

Public Session: 10:00 AM

I. Organizational Functions

A. Call to Order:

B. Roll Call

Committee Members	Present	Absent
Lawrence Leone, Personnel Commission	X	
Barbara Greenstein, Personnel Commission	X	
Carol Long, Personnel Commission	X	
Dennis Biddle on behalf of Dr. Tre'Shawn Hall-Baker, Human Resources	X	
Lee Peterson, CSEA	X	
Joshua Casillas, CSEA		X
Dagmar Gorman on behalf of Kennisha Green, CSEA	X	
Brent Heximer, CSEA	X	
Alberto Echeverria, SMCPOA		X

II. Approval of Minutes

A. Meeting Date: August 2, 2023

Disposition by the Committee	
Motion Made By	Barbara Greenstein
Seconded By	Lee Peterson
Ayes	7
Nays	0
Abstentions	1
Amendments/Comments	Dagmar Gorman Abstained.

III. Public Comments (Non-Actionable Items from those in Attendance)

IV. Major Items of Business

Item	Subject Matter
1	Merit Rule 9.7.2 D
2	Merit Rule 11.14.1
3	Merit Rule 13.3.1 B
4	Merit Rules Chapter 14
5	Merit Rules Chapter 15

1. Merit Rule 9.7.2 D

A motion was made to send Merit Rule 9.7.2 D to the Personnel Commission for a First Reading.

Disposition by the Committee	
Motion Made By	Barbara Greenstein
Seconded By	Lee Peterson
Ayes	8
Nays	0
Abstentions	0
Amendments/Comments	

Section 9.7.2

- 9.7.2 → INVOLUNTARY DEMOTION (EDUCATION CODE SECTION 88121)
- A. → Involuntary demotion is a disciplinary action for cause and is subject to the pertinent procedures listed in Rule 14.1.
 - B. → A permanent employee who has been promoted to a higher class, or transferred to a new class may be involuntarily returned to his/her former class during the probationary period due to unsatisfactory work performance without the right of appeal. (See Rule 9.3.3.)
 - C. → A permanent employee who is involuntarily demoted at any time other than the probation period(s) listed in paragraph B above, shall have the right to appeal. See 14.2.
 - D. → Salary placement upon involuntary demotion shall be in accordance with Rule 12.2.8.
- 9.7.3 → RESTORATION (EDUCATION CODE SECTION 88117)
- A. → An employee who has taken a voluntary demotion may be restored to a vacant position in his/her former class within 39 months. Restoration shall be discretionary with the appointing authority except when demotion or reduction was chosen in lieu of layoff.
 - B. → Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or to remain in their present position rather than to be reclassified or reassigned, shall be granted the same 39 month reemployment rights as all laid off employees and shall also be given an additional 24 month reemployment period, provided that the same qualifications for the class still apply. The Personnel Commission shall make a determination of the specific eligibility period for each class. See Rule

2. Merit Rule 11.14.1 was tabled for additional review.

3. Merit Rule 13.3.1 B

A motion was made to send Merit Rule 13.3.1 B to the Personnel Commission for a First Reading.

Disposition by the Committee	
Motion Made By	Carol Long
Seconded By	Dennis Biddle
Ayes	8
Nays	0
Abstentions	0
Amendments/Comments	

13.3.1 DISPLACEMENT RIGHTS FOR PERMANENT EMPLOYEES

A. ~~Displacement~~ shall be defined as the replacement of an employee by an employee with more seniority in the same class.

B. Permanent classified employees who are laid off may exercise displacement rights in their class or in any other class with the same or lower maximum salary in which they hold seniority credit greater than an incumbent. The employee who is displaced shall be the one with the least total seniority in the class (plus equal and higher classes). The following rules shall apply in determining displacement rights:

1. In cases of reclassification, reorganization, or abolishment of position, or in cases where the employee is promoted and subsequently disqualified during probation, an incumbent's seniority in the class shall be computed as stated in Rule 13.1.2.
2. An employee may displace only that employee within their class who has the least seniority in the class plus higher classes.
3. When an employee displaces into a class having positions which are full time, part time and/or assigned to different yearly assignments (greater than or less than current assignment) the employee shall be placed in that position with the next most comparable assignment. Decreases in assigned time shall be processed in accordance with Rule 9.6.3.
4. If an employee waives the opportunity to displace within their own class, the employee may follow these procedures in any equal or lower class in which they hold seniority credit greater than the least senior incumbent, or the employee may be placed on a reemployment list.
5. When an employee exercises displacement rights into a lower class, the employee(s) shall receive credit for accumulated seniority in all related higher classes.
6. Each employee shall respond to the Director of the Personnel Commission within one week after notification of layoff ~~whether or not~~ the employee will exercise displacement into their own regular class or any other class in which seniority is held.
7. A permanent classified employee may displace a nonpermanent employee in the same class. No regular employee shall be laid off from any position while temporary (~~limited-term~~) employees are assigned to positions in the same class, unless the regular employee declines the temporary assignment.
8. Displacement into a lower class under this Rule shall be considered a voluntary demotion which shall qualify the employee for ~~Y-rate salary placement under Rule 12.2.98.~~

4. Merit Rule - Chapter 14

A motion was made to send Merit Rule Chapter 14 in its entirety to the Personnel Commission for a First Reading.

Disposition by the Committee	
Motion Made By	Lee Peterson
Seconded By	Dagmar Gorman
Ayes	8
Nays	0
Abstentions	0
Amendments/Comments	

CHAPTER XIV – DISCIPLINARY ACTION AND APPEALS

Rule 14.1 → DISCIPLINARY ACTION – SUSPENSION, DEMOTION AND DISMISSAL (EDUCATION CODE SECTION 88123)

Section	14.1.1	General Provisions
	14.1.2	Notice of Disciplinary Action
	14.1.3	Definitions
	14.1.4	Causes for Suspension, Demotion or Dismissal
	14.1.5	Procedure for Suspension
	14.1.6	Procedure for Demotion and Dismissal
	14.1.7	Procedure for Notification of Charges

Rule 14.2 → PROCEDURE FOR APPEAL AND HEARING (EDUCATION CODE SECTIONS 88124, 88125)

Section	14.2.1	Procedure for Appeal
	14.2.2	Procedure for Hearing
	14.2.3	Findings and Order
	14.2.4	Transcript of Hearing

14.1.2

NOTICE OF DISCIPLINARY ACTION

~~A. → A Notice of Disciplinary Action under this Rule shall contain specific charges in ordinary and concise language of the individual acts or omissions of the employee which have resulted in the recommendation for disciplinary action. The charges shall also include a listing of the cause specified in Section 4 of this Rule which has been violated by the employee and the date(s), time(s) and place(s) when the violation occurred.~~

→ ¶
An employee recommended for disciplinary action shall be served with a notice of recommended disciplinary action ¶
which shall, in ordinary and concise language, set forth the following information: ¶

1. → A statement of the nature of the disciplinary action being recommended (e.g. suspension without pay, dismissal). ¶
2. → The specific causes and charges for disciplinary action. ¶
3. → A statement of the specific acts or omissions on which the causes are based. If a violation of a rule, policy, or regulation of the District is alleged, the rule, policy or regulation shall be stated. ¶
4. → Information about the employee's right to present information relative to the causes and charges for disciplinary action at a Pre-Disciplinary Conference (commonly called a "Skelly review meeting"), which shall take place not less than five (5) working days after receipt of this notice. ¶
5. → The date, time, and place of the Skelly review meeting. ¶
6. → The employee's right to contact their Union representative if applicable and to be accompanied by a representative of the employee's choice. ¶
7. → The employee shall be advised of their right to review and receive a copy of any documents in their personnel file. ¶

~~B. → The employee shall be advised of their right to respond either orally or in writing within 5 working days after receipt of the notice to the person so designated on the notice. The employee shall also be advised of their right to review and receive a copy of all any documents in their personnel file on which the disciplinary action is based.~~

~~B.C.~~ → ~~All communications notice of recommended disciplinary action from the District to the employee shall either be:~~

1. → ~~Delivered personally and signed for by the employee.~~
2. → ~~Emailed along with Sent by certified mail, return receipt requested, to the last known address of the employee on file with the District in the Personnel Commission Office.~~

14.1.3 → DEFINITIONS

- A. → Suspension shall mean the temporary removal of an employee from a position for cause with loss of pay as a disciplinary measure, or indefinite removal preliminary to investigation of charges pursuant to Section 88123 of the Education Code.
- B. → Demotion shall mean the involuntary ~~reduction-change of assignment~~ of an employee from a class with a higher pay ~~scale-range~~ to a class with a lower pay ~~scale-range or from a higher salary-increment step to a lower salary-increment step~~.
- C. → Dismissal shall mean the involuntary separation of an employee from service for cause.

14.1.4 → CAUSES FOR SUSPENSION, DEMOTION OR DISMISSAL

- A. → A permanent classified employee may be subject to ~~immediate~~ disciplinary action ~~by the Board only~~ for the following causes:
 1. → ~~1. Insubordination, including, but not limited to refusal to do reasonably assigned work or any other serious breach of discipline. (The refusal to follow an unlawful order or directive does not constitute insubordination.)~~
 2. → ~~2. Dishonesty when it undermines the trust and confidence required in an employment relationship.~~
 - 3.2. → ~~Discourteous, or~~ ~~Offensive~~ or abusive conduct toward other employees, students or the public.
 - 4.3. → ~~Misuse, or~~ theft, destruction or mishandling of District property, or property of employees ~~or students~~ of the District.
 - 5.4. → ~~Offering anything of value, or offering any~~

service in exchange for special treatment in connection with the employee's job or employment, or the accepting of anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.¶

¶

65. → Unauthorized possession of opened alcoholic beverage containers or drinking alcoholic beverages or being intoxicated while on the job or ~~unauthorized use of narcotics or habit forming unlawful drugs, or being under the influence of drugs~~ not prescribed by a licensed physician while on the job.¶

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76. → Engaging in political activities during assigned hours of employment.¶

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87. → Immoral conduct.¶

¶

98. → Conviction of a crime of violence or moral turpitude or a serious crime where the nature of the crime is such that it will indicate that the employee is a poor employment risk for the particular job they hold in the District.¶

¶

109. → Conviction of a sex offense or a narcotics offense as defined in Education Code Sections 87010 or 87011. Note: An employee convicted of a sex offense as defined in the Education Code shall be dismissed.¶

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¶

1110. Abandonment of position, which shall be interpreted to mean an absence without approved leave or abuse of leave privileges continued notification in excess of five (5) working days except in case of dire emergency.¶

¶

1214. → Knowingly falsifying any information supplied to the District including but not limited to information supplied on application forms, employment records and other records.¶

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1312. → Persistent violation or refusal to obey District safety rules or other procedures made applicable to the District by the Board, or by any appropriate state or governmental agency.¶

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1413. → Any willful failure of good conduct tending to injure the public service or its reputation with particular regards to students.¶

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~~14. → Abandonment of position, which shall be~~

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C. → ~~A permanent classified employee may be subject to removal from service or change in status under this rule due to physical or mental unfitness for service as determined by the District physician. The employee shall retain their right to appeal. The administration shall base its decision to recommend removal or change in status on the following factors:¶~~

1. → ~~The degree of physical or mental unfitness and the doctor's prognosis as they relate to the duties to be performed. ¶~~

¶
2. → ~~The number of positions in the employee's classification and subsequent uniqueness or degree of specialty in the position, and the availability of a person qualified to substitute during the absence of the employee. ¶~~

¶
3. → ~~The degree and frequency of previous sick leave usage. Particular attention shall be paid to employees who have extraordinary use or lack of use of sick leave, together with consideration for the circumstances surrounding previous use of sick leave. ¶~~

Section 14.1.5

14.1.5



PROCEDURE FOR ~~SUSPENSION~~ DISCIPLINARY ACTION

~~A. → An employee may be demoted, or suspended without pay for no more than 30 calendar days, or dismissed for cause as listed in Section 14.1.4 of this Rule~~

~~B. → In connection with misconduct-related causes set forth in Section 14.1.4.A of this Rule, the District may take action appropriate to the misconduct, which may range from an oral warning to dismissal, depending on the severity of the misconduct. The District may use the steps set forth in this Section for such misconduct as it deems appropriate.~~

~~C. → In connection with performance-related causes set forth in Section 14.1.4.B of this Rule, the District may take appropriate action, which may range from oral warning to dismissal, depending on its severity and only after providing the employee with notice of the deficiency and opportunity to correct it.~~

~~A. → An employee may be demoted, dismissed, or suspended for cause as listed in Section 4.A.14.1.4 of this Rule without pay for no more than 30 calendar days upon the approval of the Superintendent or the District Personnel Administrator designee, subject to ratification by the Board of Trustees at their next regular meeting.~~

~~D. → The employee shall be served with notice of disciplinary action in accordance with 14.1.2 of this Rule.~~

~~B. → When a request for suspension is made, a Notice of Disciplinary Action must be completed by the immediate supervisor and submitted to the District Personnel Administrator for final approval after approval by the appropriate District departmental administrator. The Notice of Disciplinary Action must contain specific charges as required in Section 2 of this Rule and must be delivered to the employee not less than 1 working day prior to the effective date of the suspension. A copy of the notice shall be filed with the Director of the Personnel Commission.~~

~~C. → An employee may be peremptorily suspended for up to one day without pay by their immediate supervisor with the approval of the departmental administrator for cause as listed in Section 4.A of this Rule when such suspension is necessary to safeguard the best interest of the District or the employee. Such suspensions shall be documented on the appropriate Notice of Disciplinary Action and~~

~~presented to the employee prior to their return to work at a conference with the employee's supervisor(s) and the Personnel Administrator. All procedures for notification required in these rules shall then be complied with.~~

~~D. Preemptory Board suspensions are subject to ratification by the Board at the next meeting following the suspension.~~

~~An employee recommended for disciplinary action shall be served with a notice of recommended disciplinary action which shall, in ordinary and concise language, set forth the following information:~~

~~A statement of the nature of the disciplinary action being recommended (e.g., suspension without pay, demotion, dismissal).~~

~~The specific causes and charges for disciplinary action.~~

~~A statement of the specific acts or omissions on which the causes are based. If a violation of a rule, policy, or regulation of the District is alleged, the rule, policy or regulation shall also be stated.~~

~~If the employee is represented, the following information should be included as well:~~

~~Notification of their right to present information relative to the causes and charges for disciplinary action at a Pre-Disciplinary Conference (commonly called a "Skelly review meeting"), which shall take place not less than five (5) working days after receipt of the notice.~~

~~The date, time, and place of the Skelly review meeting, if applicable.~~

~~The employee's right to contact their union concerning representation and to be accompanied by a representative of the employee's choice.~~

~~E. After the employee has had an opportunity to respond to the notice of recommended disciplinary action or has not requested such an opportunity to respond, the Superintendent/President or designee shall determine whether to proceed with the recommendation for disciplinary action. In the event that the~~

~~Superintendent/President determines to recommend disciplinary action, such recommendation shall be submitted to the Board of Trustees. ¶~~

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~~F. The Board of Trustees may either accept, modify or reject the recommendation for disciplinary action. In the event that the Board of Trustees takes action to impose discipline, such disciplinary action shall be implemented on the day following the Board of Trustees' action or such other day as determined by the Board of Trustees. ¶~~

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~~G. No disciplinary action shall be implemented prior to action by the Board of Trustees, except as authorized by the Education Code or by a written agreement signed by the employee. However, the District may initiate an immediate suspension without pay pending final disciplinary action by the Board of Trustees when reasonable cause exists to believe the suspension is to protect the best interest of the District. In the event the District immediately suspends an employee without pay, the District shall provide the employee with a notice of disciplinary action within one (1) day after the unpaid suspension. An employee shall have the right to respond to the immediate unpaid suspension and to the notice of disciplinary action set forth in this Section. ¶~~

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→ Section 14.1.7

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14.1.76 → PROCEDURE FOR NOTIFICATION OF CHARGES TO THE PERSONNEL COMMISSION

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A. → When the Board has taken final action to demote, suspend or dismiss the employee, the ~~District Personnel Administrator~~ Vice President of Human Resources or designee shall, within 3 working days, notify the Director of the Personnel Commission in writing of the Board's action.

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B. → The Director of the Personnel Commission shall, within 10 working days of the Board's action to approve suspension, demotion, or dismissal, notify the employee. The Director of the Personnel Commission shall, at the next regular meeting, file written charges with the Commission.

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C. → The notification of charges to the employee shall contain:

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1. → A copy of the written charges.

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2. → The time allowed to file an appeal.

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3. → The right of the employee to a hearing on the appeal.

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4. → The requirements for the employee's response as set forth in these Rules. _____

Rule 14.2

- ¶ Rule 14.2 → PROCEDURE FOR APPEAL AND HEARING (EDUCATION CODE SECTIONS 88124, 88125-2) 2, 88126 ¶
- ¶ 14.2.1 → PROCEDURE FOR APPEAL ¶
- ¶ A. → A permanent employee who has been suspended, demoted, suspended or dismissed may appeal to the Personnel Commission within 14 calendar days after receipt of the Notice of Charges from the Director of the Personnel Commission by filing a written answer to the charges and they may request a hearing. ¶
- ¶ B. → The employee's written answer to the charges must include facts based on one or more of the following grounds: ¶
 - ¶ 1. → ~~That the~~ The charges made do not constitute sufficient cause for the action taken. ¶
 - ¶ 2. → ~~That~~ The action taken was not in accord with the facts. ¶
 - ¶ 3. → ~~That~~ There was an abuse of discretion. ¶
 - ¶ 4. → ~~That~~ The procedures set forth in these rules have not been followed. ¶
 - ¶ 5. → ~~That~~ The disciplinary action was taken because of political affiliations, or religious beliefs or opinions, race, color, national origin, ancestry, sex, employee organization members or non-membership, → marital status, → disability, → or medical condition (as defined in Government Code Section 12926). ¶
- ¶ C. → For purposes of this Rule, if a notice is mailed, ~~the~~ 5 working days following the postmark date ~~and time~~ of the notice shall be considered to be the official date ~~and time~~ of receipt. ¶
- ¶ D. → Failure to appeal as provided in this Rule shall make the action of the Board final and conclusive. ¶ =====

Section 14.2.2

14.2.2



PROCEDURE FOR HEARING

A. → After an employee has made and filed their appeal in answer to the charges against them, the Personnel Commission shall investigate or cause to be investigated the matter on appeal and may require further evidence from either party. The Commission may, and upon request of an accused employee, shall order a hearing. If a hearing is to be conducted, the Personnel Commission shall then fix the time and place of the hearing which shall be within a reasonable length of time from the receipt of the appeal and shall provide written notification to all parties.

The Personnel Commission may appoint a hearing officer to conduct any hearing and report the findings and recommendations to the Commission. Such recommendations shall not be binding on the Commission.

B. → Hearings shall be conducted in the manner most conducive to determination of the truth, and neither the Commission nor its hearing officers shall be bound by technical rules of evidence. Decisions made by the Commission shall not be invalidated by any informality in the proceedings.

C. → The hearing shall be ~~electronically-tape~~ recorded. However, either party may request that the hearing be recorded by a court reporter, in which case the party making the request shall bear the cost as determined by the Director of the Personnel Commission.

D. → The Personnel Commission or its hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. It shall base its findings on a preponderance of evidence.

E. → The burden of proof shall be on the Board. _____

Section 14.2.2.F

- F. → Each party will be permitted an opening statement, with the Board or its designated representatives opening first. Each party shall be permitted closing arguments with the employee closing first. The Board shall next present its witnesses and evidence to sustain its charges, and the employee will then present his witnesses and evidence in defense.
- G. → Each party will be allowed to examine and cross-examine witnesses.
- H. → The Board, the Commission and the employee will be allowed to be represented by separate legal counsel or other designated representatives.
- I. → The Commission or the Director of the Personnel Commission may and shall, if requested by the Board or the employee, subpoena witnesses and/or require the production of records or other material evidence.
- J. → The Commission may, prior to or during a hearing, grant a continuance for any reason it believes to be important to its reaching a fair and proper decision.
- K. → A hearing shall be held in closed session unless an open hearing is requested by the employee. The Commission may, at its discretion, exclude witnesses not under examination except the employee and the party attempting to substantiate the charges against the employee and their respective counsel. When hearing testimony on alleged scandalous or indecent conduct, all persons not having a direct interest in the hearing may be excluded.
- L. → The Commission may deliberate its decision in closed session and exclude all persons other than members of the Commission and its staff or counsel. If its counsel also served as counsel for the Board, they shall → be...

Section 14.2.3

14.2.3

FINDINGS AND ORDER

- A. → The Commission shall render its judgment as soon after the conclusion of the investigation or hearing as possible, and unless an agreement for an extension is accepted by all parties, the decision shall be made within 14 calendar days after conclusion of the hearing. Its decision shall set forth which charges, if any, are sustained or rejected and the reasons therefore.
 - 1. → The Commission's decision shall be set forth in writing by the Director of the Personnel Commission and signed by the chairman of the Commission and be sent to all parties of interest.
- B. → The Commission may sustain or reject any or all of the charges filed against the employee. . . . If the Commission finds in favor of the employee, it may:
 - 1. → Order the employee's reinstatement upon such terms and conditions as it may determine appropriate.
 - 2. → Modify the disciplinary action, but not to make more stringent the action taken by the Board.
 - 3. → Order paid all or part of the employee's full compensation from the time of suspension, demotion, or dismissal.
 - 4. → Order paid by the Board compensation for all or part of the legitimate expenses incurred by all parties in pursuit of the appeal.
 - 5. → Order the employee transferred or changed in work location.
 - 6. → Order seniority credit for off-time pending reinstatement.
 - 7. → Order expunction from the employee's personnel file all records pertaining to the disciplinary action on charges which were or were not sustained by the Commission.
- C. → The decision of the Commission shall be final.

Section 14.2.4¶

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14.2.4 →
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TRANSCRIPT OF HEARING¶

A. → A copy of the transcript of the hearing shall be furnished to either party upon written request made within 90 calendar days of the decision of the Commission. The Director of the Personnel Commission shall cause the transcript to be typed and the cost of copies shall be borne by the party requesting such copies in an amount as determined by the Director of the Personnel Commission to be representative of the actual costs of preparation.¶

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V. Meeting Adjourned:

Disposition by the Committee	
Motion Made By	Lee Peterson
Seconded By	Barbara Greenstein
Ayes	8
Nays	0
Abstentions	0
Amendments/Comments	

Weekday	Month	Day	Year	Time	Meeting Location
Wednesday	November	1	2023	10:00 a.m.	1900 Pico Blvd Business Rm 117
Wednesday	December	6	2023	10:00 a.m.	1900 Pico Blvd Business Rm 117
Wednesday	January	3	2024	10:00 a.m.	1900 Pico Blvd Business Rm 117
Wednesday	February	7	2024	10:00 a.m.	1900 Pico Blvd Business Rm 117
Wednesday	March	6	2024	10:00 a.m.	1900 Pico Blvd Business Rm 117
Wednesday	April	3	2024	10:00 a.m.	1900 Pico Blvd Business Rm 117
Wednesday	May	1	2024	10:00 a.m.	1900 Pico Blvd Business Rm 117
Wednesday	June	5	2024	10:00 a.m.	1900 Pico Blvd Business Rm 117

In accordance with the law, this regular meeting agenda
was posted 72 hours in advance of the meeting.