

# BERRYESSA UNION SCHOOL DISTRICT HR NEWS

408-923-1850

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## *District Mission Statement*

The Berryessa Union School District provides all students the skills to become lifelong learners and successful 21<sup>st</sup> century global citizens.



## NSBA Applauds Court Decision Recognizing Protective Role of School Personnel in Child Abuse Reporting

The National School Boards Association (NSBA) praised a June 18 decision by the U.S. Supreme Court to reverse the Ohio Supreme Court's decision in the case of **Ohio v. Clark**. The Court considered whether the mandatory duty of teachers and other school personnel to report suspected child abuse cases made them law enforcement agents pursuant to the Confrontation Clause, a constitutional protection under the Sixth Amendment that grants those accused of a crime the right to confront witnesses. The Court also ruled on whether the child's out-of-court statements to his teachers qualified as "testimonial," making the statements a substitute for in-court trial testimony subject to cross examination. Consistent with NSBA's position as outlined in its "**friend of the court**" (**amicus**) brief, Justice Samuel Alito delivered the Court's unanimous opinion and found that the school officials in this case should not be viewed as law enforcement agents, and the statements made by the young child to the teachers were not given with the "primary purpose of creating an out-of-court substitute for trial testimony."

"Although statements to individuals other than law enforcement officers are not categorically outside the Sixth Amendment's reach, the fact that L.P. [child] was speaking to his teachers is highly relevant," said Justice Alito. His opinion further noted that the

teachers questioned the student out of their "immediate concern . . . to protect a vulnerable child who needed help."

"The Court properly recognized that school teachers who ask children questions about suspected child abuse are not acting as law enforcement officers. We are pleased with the Court's decision recognizing that school officials who question students in compliance with reporting requirements are acting to keep children safe," said NSBA Executive Director Thomas J. Gentzel.

Prior to the Court's decision, NSBA and leading teachers' groups urged the Court to uphold the long established legal precedent recognizing the special position of school personnel with respect to the children who attend public schools.

"The Court's decision rightfully takes into account the special context of school personnel who question students out of concern for the child's welfare as much as out of the mandatory duty to report child abuse," stated Francisco Negron Jr., NSBA General Counsel and Associate Executive Director, Legal Advocacy. "The Court's decision is a win for NSBA and our co-signatories, but more importantly, a win for the many children protected from further abuse when a teacher asks them what's wrong," said Negron.

**Source:** National School Boards Association



## Welcome to Berryessa!

It gives us great pleasure to welcome some phenomenal people to our Berryessa family! As you know we recently hired for a number of key positions and we are very excited to have Barbara Friedenbach with us as our new Director of Curriculum and Instruction! Barbara has extensive experience in the field of education. She has worked as Teacher, Literacy Specialist, Curriculum Specialist and Principal. She has designed professional development on Professional Learning Communities, developed curriculum maps and pacing guides for various curricula areas, and coached teachers on best practices in teaching language arts, reading, classroom management and equity.

We are also very happy to have David Johnston with us as our new Director of Technology Services! David has experience working with a very wide variety of hardware and software. He has served as a Chief Technology Officer for an Internet Service Provider. He has been responsible for design, installation, and maintenance of end-user systems, servers, networking and telecommunications infrastructure. He has served as an Adjunct Professor at the college level, teaching a wide variety of computer science courses!

Another star that has joined us is Jill Tamashiro! She will serve as our new Director of Special Education and Student Services. Jill has an extensive background in education. She served as a special education teacher for many years. She is well versed in structuring classrooms and program

for student learning. Jill has also served as a Program Specialist, Special Education Program Improvement Administrator and Student Services Coordinator. She has a significant knowledge level in State and Federal Special Education laws and statutes!

### On the Negotiations Corner

The School District, Teamsters Local 150, CTAB and CSEA are in the process of conducting negotiation sessions. Meetings have been scheduled through December and all parties are working diligently on reaching agreements. Regular updates are posted on the school district's web page under "Negotiations Updates." Please take a moment to review the updates when you get an opportunity!



### Updated Board Policies!

As we reviewed our existing policies, we found many that have been in need of updates. To complete all of them at the same time would no doubt be a monumental task. To make the work more manageable, we are systematically reviewing each and making the appropriate recommendations based on the information provided by the California School Board Association. Some of the most recent updates are as follows:

- BP 4030**-Non Discrimination In Employment
- BP 4112.42**-Drug & Alcohol Testing For School Bus Drivers
- BP 4112.9**-Employee Notifications
- BP 4157**-Employee Safety
- BP 4219.22**-Dress & Grooming

### New Leaves Law!

Education Code section 44977 provides that when a certificated employee exhausts all available sick leave and continues to be absent from work because of illness or accident for up to five months, the amount deducted from the employee's pay during that time may not exceed the amount that is, or would have been, paid to a substitute.

This five-month period of leave is commonly called "differential pay" leave. Because it applies when the employee is unable to work because of his or her own medical condition, currently this leave is not available to employees who are absent to care for a family member or to "bond" with a newborn or newly placed child.

Assembly Bill 375, signed by Governor Brown on October 1, will expand "differential pay" to cover certificated employees who are absent because of "maternity or paternity" leave. This terminology is unusual: the term maternity leave has fallen out of favor, and modern leave statutes refer instead to "pregnancy disability leave," "family leave," or "baby/child bonding." A.B. 375 resurrects maternity leave and adds paternity leave to California law for the first time. It defines maternity or paternity leave as "leave for reason of the birth of a child of the employee, or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee."

The California Family Rights Act (CFRA) provides eligible employees up to 12 weeks of unpaid leave for purposes of bonding with the employee's newborn or newly placed child. Mothers and fathers are both entitled to this leave. (New mothers have a separate leave entitlement for pregnancy- and childbirth-related disabilities.) A.B. 375 adds section 44977.5 to the Education Code and takes effect January 1, 2016. The new law

provides that after a certificated employee exhausts available sick leave and continues to be absent from work due to maternity or paternity leave (under CFRA) for up to 12 school weeks, the employee may receive "differential pay" during that time. There is no parallel provision for classified employees. If this requirement conflicts with a collective bargaining agreement entered into before January 1, 2016, the A.B. 375 requirements do not go into effect until expiration or renewal of that agreement.

While this is an ambitious endeavor, there appears to be anomalies in the language. We are certain that there will be need for further clarification. One such anomaly is the fact that an employee's "maternity" or "paternity" leave will most likely not arise out of the course of "employment." Also there are Districts that provide "half pay" instead of "differential." It's not clear how they are effected. CFRA has an eligibility requirement but this bill does not reference one though it applies to those employees using "maternity" or "paternity" leaves. These questions are just the tip of the iceberg so we look forward to receiving greater clarity.

**Source:** AALRR Alert News Letter

### **Support Staff – at Your Service!!**

**Maila Nguyen**

[mnguyen1@busd.net](mailto:mnguyen1@busd.net)

Ext.1853

Administrative

Assistant/Workers' Comp

**Jan Keene**

[jkeene@busd.net](mailto:jkeene@busd.net)

Ext. 1855

Personnel Services Assistant

Benefits/Classified Staffing

**Maya Waller**

[mwaller@busd.net](mailto:mwaller@busd.net)

Ext. 1852

Human Resources

Manager/Certificated Staffing

**Dr. Douglas Staine**

[dstaine@busd.net](mailto:dstaine@busd.net)

Ext. 1856

Assistant Superintendent of HR