, recordings, or electronic information, in the control of the District.

We request that one (1) copy of all requested material is forwarded to this office in care of the TALB Executive Director.

Please contact this me at TALB if you have any questions or concerns. We appreciate your ongoing communication cooperation with TALB on this matter.