



CONSENSUS

A Newsletter for BHEA Members

February 8, 2010



Administration Proposes Closing Nearly Two Dozen Teacher Positions

- BHEA President tells Board of Education to consider other options, including reducing the total number of general-funded administrators to 12 district-wide.
- District's \$930,000 accounting error casts pall over budget.
- Board leery to accept layoffs, requests more information.

At the Feb. 1 Board of Education study session, the administration proposed closing a perceived \$1.5 million 2010-2011 deficit entirely by jettisoning 20.6 full-time equivalent BHEA unit member teaching positions. The administration did not propose closing even one administrative position, although the online Board agenda for the Feb. 10 meeting now shows the elimination of 2 K-8 assistant principal positions as a distant possibility. Also included are a Moreno HS position, two K-8 counseling positions, and a HS campus security position.

At the Jan. 26 Board of Education meeting, the administration revealed \$930,000 of accounting irregularities that were caught in an audit of the district's 2008-2009 financial statements, essentially creating a new unanticipated liability of nearly \$1 million. At the study session, BHEA Pres. Chris Bushee said that BHEA members should not bear the negative consequences of poor administrative decision-making in the accounting practices of district funds. He suggested that the administration hold itself accountable instead.

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In Attempt to Divert Attention Away from Grade Change, Superintendent, Ex-Board Member Threaten To Sue BHEA

Superintendent Changes Grade Over Teacher's Objections; BHEA's Appeals to Board of Education Met with Silence

- In midst of an ongoing investigation into the administration's clandestine and unlawful behavior last year as well as allegations of Board member meddling, Supt. Gross orders grade to be changed in student's favor.
- BHEA appealed to Board of Education on Jan. 26 to reverse Gross' order but has not yet received a reply.

On or about Jan. 14, Supt. Jerry Gross overruled the Nov. 13 decision of the high school administration to restore the grade originally issued by the teacher in the ongoing grade change case gripping Beverly Hills High School. Gross' order to change the grade in the student's favor after the administration harangued the probationary teacher for two months disappointed BHEA. Gross' decision comes as the supposedly independent investigation into the high school administration's unlawful grade change last year drags into the fourth month. The investigation has been marred by comments made by Board of Education member Myra Lurie accusing BHEA of confidentiality breaches as well as new revelations of conflicts of interest between the administration and the ex-Board member who, along with the administration, is a target of the investigation.

On Jan. 26, BHEA delivered a letter to the Board asking it to reverse Gross' order and let the teacher's original grade stand. As of press time, BHEA has not received a response to our letter.

BHEA believes that the integrity of our members' grades is at stake in this case. We will forcefully defend our members' rights in this area. Individual Board members should not be allowed to pressure teachers and administrators should not be allowed to change grades in violation of the law.

Ex-Board of Education Member Involved in Grade Change Case Threatens to Sue BHEA President Personally and Our Union

- Supt. Gross is copied on letter sent to BHEA from ex-Board member's attorney. Letter connects administration to information that assisted ex-Board member's lawyers, calling into question administration's impartiality in grade change case.

In a letter dated Feb. 3, attorneys for the ex-Board member who is a target of the investigation into the high school's unlawful grade change last year informed BHEA Pres. Chris Bushee that he personally and the Beverly Hills Education Association as an organization may be sued. The lawyers allege defamation of character and breach of confidentiality, specious claims from BHEA's viewpoint. Curiously, the attorneys also sent a copy of the letter to Supt. Jerry Gross. Even more curious, the letter associates the administration with information that has assisted the ex-Board member's planned lawsuit. On or about Jan. 14, Gross unilaterally ordered the grade to be changed over the teacher's objections, overriding the grade the teacher issued in June 2009. BHEA has represented the teacher since November 2009 as the administration repeatedly pressured her to voluntarily change the grade once the HS administration got caught last year changing the grade without the teacher's knowledge or consent. The fact that Gross received a copy of the letter threatening legal action against BHEA along with the administration being associated with information that has assisted the ex-Board member's planned lawsuit against BHEA calls into question the administration's impartiality in deciding to override the teacher's grade.

Supt. Threatens BHEA Pres. with Litigation in Grade Change Case

Supt. Jerry Gross wrote an e-mail to BHEA Pres. Chris Bushee on Jan. 14 and threatened

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said that the district could raise \$1 million to pay for these accounting errors by reducing the total number of administrative positions paid for out of the general fund from 22 to 12. Specifically, he proposed paring down administrative staff to 1 administrator per K-8 site, 3 administrators at the HS, and 5 administrators at the DO. He said the reduction of 10 administrative positions at a conservative estimate of \$100,000 per position would generate the money necessary to cover the \$1 million accounting error.

Bushee also suggested lowering the district's currently projected 3.6% reserve for 2010-2011. He said that each 1% reduction would generate \$512,000. State law currently allows districts to lower their reserves to 1.5% in response to the poor economic conditions. Bushee also suggested that the district perform a line-by-line review of the \$7 million budget category of "services and other operating expenses." Finally, Bushee said that BHEA supports a district effort to offer early retirement incentives.

Bushee also rejected the notion that fewer students must immediately translate to fewer teachers. He said that since our basic aid funding formula is not linked to student enrollment, natural attrition through voluntary resignations and retirements can be used to gradually adjust staffing over time as opposed to using painful layoffs.

Response from Board members was varied. The Board was generally cool to reducing the number of counselors at the HS. Fenton and Goldberg favored lowering the reserve. Goldberg said the administration is taking the "easy way out" by using layoffs as a budget solution. Lurie favored the administration's teacher-cutting proposal. Korbatov asked for more details on how the current 22 administrators are serving our district. Manaster asked for a class-by-class, teacher-by-teacher impact analysis of any classroom position closures.

Despite Board member input on the subject, the online Feb. 10 Board agenda shows the administration continuing to recommend the same 20.6 FTE cuts in varying degrees of priority, although a lowering of the reserve to 3% is now included in the menu of options as well as cutbacks to the K-8 summer school intervention program.

The proposed classroom cuts are as follows: 6 elementary cuts, 4 middle school cuts, 10.6 high school cuts spread across virtually all core department areas.

Early Retirement Plan to Be Unveiled at Feb 10 Board of Ed Mtg

- **Offer is a Keenan-administered annuity. District says CalSTRS "golden handshake" option is too costly; says 78 members are currently eligible for retirement.**

Trying to encourage eligible BHEA members to consider early retirement, BHUSD plans to offer an annuity-based plan to our members this spring. The administration will present the early retirement plan to the Board of Education on Feb. 10. The Board would then have to approve the plan on Feb. 25 for it to go forward. Board approval is anticipated.

The plan involves group orientation meetings and individual counseling sessions in early March to help eligible members understand the plan. Members would have until April 13 to agree to the plan and submit binding letters of resignation. Each member would then have a 7-day cooling-off period until April 20 to change his or her mind. The first benefit payment from the plan would be paid on Aug. 1.

The plan is a private annuity that is not connected to nor affects members' CalSTRS retirement benefits. The district believes that at least 20% (16) of the 78 retirement-eligible certificated unit members would need to accept the plan in order for it to move forward. BHEA encourages our members to learn about the plan and make decisions that best meet each individual member's financial and personal life goals.

Administration Denies Special Ed Teachers' Request for Release Time to Test Students, Write IEPs

- **BHEA to start grievance process to help members deal with increasing workload.**

The administration has denied requests from three BHEA members for release time to test special education students and write individualized education plans. The members are all HS special education teachers. They submitted the proper "release time" request form found in Appendix E of the contract.

With the recent elimination of developmental classes at the high school, which helped form a link between general and special education teachers, special education teachers have seen an increase in workload in the form of lesson planning as more delivery of the core curriculum has shifted to their plates. IEP meetings have become increasingly more difficult to schedule as more and more students are identified with special needs. This has also increased the amount of student testing that needs to be administered. As such, BHEA believes that the teachers' requests for release time, in accordance with Article IV of the contract, are valid. BHEA will act on behalf of the teachers to help secure the release time necessary for them to fulfill their job duties.

BHEA Initiates Six Grievances Related to Grade Change Issue, Prepares Other Legal Intervention

- **BHEA alleges contractual violations in areas of union representation rights, teacher's duty to evaluate student work, procedure used to make competency determinations, academic freedom, anonymous complaints of job performance deficiencies, and probationary assurances.**
- **CTA attorneys working on seeking justice for violations of state and federal law, including district's overturning of the teacher's issued grade.**

On Feb. 3, BHEA initiated six separate contractual grievances to protect the rights of the teacher who issued the grade in the grade change case. BHEA's right to represent our members is also at stake.

Attorneys for CTA, our parent union, are exploring violations of state and federal law that the district may have committed in changing the grade last year and more recently through the administration's actions in pressuring the probationary teacher and then ultimately nullifying the grade she issued over her objections.

BHEA believes this grade change case is of statewide importance to our profession as our members' right to issue binding grades is in jeopardy.

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litigation in the area of student confidentiality in the grade change case. He copied the district's legal counsel on the e-mail, asking for suggested actions and remedies.

Curiously, information that Gross included in the e-mail he sent to Bushee also appears in a threatening letter sent to BHEA on Feb. 3 by attorneys for the ex-Board member involved in the grade change case. Additionally, the attorneys copied Gross on the letter sent to BHEA, even though he was not named as a potential target of a lawsuit.

All of these threats of lawsuits will not deter or distract BHEA from focusing on the central issue of this case: the administration's clandestine and unlawful changing of one of our member's grades and the deleterious effect that such actions have on the reputation of our members and our school district.