



# CONSENSUS

A Newsletter for BHEA Members

March 8, 2010



## Board Votes to Rein In Spending, But Nine Layoff Notices Still Loom

### • 7 temporary and long-term sub teachers let go.

On Mar. 2, the Board of Education approved a resolution to reduce spending by 4% in the budget category of "services and other operating expenses" for 2010-2011. BHEA estimates that this will produce a savings of \$300,000. Unfortunately, the administration has given no indication that it will reduce the number of layoff notices authorized by the Board to be issued prior to March 15. BHEA is expecting that the administration will issue up to nine full-time equivalent layoff notices. Also, on Feb. 25, the Board voted to release from employment at the end of the school year all seven temporary and long-term substitute teachers who hold positions for teachers currently on leave.

At the Mar. 2 Board meeting, BHEA Pres. Chris Bushee encouraged the Board to adopt the spending cut resolution and then use the savings to pull back four layoff notices. He also urged the district not send out "precautionary" layoff notices. Precautionary notices are ones given above and beyond what a Board of Education authorizes and are acted upon in the event the administration discovers after March 15 that it sent out one or more notices to the wrong employees. BHEA opposes the use of precautionary notices because each additional notice that is sent out heightens the total level of anxiety among our members and negatively contributes to an already painful situation. BHEA is pleased to report that the administration recently informed us that it does not plan to issue precautionary notices.

Bushee also told the Board that the administration is projecting \$1,000,000 of lost revenue based solely on Gov. Schwarzenegger's proposed 2010-2011 education budget. He said that the governor's proposal has not been passed by the state legislature and that it is possible that the revenue cut the governor seeks will not become law. He urged the Board to commit to analysis of less painful budgetary options first before issuing layoff notices. He urged the Board to commit the district to changes in behavior that are both beneficial in the long run and serve to save jobs in the short run.

BHEA will continue to present options to the Board in an effort to shrink the number of planned layoffs to zero. BHEA will stand by all members who receive layoff notices. We will provide them with a vigorous defense of their rights throughout the layoff process, while continuing to work hard toward moving the Board and administration to implement budget savings options that do not include layoffs of our members.

## Highlights of Recent Board of Ed Meetings

Jan. 12: Decided to continue renewal of inter-district opportunity permits for all permit-holders currently in high school through their 12th grade graduation. Decided to renew current 7th grade permit-holders for one more year. Decided to not renew current K-6 and 8th grade permit-holders for next year.

Jan. 26: Received a presentation from the administration on a middle school character education pilot currently being implemented in 6th grade study hall classes by teacher and counselor volunteers.

Feb. 10: Several BHEA members spoke out against the use of layoffs to balance perceived budget deficits. Other BHEA members told the Board of the past success of the high school EL history program, and lamented its recent elimination. Closed two food services positions, resulting in one layoff.

Feb. 25: Approved a resolution authorizing the administration to pursue layoffs of nine teachers. Held a discussion on the high school ethics course, with several Board members expressing reservations about the course in its current form as a graduation requirement. Approved the offering of an early retirement incentive to certificated BHEA unit members.

Mar. 2: Received presentations from four superintendent search firms. One of the presenters offered the Board an option that would allow major stakeholders, including BHEA, to be part of the panel conducting the interviews for the two to three finalists in the search process. Received a proposal from the administration to create a new administrative position that would have the split duties of child welfare and attendance along with college outreach.

## Summary of BHEA Rep. Council Meetings

BHEA's Representative Council meets once a month to carry out the business of our union. Summaries of the last two meetings are as follows:

### Jan. 14:

- The RC had a discussion with Board of Education member Jake Manaster. Topics included channels of communication, Board meeting protocols, management philosophies, roles of administration, inter-district student permits for BHUSD employees, employee morale, and the superintendent search process.
- Held a moment of silence for BHEA member Will Aardappel, whose recent death affected many of us.
- Did not renew an online polling contract; resolved to re-search the subject further and revisit it at a later date.
- Urged members to make sure that the district has accurate seniority-related and credential information on file in the event that the district pursues layoffs.
- Underscored the serious implications to our professional rights involved with the administration's change of one of our unit member's grades last year. Underscored that much of the administration's behavior, including pressure put on the teacher to voluntarily change the grade, has served to distract attention away from the administration's original, clandestine grade change last year. Issued a vote of confidence in and support

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## Latest on Legal Actions

When informal means of resolving differences fail, BHEA is empowered with legal avenues to pursue fair judgments. Below is an update on where various issues currently lie:

**Part-time/Full-time Grievance:** Settled. This grievance had left the superintendent's office and was headed toward binding arbitration. It involved a teacher who was returning from leave and had requested a full-time assignment. The district said that there were not enough students to justify her returning full-time, and instead assigned her to 80% status. BHEA argued that the issue wasn't the number of students, but rather the unit member's right to a full-time position. Fortunately, in the end, the district assigned the unit member to full-time status, telling BHEA that upon further review there ended up being higher than expected enrollment in the teacher's subject area.

**Traveling Teachers Grievance:** Mediation is set for March 20. If BHEA and BHUSD cannot settle during mediation, then this case is headed for binding arbitration. The case involves a grievance on behalf of four unit members who travel between two sites on a nearly daily basis. BHEA has argued that these members are entitled to compensation in proportion to time lost during travel that is not offset by relief of other duties.

**Special Education Release Time:** Resolved. After the last edition of the *Consensus* came out that reported that three special education teachers' requests were denied seeking release time to prepare IEPs, the administration informed BHEA that the requests had, in fact, been approved. Special education teachers have a right under Article IV of the contract to request release time if their weekly schedules cannot accommodate the extended preparation/conference time afforded to their program.

**Grade Change Case:** There are 18 local actions in play and two that are pending at the state level. On Feb. 11, BHEA filed six grievances related to this case alleging violations of the contract that are now at the director of Human Resources' office and moving through the process. On Feb. 19, BHEA filed 10 formal complaints related to this case alleging violations of Board of Education policy that are now at the superintendent's office. On Mar. 3, BHEA filed two more formal complaints related to this case alleging violations of Board policy and federal IDEA law. We filed the 12 total complaints in two separate tracks: the district's internal complaint procedure and the uniform complaint procedure the district is required to administer by law. CTA attorneys are reviewing potential actions dealing with state law governing labor relations and the sanctity of final grades issued by teachers in California. BHEA has not received a response to three written requests we made to the Board of Education (on Jan. 26, Feb. 10, and Feb. 25) to reverse Supt. Jerry Gross' decision to change the teacher's grade in favor of the student and over the objections of the teacher.

## Informal Settlement Talks Fail to Bridge Differences Between BHEA and BHUSD on Issues Related to 2008 Layoffs

- **BHEA seeking to secure reasonable redress for several former members who were laid off in May 2008 and did not return in 2008-2009.**

BHEA and BHUSD held informal settlement talks at the Glendale office of the Public Employment Relations Board on Jan. 20, 2010 in an attempt to resolve a 2-year-old disagreement stemming from the 2008 round of district layoffs.

In 2008, the district issued over three dozen layoff notices and ended up acting on 11 of these, 10 of whom involved our members. Five of our members were rehired over the summer of 2008, while five were not. In the wake of the layoffs, BHEA made a formal demand to bargain the impacts and effects of the district's decision to cut back on teachers. The district refused to join us at the bargaining table on the subject, so BHEA filed an unfair labor practice charge against BHUSD for refusal to bargain.

Unfortunately, the latest attempt on Jan. 20 to settle this matter did not bear fruit. So, now, a formal hearing before an administrative law judge is scheduled to take place in May.

BHEA is seeking a reasonable remedy for losses suffered by our members who were laid off in 2008.

### IMPORTANT DATES:

- Mar. 11: Board of Ed mtg. HS, STC bldg. 7:00pm.
- Mar. 18: BHEA Rep. Council mtg. HS, Room 118. 4:15pm.
- Mar. 19: Staff development day.
- Mar. 22: Board of Ed study session. 4:00pm.
- Mar. 29: Spring break begins!
- Apr. 5: Return from break.

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for the teacher who has demonstrated resolve throughout this ordeal and who has stood by her originally issued grade.

- Reported that our instructional assistant unit is seeking district-sponsored training for its members per the contract.

Feb. 11:

- Welcomed new RC members and thanked outgoing RC members for their past service. The current RC has 29 elected members representing all five school sites plus the district office building and includes all three of our bargaining units: certificated, OTBS, and IA.
- Discussed potential district staff reductions. Reviewed several other budgetary options available to the district to avoid layoffs.
- Discussed the early retirement incentive being offered to our certificated members by the district.
- Discussed feedback from members on their thoughts on "furlough" days and whether they would support taking a reduction in salary in return for working fewer days. RC members reported the following: That seven rank-and-file members said they'd consider it. That a poll was done at one K-8 school and the staff unanimously came out against the idea. That talk of furloughs is premature considering that other options are still available. That if furloughs occur on staff development days, staff development may still occur in the form of after-school meetings. That money could be saved by not hiring outside consultants as trainers for staff development. That staff development is for our members, for our profession.
- Reported that BHEA successfully filed its annual tax returns.
- Received update on the grade change issue and reported that Supt. Jerry Gross, on or about Jan. 14, unilaterally changed the grade in favor of the student and over the objections of the teacher. Reported that the district has not provided BHEA with any updates on the status of the "independent" investigation looking into how the teacher's grade was clandestinely changed by the administration last year.
- Heard a proposal that BHEA pursue an agreement with the district that would require children of Board members and administrators to be placed with permanent-status teachers only.
- Discussed the high school's pass/fail policy and current practice.
- Received information about the district's independent study program.