

SPECIAL MEETING

CAPISTRANO UNIFIED SCHOOL DISTRICT
BOARD OF TRUSTEES

33122 Valle Road
San Juan Capistrano, CA 92675

March 1, 2010

6:00 p.m.

I. PRELIMINARY

Meeting was called to order by _____

Pledge of Allegiance to the Flag

Consideration and adoption of the agenda.

ROLL CALL:

	Present	Absent
Anna Bryson, President	_____	_____
Ken Lopez-Maddox, Vice President	_____	_____
Jack Brick, Clerk	_____	_____
Ellen M. Addonizio, Member	_____	_____
Larry Christensen, Member	_____	_____
Sue Palazzo, Member	_____	_____
Mike Winsten, Member	_____	_____

OPEN SESSION

6:00 p.m.

PUBLIC COMMENTS TO AGENDA ITEMS ONLY

CLOSED SESSION COMMENTS

CLOSED SESSION

REPORT ON CLOSED SESSION ACTION

RECORDING OF SCHOOL BOARD MEETINGS

In accordance with Board Policy 9324, Board Minutes, all Regular School Board Meetings will be audio recorded.

For information regarding Capistrano Unified School District, please visit our website:
www.capousd.org

II. INSTRUCTIONS FOR PRESENTATIONS TO THE BOARD BY PARENTS AND CITIZENS PRESENT AT THIS MEETING

We are pleased you can be with us at this meeting, and we hope you will return often. Your visit assures us of continuing community interest in our schools.

The members of the Board of Trustees of this District are locally elected state officials, who serve four-year terms of office, and who are responsible for the educational program of our community from grades kindergarten through twelve. They are required to conduct programs of the schools in accordance with the State of California Constitution, the State Education Code, and other laws relating to schools enacted by the Legislature, and policies and procedures which this Board adopts.

The Board is a policy-making body whose actions are guided by the school district's Mission and Goals. Administration of the District is delegated to a professional administrative staff headed by the Superintendent.

The agenda and its extensive background material are studied by each member of the Board for at least two days preceding the meeting. Board Members can call the administrative staff for clarification on any item, and many of the items on the agenda were discussed by the Board during previous meetings. These procedures enable the Board to act more effectively on agenda items than would otherwise be possible.

WHAT TO DO IF YOU WISH TO ADDRESS THE BOARD OF TRUSTEES

ITEMS ON THE AGENDA. Any person may address the Board concerning any item on the agenda and may, at the discretion of the Board, be granted three (3) minutes to make a presentation to the Board at the time a specific item is under discussion. However, the time assigned for individual presentations could be fewer than three (3) minutes depending upon the total number of speakers who wish to address a specific agenda topic. Prior to the opening of the meeting, a Request to Address the Board card (located in the foyer) should be completed and submitted to the Secretary of the Board. The total time devoted to presentations to the Board shall not exceed twenty (20) minutes, unless additional time is granted by the Board. All presentations shall be heard by the Board prior to the formal discussion of the agenda topic under consideration. Once an agenda item has been opened for public comment, no additional "Request to Address the Board of Trustees" cards shall be accepted for that topic.

ORAL COMMUNICATIONS (Non-Agenda Items). Citizens may address the Board on any item not appearing on the agenda. Individual presentations are limited to three (3) minutes per individual, with twenty (20) minutes in total being devoted for this purpose, but could be less if there are a large number of Oral Communication speakers. Legally, the Board may not take action on items raised by speakers under Oral Communications. However, at its discretion, the Board may refer items to the administration for follow-up or place topics on a future Board agenda.

PUBLIC HEARINGS. Anytime the Board schedules a separate public hearing on any given topic, it shall not hear speakers on that topic before the public hearing, except as to the scheduling of the hearing, nor shall it hear speakers after the hearing, except as to changes in the policy or recommended actions which are directed at the time of the hearing.

CLOSED SESSION. In accordance with Education Code Section 35146 and Government Code Section 54957, the Board may recess to Closed Session to discuss personnel matters which they consider inadvisable to take up in a public meeting.

REASONABLE ACCOMMODATION

In order to help ensure participation in the meeting of disabled individuals, appropriate disability-related accommodations or modifications shall be provided by the Board, upon request, in accordance with the Americans with Disabilities Act (ADA). Persons with a disability who require a disability-related accommodation or modification, including auxiliary aids and services in order to participate in a Board meeting, shall contact the Superintendent or designee in writing by noon on the Friday before the scheduled meeting. Such notification shall provide school district personnel time to make reasonable arrangements to assure accessibility to the meeting.

III. DISCUSSION/ACTION

- 1. **LEADERSHIP PROFILE REPORT:** Review of Hazard, Young, Attea, and Associates report of information received from focus groups meetings held on February 16 and 17, 2010 and submitted Leadership Profile forms. (Supporting Information)
Contact: Bobbi Mahler, Interim Superintendent

- 2. **DELEGATION OF AUTHORITY:** Consideration and approval, Resolution No. 0910-49, emergency resolution in the event of a concerted refusal to work by employees. (Supporting Information)
Contact: Bobbi Mahler, Interim Superintendent

INFORMATION/
DISCUSSION
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DISCUSSION/
ACTION
Vote ____
Page

Motion by _____ Seconded by _____

ROLL CALL:

	Student Advisor Saam Alikhani _____
Trustee Addonizio _____	Trustee Palazzo _____
Trustee Brick _____	Trustee Lopez-Maddox _____
Trustee Christensen _____	Trustee Winsten _____
	Trustee Bryson _____

IV. BOARD/SUPERINTENDENT ANNOUNCEMENTS

V. ADJOURNMENT

THE NEXT REGULAR MEETING OF THE GOVERNING BOARD WILL BE HELD ON TUESDAY, MARCH 9, 2010, 7:00 P.M. AT THE CAPISTRANO UNIFIED SCHOOL DISTRICT OFFICE BOARD ROOM, 33122 VALLE ROAD, SAN JUAN CAPISTRANO, CALIFORNIA

For information regarding Capistrano Unified School District, please visit our website:

www.capousd.org

VI. CLOSED SESSION

3. Closed Session (as authorized by law)

A. CONFERENCE WITH LEGAL COUNSEL–EXISTING LITIGATION

Superior Court of the State of California

County of Orange

Case No. 00300788

Whispering Hills LLC v. Capistrano Unified School District

(Pursuant to Government Code §54956.9(a))

B. CONFERENCE WITH CHIEF LABOR NEGOTIATOR

Agency designated representative:

John Rajcic, Chief Labor Negotiator

Employee Organization:

1) Capistrano Unified Education Association (CUEA)

2) Capistrano School Employees Association (CSEA)

3) Teamsters

4) Unrepresented Employees (CUMA)

(Pursuant to Government Code §54957.6)

CAPISTRANO UNIFIED SCHOOL DISTRICT
San Juan Capistrano, California

March 1, 2010

TO: Anna Bryson, President
and Members
Board of Trustees, Capistrano Unified School District

FROM: Dr. Bobbi Mahler, Interim Superintendent

SUBJECT: LEADERSHIP PROFILE REPORT

BACKGROUND INFORMATION

At the February 2, 2010 Special Board meeting Bill Attea and Bud Marley of Hazard, Young, Attea, and Associates (HYA) addressed the Board in Open Session regarding the superintendent search process. As a result, Leadership profile interviews were set for February 16 and 17 for HYA consultants to meet with individual Board Members and focus groups approved by the Board. Two open forum meetings were scheduled in the evening of February 16 for anyone interested in attending and providing input. In addition, a Leadership Profile Assessment Form was posted on the website to solicit input from interested stakeholders not able to attend a session to which they were invited or one of the open forums. (Exhibit A)

CURRENT CONSIDERATIONS

This agenda item represents a cumulative report on all the information received from Trustee and focus group interviews, open forums and Leadership Profile Assessment Forms submitted. A hard copy of the report will be given to Trustees at the meeting.

FINANCIAL IMPLICATIONS

None.

STAFF RECOMMENDATIONS

It is respectfully requested that President Bryson recognize Bill Attea of Hazard, Young, Attea and Associates to review the Leadership Profile Report, and clarify profile criteria to be used for the search.

INFORMATION/
DISCUSSION

4. Based on your perceptions of the needs of the District, please rank the following characteristics/skills in order of importance from 1-11 with 1 being most important.
- _____ Ability and willingness to deal directly and fairly with faculty, staff, students and parents
 - _____ Ability to identify revenue through alternative sources (i.e. grants, etc.)
 - _____ Accountable and holds everyone in the organization accountable for his/her respective area of responsibility
 - _____ Awareness of instructional and administrative applications of technology
 - _____ Belief in data based decision-making that focuses on the individual needs of students
 - _____ Collaborative
 - _____ Effective communication skills: verbal, written and listening
 - _____ Experience as a superintendent
 - _____ Experience in a multi-cultural environment
 - _____ Fiscal management expertise
 - _____ Knowledge of emerging research and best-practice in the area of curriculum/instructional design and implementation

5. Please share any additional thoughts below or on an additional sheet of paper.

6. Do you know someone you feel would be a good candidate for Capistrano's superintendent's position? If so, please write his/her name and address or phone number here or send it to Hazard, Young, Attea & Associates, Ltd. at the address or phone numbers listed below, or via email to office@hyasearch.com.

Thank you for your comments. Please bring this completed form to your focus group/interview session or return it by February 17, 2010 to:

HAZARD, YOUNG, ATTEA & ASSOCIATES, Ltd.
1151 Waukegan Road, Glenview, IL 60025
847-724-8465 Fax: 847-724-8467

CAPISTRANO UNIFIED SCHOOL DISTRICT
San Juan Capistrano, California

March 1, 2010

TO: Anna Bryson, President
And Members
Board of Trustees, Capistrano Unified School District

FROM: Dr. Bobbi Mahler, Interim Superintendent

SUBJECT: **EMERGENCY RESOLUTION IN THE EVENT OF A CONCERTED REFUSAL
TO WORK BY EMPLOYEES - RESOLUTION NUMBER 0910-49**

BACKGROUND INFORMATION

The Governing Board believes that strikes, walkouts or other strategies involving the withholding of services are clearly harmful to the public interest of serving students. In the interest of serving students and the public, the primary responsibility of all District personnel designated as management during any period of unrest will be to implement the policy of the District to keep the schools open and operating and provide the best possible educational environment. The Superintendent shall take steps necessary in order to ensure the safety of the students, staff and district property during a work stoppage.

CURRENT CONSIDERATIONS

This agenda item proposes for Board consideration Resolution No. 0910-49 authorizing the Superintendent to declare a legitimate emergency in the actual or serious threat of concerted work stoppage. Such authority shall only be utilized when it is the opinion of the Superintendent that the concerted refusal to work has caused or may cause an actual violation of the District's duties and obligations causing a breakdown in the educational process for students. Any steps and actions taken by the Superintendent under an emergency are reportable to the Board.

FINANCIAL IMPLICATIONS

While costs will be incurred in order to keep schools open, safe and orderly the actual amount is unknown at this time. All costs will be reported back to the Board.

STAFF RECOMMENDATION

It is respectfully recommended that the Board of Trustees adopt Resolution No. 0910-49 and authorize the Superintendent authority to take appropriate action in the event of actual or serious threat of a concerted job action, Exhibit A.

DISCUSSION/
ACTION

CAPISTRANO UNIFIED SCHOOL DISTRICT
San Juan Capistrano, California

EMERGENCY RESOLUTION IN THE EVENT OF
A CONCERTED REFUSAL TO WORK BY EMPLOYEES

Resolution 0910-49

RECITALS

WHEREAS, public school employees have statutorily protected rights, and a public school employer may not impose reprisals, discriminate or threaten to discriminate, or otherwise interfere with, restrain or coerce employees for the exercise of these protected rights; and

WHEREAS, the District shall not impose reprisals, discriminate or threaten to discriminate, or otherwise interfere with, restrain or coerce employees for the exercise of these statutorily protected rights; and

WHEREAS, students of a school district have constitutionally protected rights, and a public school district must engage in lawful acts in order to afford such constitutionally protected rights to students; and

WHEREAS, Article I, Section 28, of the California Constitution declares that “[a]ll students and staff of public, primary, elementary, junior high, and senior high schools . . . have the inalienable right to attend campuses which are safe, secure and peaceful;” and

WHEREAS, it is the moral and legal responsibility of the Board of Education to provide students, staff, and public with safe, secure, and peaceful campuses and worksites as required by the Constitution; and

WHEREAS, the fundamental purpose of the District and its Board and staff is to further the educational mission of the District, protect students, and enforce the rule of law; and

WHEREAS, it is the further responsibility of the Board to be prepared for all emergencies that may occur within the District; and

WHEREAS, the absence of a large number of employees from the District or from any work site will jeopardize the safety and security of students and cause a breakdown in the educational program; and

WHEREAS, any such absences attributable to a group of employees attempting to utilize the threat to safety and security of students and/or impairment of the educational mission of the District as a means to gain economic benefits shall be considered unlawful; and

WHEREAS, a strike is not a protected activity under the Educational Employment Relations Act.

NOW THEREFORE, BE IT RESOLVED AND ORDERED that the above recitals are true and correct.

Strikes and Other Concerted Refusals to Work By District Employees

BE IT FURTHER RESOLVED AND ORDERED that it is the position of the District that any actual or serious threat of a concerted refusal to work by employees will impede and interfere with the normal operation of the District resulting in great or irreparable damage to the students and the District. For the purposes of this or other emergency resolution, the term "concerted refusal to work" shall mean any work stoppage, slow-down, sick out, or interruption of work planned or accomplished by employees together that is in violation of present Board policies or state law. The term "concerted refusal to work" shall not mean any lawful work to rule program, rallies, leafleting, peaceful picketing or other conduct protected by law.

BE IT FURTHER RESOLVED AND ORDERED that it is also the position of the District that any actual or serious threat of a concerted refusal to work by employees will constitute a legitimate emergency. In the event of any actual or serious threat of a concerted effort refusal to work by employees, the Superintendent, or her designee, is empowered to take appropriate action including, but not limited to, any action:

- To ensure and protect the welfare, safety and educational well being of all students;
- To ensure and protect the welfare and safety of persons working for the District which shall include its agents, employees, representatives and all others acting for on behalf of the District;
- To protect District property;
- To ensure and protect the personal property of persons working for the District when such property is on District grounds;
- To provide necessary staffing.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, shall report to the Board all such actions taken in accordance with this resolution.

Maintenance of the Instructional Program

BE IT FURTHER RESOLVED AND ORDERED that it is the position of the District that in the event of any actual or serious threat of a concerted refusal to work by employees, all schools should remain open to provide an educational program for students. In view of the emergency situation, however, the Superintendent, or her designee, has the authority to close a school or schools, modify school schedules, cancel or modify specific educational programs or

courses, and cancel or postpone any extracurricular activities. Only the Superintendent, or her designee, has such authority, and such authority shall only be utilized when it is the opinion of the Superintendent, or her designee, that the concerted refusal to work has caused or may cause an actual violation of the District's duties and obligations under Article I, Section 28 of the California Constitution, as defined above, or has caused a breakdown in the educational process.

BE IT FURTHER RESOVLED AND ORDERED that once any school is open and students are present, every reasonable effort shall be made to provide a quality educational program. If a site administrator concludes at any time that a school should be closed, this report should be communicated to the Superintendent, or her designee, for action. The Superintendent, or her designee, shall close a school when it is evident that sufficient staff is unavailable to maintain adequate supervision of students or the safety and welfare of persons or property are in serious jeopardy.

BE IT FURTHER RESOLVED AND ORDERED that when a school is closed before the end of the instructional day, every effort shall be made to provide transportation to those normally assigned busing. If transportation cannot be provided immediately, those pupils shall be held at school until buses arrive. All staff members shall remain in the school for the completion of the work day.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is directed to take and have other administrators take action against individuals who are involved in acts of malicious mischief, vandalism, disturbing the peace, assault, harassment, unlawfully disrupting the educational program, trespass, prevent the normal ingress and egress to school property and other violations of the law.

BE IT FURTHER RESOLVED AND ORDERED that all student grades given during the emergency will stand as recorded and will not be made up or modified at the end of the emergency.

Employee Participation in a Strike

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, shall implement appropriate administrative procedures so that employee participation in any concerted refusal to work shall be documented. In no case shall an employee be allowed to use sick leave, personal necessity, or other authorized leaves when it is apparent that the employee is participating or participated in any concerted refusal to work for that period.

BE IT FURTHER RESOLVED AND ORDERED that no compensation shall be paid to or on behalf of any District employee unless the Superintendent or Deputy Superintendent of Business Services, whose duty is to draw the warrants, is satisfied that the employee has faithfully performed all of his or her prescribed duties (Education Code section 45055). The term "compensation," as used herein, shall include but shall not be limited to, employer contribution, if any, toward the cost of any health, welfare or group benefits, STRS/PERS retirement programs, and unemployment insurance. "Compensation," as used herein, shall not include dues deduction or other rights protected by the Educational Employment Relations Act.

Emergency Guest Employees and Independent Contractors

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is hereby authorized to employ, subject to only subsequent ratification of the Board and according to law, emergency guest employees and independent contractors;

- To ensure and protect the welfare, safety and educational well being of all students;
- To ensure and protect the welfare and safety of persons working for the District which shall include its agents, employees, representatives and all others acting for or on behalf of the District;
- To protect District property;
- To ensure and protect the personal property of persons working for the District when such property is on District grounds;
- To provide necessary staffing.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is hereby authorized to employ substitute employees to be paid whatever rate she deems necessary to assure availability of substitutes.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is hereby authorized to enter into contracts for performance of supplemental assignments or extracurricular activities, affecting those employees or units of employees participating in or supporting the concerted refusal to work, for the duration of the emergency rate.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is hereby authorized to employ credentialed and classified part-time personnel and special lecturers for the duration of the emergency at the most appropriate rate.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is hereby authorized to retain whatever additional security, transportation, food, telephone, or other services which are necessary for the duration of the emergency. Such additional services may include the employment of individuals and the contracting with independent contractors which provide such services.

Employment and Authorization of Legal Counsel

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is hereby authorized to retain legal services relating to an actual or serious threat of a concerted refusal to work by employees. Any attorney employed by the Superintendent shall be authorized to represent the District at the direction of the Superintendent, or her designee, in any

legal action relating to the emergency. The Superintendent, or her designee, shall have the authority to direct the attorney to pursue any available legal remedies deemed appropriate by the Superintendent.

Reorganization of District Administration

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is hereby authorized to transfer or assign additional duties to management, supervisory and confidential employees on a temporary basis so that the District can manage more effectively during an actual or serious threat of a concerted refusal to work by employees. No such transfer or assignment of additional duties shall be with loss of compensation or in violation of any law.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is hereby authorized and directed to reassign and replace any management, supervisory and confidential employee who is performing in an unsatisfactory fashion during an emergency.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent is hereby authorized to grant additional compensation to any management, supervisory and confidential employee who works beyond the normal work day. Such additional compensation shall be based on the individual's daily salary rate.

Use of Volunteers

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is hereby authorized to allow in her discretion the use of volunteers at any school facility during an emergency; these volunteers will be under the direction of a credentialed employee. All volunteers shall receive clear instructions regarding their responsibilities.

Spokesperson for the District

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is hereby authorized to make public statements regarding the operations of the schools during an emergency.

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, shall establish a general information center to provide relevant information about the District during an emergency. The Superintendent's designee is hereby authorized to release any relevant information to representatives of the news media, parents, students, and members of the general public.

The Negotiations Process

BE IT FURTHER RESOLVED AND ORDERED that it is the position of the District that any exclusive representative of employees may negotiate only with the designated negotiating team of the District. No attempt should be made to negotiate with any Board member or administrator who is not on the negotiating team of the District. Only the District negotiating team has authority to meet and negotiate on behalf of the District.

BE IT FURTHER RESOLVED AND ORDERED that the Board of Education hereby supports the efforts of the negotiating team of the District in any attempt to reach a mutually acceptable conclusion to the negotiations process through good faith bargaining.

No Discussion of Negotiations

BE IT FURTHER RESOLVED AND ORDERED that it is the position of the District that students shall not be directly involved in the negotiations process during instructional time in the classroom. No employee or visitor at any school site shall discuss the progress of negotiations nor the merits or lack thereof any issue in negotiations with students during their instructional periods.

BE IT FURTHER RESOLVED AND ORDERED that the District may take disciplinary action up to and including dismissal against any employee who violates any directive as authorized by this resolution.

District Property

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent, or her designee, is authorized to secure the necessary legal assistance from County Counsel or retained counsel to require that any District property held by district employees be immediately delivered to she or her designated representatives. As used herein, "District property" includes, but is not limited to, keys, audio-visual equipment, instructional materials, grade books, attendance records, posting charts, and pupil scholastic data.

Effective Date and Application of Resolution

BE IT FURTHER RESOLVED AND ORDERED that this resolution is a declaration of existing law and authority of the Board to comply with the California Constitution.

BE IT FURTHER RESOLVED AND ORDERED that should any portion of this resolution is held invalid, the invalidity shall not affect other provisions or applications of the resolution which can be given effect without the invalid provisions or application and to this end the provisions of this resolution are declared to be severable.

BE IT FURTHER RESOLVED AND ORDERED that this resolution is an emergency measure within the mandate and jurisdiction of the Board of Education and is necessary for the immediate welfare of the schools and pupils thereof. Therefore, this resolution shall become effective immediately upon its adoption and shall remain in effect until repealed by formal Board action.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that this resolution shall be effective immediately.

AYES _____

NOES _____

ABSENT _____

President, Board of Trustees

Superintendent

Date _____ March 1, 2010 _____

c: Superintendent, Orange County Department of Education