



Teachers Association of Long Beach, CTA/NEA


4362 ATLANTIC AVENUE • LONG BEACH, CALIFORNIA 90807-2818
TELEPHONE: (562) 426-6433 • FAX: (562) 424-9352
Web Site: www.talb.org



VIA U.S. MAIL AND ELECTRONIC PDF LETTER

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 rations, 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.