

**MINUTES OF THE SPECIAL MEETING TO DELIBERATE ON FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND TAKE ACTION REGARDING THE SAME**

**POCATELLO/CHUBBUCK SCHOOL DISTRICT NO. 25
BOARD OF TRUSTEES**

**Board Room at the Education Service Center
Tuesday, June 11, 2013
8:00 a.m.**

BOARD MEMBERS/SUPERINTENDENT PRESENT:

Janie Gebhardt, Chair

John Sargent, Acting Chair/Vice Chair

Jackie Cranor, Clerk (Excused)

Jim Facer, Member

Paul Vitale, Member

Mary M. Vagner, Superintendent

OTHERS PRESENT:

Marvin Smith, Hearing Officer, Smith & Banks, PLLC

Doug Howell, Director of Human Resources

Dave Mattson, Newly Elected Trustee

Renae Johnson, Board Secretary

Welcome, Call to Order and Statement of Purpose

Acting Chair Sargent called the meeting to order at 8:04 a.m. He said the purpose of the meeting was to deliberate on the Findings of Fact and Conclusions of Law regarding Employee Docket No. 13-16.

Introduce Hearing Officer

Acting Chair Sargent introduced the Hearing Office Mr. Marvin Smith and turned the time over to Mr. Smith.

Deliberate on Findings of Fact and Conclusions of Law

Mr. Smith said on page two of the District's Findings of Fact and Conclusions of Law the Superintendent was not listed as one of the witnesses, however, the Superintendent was called as a witness by Employee Docket No. 13-16's representation and was a factual piece of information that should be added to the findings. He said the IEA's main finding and conclusion was its interpretation that in the absence of a formal Reduction in Force any contract reduction had to be applied uniformly across the District which had not been done. He said the IEA was claiming that the District was in violation of Idaho Code. He said the District's findings and conclusion were that reductions were a result of the budget situation and that the law had been met regarding contract reductions. He said it was up to the Board to determine which of the findings and conclusions it would accept as proper and would have to make a good faith determination regarding the best recommendation. He said the Board had to consider the fifteen certificated employees that waived their right to a hearing, the two did not show up and the one Due Process hearing to determine if all employees were being treated the same. Mr. Vitale said he wondered if the extra days for PTE were separate from the regular teaching contract of 180.5 days. Mr. Sargent asked if there were any other PTE staff members that had 10 extra days. Ms. Vagner said one PTE staff members' extra days were cut from 10 to 5; another was reduced from 30 to 10. Mr. Facer asked if the extra days came out of PTE funds. Ms. Vagner said the extra days were paid for out of the PTE funds that were dedicated to pay for equipment, supplies, salary and travel. Mr. Sargent asked if the automotive program budget was already over budget without Employee Docket No. 13-16 traveling to nationals. Ms. Vagner said yes and would have to be paid for using other PTE program budgets. Mr. Facer asked if Employee Docket No. 13-16 would still be expected to get the same amount of work done with half of the days. Ms. Vagner said it could impact his travel but students could travel with other Districts or supervisors. Mr. Sargent said a lot of students in other programs already did that. Mr. Vitale asked if the reduction would even up the PTE funds in all programs. Ms. Vagner said it would even out the PTE

budgets for supplies and equipment. Mr. Smith said another point of consideration that may have a bearing on the Board's decision was the low number of students enrolled in the program. Mr. Sargent said in considering the cost to run the program compared to the number of students served, it was a lot of money being spent on very few students. He said he believed the money could be better spent. Mr. Vitale said he did not get the impression that the number of students in automotive 3 & 4 would improve. Mr. Facer said the numbers could fluctuate either way and was unknown. Mr. Sargent said he had been on the Board for six years and the number of students in that program had always been low. Ms. Vagner said if the District could arrange for students to take automotive 3 & 4 through ISU it would move forward in that direction and Employee Docket No. 13-16 could end up teaching a Study Skills course. Mr. Sargent asked if that was driven by the low numbers. Ms. Vagner said yes. She said all of the students enrolled in automotive 1 & 2 were contacted regarding their interest in continuing with automotive 3 & 4 and none were interested. Mr. Sargent said he recommended accepting the District's Findings of Fact and Conclusions of Law. Mr. Facer said he worried that if the District started eliminating portions of the automotive program that it would never get them back. Mr. Sargent said it sometimes happened and the District had lost several programs over the years due to retirements, lack of interest and budget reasons. He said if the demand for a program was high the District would do whatever it could to provide the program but if the interest was not there it needed to do the prudent thing. Mr. Vitale said if Employee Docket No. 13-16 continued to teach next year and more students were interested in taking automotive 3 & 4, the Board could always revisit the issue. Mr. Sargent said providing the program through ISU could be a good solution for any students that were interested. Ms. Gebhardt asked if the program contributed to the Capstone requirements. Ms. Vagner said automotive 3 was a Capstone course but did not earn any points because it was not a dual credit course. Mr. Sargent said he believed that the Pocatello High School administration had made an effort to continue to the automotive program to the best of their ability while treating all employees fairly. Mr. Facer said he could support the District's recommendation but had some reservations. Mr. Sargent said the situation had progressively gotten to the point of not having many options. Mr. Facer said he hoped the employee understood that the decision was not based on any performance issues. Mr. Sargent said the decision was in no way a criticism of the employee's performance and everyone agreed he was one of the best at what he did.

Take Action on Findings of Fact and Conclusions of Law

Mr. Smith said a Resolution was included in the packet that would need to be adopted with the specific mention of the set of Findings of Fact and Conclusions of Law that the Board was adopting. A motion was made by Mr. Vitale and seconded by Mr. Facer to adopt the District's Findings of Fact, Conclusions of Law and Decision with the addition of the Superintendent as a witness on page two under item #6, that: **WHEREAS**, the Board of Trustees held due process hearings on the 5th of June, 2013 related to the Administrative Recommendation on a reduction in length of teaching contract with corresponding reduction in salary associated with either the substantial reduction in state funding for the last several years or little increase in program funding in the past ten years and a need to provide program supplies and equipment; and

WHEREAS, the Board of Trustees met on the 11th of June, 2013 and during such meeting deliberated and reached a decision as to the subject matters of the due process hearings of June 5th; and

WHEREAS, on the 11th of June, 2013, the Board of Trustees finalized written Findings of Fact, Conclusions of Law and Decision as to the subject matters of the due process hearings of June 5th;

NOW THEREFORE BE IT RESOLVED, that the Board of Trustees adopts the attached Findings of Fact, Conclusions of Law and Decision, directs signature of the same and directs the Superintendent to issue this written document to the District's Certificated Professional Employees and to make contract adjustments accordingly. The voting was unanimous in the affirmative. Ms. Gebhardt abstained from voting as she was not present during the Due Process Hearing held on June 5, 2013. The Board members initialed and dated the change to the Findings of Fact, Conclusions of Law and Decision which was certified by the Assistant Clerk of the Board, Ms. Johnson.

Adjourn

A motion was made by Mr. Facer and seconded by Mr. Vitale to adjourn. The voting was unanimous in the affirmative. The Board adjourned the Special Meeting at 8:36 a.m.

APPROVED ON:

July 16, 2013
By:

Janie Hebbardt
Chair

MINUTES PREPARED BY:

[Signature]
Secretary, Board of Trustees

ATTESTED BY:

Paul N Vitale
Clerk