



CONSENSUS
A Newsletter for BHEA Members
November 17, 2009



Administration Changes Student’s Grade Without Teacher’s Knowledge or Consent, Breaks Law; Board of Education Member Pressured Teacher; District to Open an Independent Investigation

- Probationary teacher’s issuance of ‘D’ for second semester high school course changed to ‘I.’ Administration failed to support teacher’s attempts to discipline student.
- District violated Education Code 49066, which states that teacher’s grade is final.
- BHEA wants to know: Did Board member abuse authority to pressure a probationary teacher for a different grade?

Our district has been rocked by revelations that surfaced late last week that the high school administration changed a student’s grade without ever informing the student’s teacher. The district has violated Education Code 49066, which states “the determination of the pupil’s grade by the teacher, in the absence of clerical or mechanical mistake, fraud, bad faith, or incompetency, shall be final.” The law goes on to say that the teacher must be “included in all discussions relating to the changing of such grade.” Additionally, an active Board of Education member pressured the teacher on the grade that should be issued to the student.

BHEA has begun an investigation into the incident to determine whether the Board member abused power over one or more of our unit members in order to obtain a desired result. So far, our investigation has yielded the following:

- The teacher who submitted the grade is a probationary teacher who can be fired without cause.
- During the 2008-2009 school year, the Board member told the teacher on more than one occasion that an ‘A’ or a ‘B’ is the only acceptable grade for the student.
- In 2008-2009, the Board member told the teacher that the Board member would go to the administration to complain about the

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With Integrity of High School Grades and Transcripts Tarnished, BHEA Mulls Call for Independent Audit

- Clandestine grade changes: Isolated incident or standard operating procedure?
- Teacher’s sovereign right to issue a binding grade violated.

The Beverly Hills Unified School District may have substantial liability if it turns out that grades have been changed in the past without proper authorization. To commit an unlawful act and then benefit from such an act exposes BHUSD to significant risk of being sued for intentional misrepresentation of academic records. If falsified grades have been issued on transcripts and these transcripts have been used to gain access to universities, the reputation of Beverly Hills High School could be severely damaged for years to come.

BHEA will wait for the independent investigator hired by the district to complete the investigation into the grade change incident before we decide on our next step. Depending on what the investigator turns up, BHEA may call for an independent audit to confirm that the grades issued by high school teachers are, in fact, the same grades found on official student records, including transcripts. BHEA hopes that no other violations are uncovered. BHEA believes strongly that a teacher’s right to determine student grades is a symbol of our professionalism.

What Law Did the District Violate?

California Education Code 49066, sections (a) and (b):

- (a) When grades are given for any course of instruction taught in a school district, the grade given to each pupil shall be the grade determined by the teacher of the course and the determination of the pupil’s grade by the teacher, in the absence of clerical or mechanical mistake, fraud, bad faith, or incompetency, shall be final.
- (b) The governing board of the school district and the superintendent of such district shall not order a pupil’s grade to be changed unless the teacher who determined such grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which such grade was given and is, to the extent practicable, included in all discussions relating to the changing of such grade.

What Do Board of Education Bylaws Say?

Board Bylaw 9200:

Unless agreed to by the Board as a whole, individual members of the Board shall not exercise any administrative responsibility with respect to the schools or command the services of any school employee.

What Happens Now?

BHEA will continue its own investigation into the grade change incident. BHEA will await the findings of a district-hired independent investigator. BHEA will keep our members informed as the investigation proceeds.

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teacher's handling of a cheating incident involving the student.

- In 2008-2009, the student brought to class a copy of the teacher's edition of the textbook and asserted ownership of the book.
- In 2008-2009, the teacher brought to the attention of the high school administration homework assignments the student had turned in with different handwriting styles. The teacher believed that these assignments were not actually done by the student. The administration investigated the incident and ultimately told the teacher that the reason the handwriting looked different is because the student had done some assignments while writing fast and others while writing slow. The administration did not discipline the student.
- In 2008-2009, the teacher informed the administration about another cheating incident involving the student. The administration investigated the incident and ultimately informed the teacher that there was insufficient evidence to warrant discipline.
- In June 2009, the high school administration informed the teacher that the Board member was concerned about the student's grade. The administration advocated on behalf of the Board member and asked the teacher to accept several missing assignments.
- In June 2009, the teacher issued a second semester grade of 'D.' Given the administration's heavy involvement in the student's academic affairs, the teacher also made a specific point to tell a high school administrator that the grade being issued was a 'D.'
- At some point after the teacher issued the final grade, the administration changed the grade to 'I,' or incomplete. The administration did not inform the teacher of the grade change. The administration did not ask the teacher if it was OK to change the grade.
- In late October or early November 2009, the teacher became aware that the grade had been changed because the teacher was asked why the student still had an 'I' from the prior school year.
- On Nov. 13, the high school administration told the teacher that someone had gone into the computer system and changed the grade. Later that day, the administration informed the teacher that the grade would be changed back to a 'D.'

On Nov. 17, the district administration informed BHEA that the district is in the process of hiring an independent, outside investigator to look into the circumstances surrounding the grade change. The administration said they are aiming for the investigation to last no more than two weeks. The district told BHEA that it is hiring an outside investigator, rather than investigate internally, to avoid the appearance of being partial.

BHEA will continue its own investigation into this matter and will report findings to our members as appropriate. BHEA is providing representational and/or CTA legal support to any and all of our members who are directly involved with this matter or have knowledge that may assist our investigation. BHEA encourages members to come forward if they have information. BHEA advises all members to contact BHEA immediately if approached by the administration to discuss this incident so that we may provide you guidance and representation.

GRADE CHANGE-RELATED ARTICLE

Administration Requires Teacher Whose Grade Was Changed to Attend Meeting; Board Member Who Pressured Teacher May Be Present

Despite the fact that the student is no longer in the teacher's class, the administration is requiring a teacher to attend a meeting this Friday in which the Board of Education member who pressured the teacher on the student's grade may be present. After the teacher issued the student's final grade, the administration changed it without ever informing the teacher. The administration's actions violated the law. On Nov. 13, the administration reversed the grade change as information began to surface that the grade change was improperly authorized.

BHEA believes that the administration is putting unwarranted pressure on this probationary teacher by forcing the teacher to engage in a meeting where one of the participants is a Board member who pressured the teacher on the grade for the student. BHEA has asserted its right to be present at the meeting to represent our unit member. The district has informed BHEA that our request to provide representation for the teacher will be honored.

District Responds to Concerns; Cuts Coordinator Job to Half-Time to Greatly Reduce Adverse Educational Impact to HS English Students

At the Nov. 10 Board of Education meeting, the district announced modifications to their original plan to fill the district office Coordinator of Special Projects administrative position. These modifications will result in only 40 to 50 students changing high school English teachers as opposed to nearly 300 in the original plan. Furthermore, the transition window will be extended. In the new plan, Christiane Elhabr, who was selected to fill the Coordinator position, will continue teaching all five of her English sections for the rest of this semester. Then, in the second semester, Elhabr will teach only three English sections and now have time freed up to also perform her Coordinator duties. The district will close two WASC non-teaching sections immediately and assign the English teacher who was in charge of WASC to team-teach with Elhabr for two of Elhabr's sections for the rest of this semester to provide a 10-week transition from one teacher to the other. Elhabr's replacement will then fully take over these two sections in the second semester. The WASC work will move to administration.

BHEA commends the district for listening to concerns raised by students and teachers on what the educational impact would have been if the original plan had gone forward. Mid-semester and mid-year transitions are difficult, and BHEA is glad that our district weighed heavily the impact on students in making prudent modifications to maximize continuity of the learning process.

IMPORTANT DATES:

- Nov. 17: Certificated bargaining.
- Nov. 24: Board of Education.
- Nov. 26 and 27: Thanksgiving holiday.
- Dec. 1: Report due from independent investigation into grade change incident at the high school.
- Dec. 8: Installation meeting for new Board of Education members.
- Dec. 10: BHEA Representative Council. 3:45pm. Room 118. BHHS. All members are welcome!
- Dec. 18: Last day of school before winter break.
- Jan. 4: First day of school after winter break.