

EXHIBIT A



Berkeley Unified School District

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Human Resources

Via US First Class Mail and Certified Mail Return Receipt Requested

June 30, 2016

Ms. Yvonne Felarca
1985 Linden Street
Oakland, CA 94607

Re: Notice of Unprofessional Conduct and Unsatisfactory Performance

Dear Ms. Felarca:

Notice is hereby given under Education Code section 44938 that your performance as a certificated employee falls short of the standards of the Berkeley Unified School District ("District"). Your performance to date has reflected unprofessional conduct and unsatisfactory performance, which are grounds for dismissal under Education Code section 44932. I am formally directing you to correct your deficiencies stated below. Your failure to correct your deficiencies in your unprofessional conduct and unsatisfactory performance will result in disciplinary action, up to and including dismissal.

Your conduct as detailed below constitutes unprofessional conduct and/or unsatisfactory performance:

1. Immoral conduct (Ed. Code, §§ 44932(a)(1))
2. Evident unfitness for service (Ed. Code, § 44932(a)(6)).
3. Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the District (Ed. Code, § 44932(a)(8)).
4. Dishonesty (Ed. Code § 44932(a)(3)).

5. Unprofessional Conduct (Ed. Code, § 44932(a)(2)).
6. Unsatisfactory Performance (Ed Code, § 44932 (a)(5)).

The specific instances of behavior and acts or omission supporting the Notice of Unprofessional Conduct and Unsatisfactory Performance are set forth below. Copies of the documents supporting this Notice are enclosed herewith and incorporated by reference.

Factual Background – Discipline 2009-2012

1. In the fall of 2009, you repeatedly solicited students to participate in protests against the proposed charter school in the District, attend board meetings in opposition to the charter school, and signed petitions opposed to the formation of the charter school. You took these actions as part of your own personal involvement with the Coalition to Defend Affirmative Action, Integration, and Immigrant Rights and Fight for Equality by Any Means Necessary (BAMN). When you were confronted about your improper involvement of children in this matter by then Principal Jason Lustig, you claimed that you had engaged in these activities during your “break time,” during your advisory, or outside your core teaching day. Mr. Lustig emphasized to you that your break time and advisory class were still part of your work day. He noted that under Education Code section 52520(a), teachers are not to engage in partisan activities that solicit pupils to subscribe to or join with any organization that is not under the control of the District. You were directed to cease any activity in violation of Education Code section 52520(a), including soliciting of students to participate in protests and other political action. You were advised that failure to comply with these directives would lead to additional discipline.
2. On December 1, 2009, Mr. Lustig issued you formal reprimand documenting the activities described above.
3. In the fall of 2011, you asked then Principal Janet Levenson for permission to take your afterschool club on an all-day field trip to a Proposition 209 rally and teach-in at UC Berkeley, scheduled for November 3, 2011. Apparently you had promised the trip to parents and students without first obtaining permission from the principal. Ms. Levenson ultimately denied permission for this activity, because it was inappropriate for various reasons. Specifically, it was an opportunity for you to indoctrinate students and use them to support your own personal political agenda, it took them away from necessary instruction, and violated the directives that had been given in 2009. You behaved unprofessionally toward Ms. Levenson after she denied you permission to attend the rally, and talked badly about her behind her back. On October 31, 2011, a conference was scheduled with you and your union representative Catherine Bartz to discuss your unprofessional behavior and discuss expectations for the future. On November 1, 2011, you were issued a formal conference memo documenting the issues and directing you to communicate directly with Ms. Levenson in the future, not take

students on unauthorized trips, ask for permission from Ms. Levenson before promising trips to students and parents, and to treat Ms. Levenson in a courteous and professional manner.

4. On June 12, 2012, you were issued another formal letter of reprimand. This reprimand related to an unauthorized field trip for your afterschool class on April 20, 2012. The previous day, April 19, 2012, you texted a parent asking if you could take her son to a press conference at U.C. Berkeley. You told her that the student should meet you at your afterschool class, the "I Have a Dream Club," and that you would be arriving at the U.C. Berkeley campus by 4:00 p.m. and that you would return him to school at 4:30 p.m. You never notified the afterschool coordinator that you would be off campus that day. You ended up driving the student to the press conference. However, you never drove him back. Instead, he called his father to pick him up well after 5:00 p.m. During a meeting to discuss this incident that occurred on April 20, 2012, you claimed that the student wandered off and you lost track of him. You were issued a formal letter of reprimand for your failure to follow proper protocols for field trips and leaving the campus without notifying your supervisor. The reprimand referenced the fact that on November 11, 2011, you had already been issued a written conference summary directing you not to take students on unauthorized trips and to ask the principal for permission in advance, which you had not done in this case. The reprimand referenced the fact that your actions had endangered students and created potential liability for yourself and the District. You were given clear directives regarding obtaining permission for off campus field trips, following site protocols, and not driving students yourself.
5. Copies of the December 1, 2009, November 1, 2011, and June 12, 2012 documentation are attached as **Exhibit A**.

B. Factual Background – Notice of Unprofessional Conduct/Unsatisfactory Performance

2. On December 16, 2013, you were issued a formal Notice of Unprofessional Conduct/Unsatisfactory Performance pursuant to Education Code section 44938. (**Exhibit A**) The Notice set forth the facts outlined below.
3. Your conduct as described below constitutes unprofessional conduct and/or unsatisfactory performance:
4. You have been employed by the District at King Middle School, since 2007. Therefore, you should be well aware of the protocols and requirements for reporting and tracking your own personal absences. Teachers who are going to be absent for a full or partial day must call the District's absence reporting/substitute management system, AESOP. (The system was changed from "Sub Finder" to AESOP in July, 2012). When a teacher calls AESOP, the teacher enters his or her PIN (personal identification number) and requests a substitute; a substitute can be

identified and summoned to the school to take over the class(es). The teacher is also required to enter the reason for the absence into the system, and the anticipated duration of the absence. Even if no substitute is required, teachers are required to enter their absences in AESOP.

5. Following any absence, the teacher is required to complete an "Absence Certificate" and submit it to the office, upon the teacher's return to work.
6. The District uses the absence certificates to calculate the amount of sick leave used and then deducts the leave used from available sick leave balances. The sick leave balances can be seen on all employees' pay stubs.
7. A copy of Article 12 of the Berkeley Federation of Teachers (BFT) collective bargaining agreement, governing leaves, is attached hereto as **(Exhibit 1 to Tab A.)** Section 12.2.6 provides that sick leave is to "be used for personal illness, including quarantine, disability and necessary appointments for health treatment." Section 12.6 governs personal leave. Section 12.6.1 provides that a teacher may use up to a maximum of nine (9) days of accumulated sick leave annually "in cases of personal necessity listed in Section 12.6.2 below. Whenever possible, a request for this leave shall be made in writing to the immediate supervisor prior to taking the leave or in any event no later than 24 hours following the start of the personal leave. A teacher may be required to further substantiate the need for such leave."
8. Section 12.6.2 includes a list of the authorized uses of personal leave, such as "appointments to see a lawyer; wedding in the family; religious observance; to attend professional conferences; emergencies; death of a member of the teacher's immediate family; serious or critical illness of a member of the immediate family; appearance in court as a litigant; an occurrence of an accident involving the teacher's person or property or the person or property of a member of the immediate family; in the case of death of a member of the teacher's immediate family, such leave may be in addition to normal bereavement leave." The provision goes on to state: "It is understood that Personal Leave is for instances of personal need, not for recreational purposes, vacation, travel, or that which is related to activity for which the teacher may receive additional remuneration. The District may request the reason for Personal Leave days if there is reasonable doubt regarding this use."
9. You were absent on April 10 and 11, 2013. You submitted an absence certificate listing "personal leave" as the reason for an allowable absence. The District later learned that you had been absent to travel to Washington D.C. with District students for an immigrant rights march. This was not a school sponsored activity. (Refer to "By Any Means Necessary" (BAMN) flier promoting the event - Exhibit 2 to Tab A). You were advised of the personal leave restrictions in the CBA noted above and that your trip to Washington D.C. did not meet the requirements above.

Moreover, you never requested the advance permission specifically provided for in Article 12.

10. Therefore, on May 15, 2013, you received a letter advising you that your absence was not authorized, and your pay was being docked for those two days. (**Exhibit 3 to Tab A**)
11. You were absent again on August 28, 2013. You listed “personal leave” as the reason for an allowable absence. The District later learned that you were again in Washington D.C. at yet another BAMN protest “March for Citizenship/Freedom for All”. (**Exhibit 4 to Tab A**)
12. On September 19, 2013, you received a letter from the District advising you that your absence was not authorized, and your pay was being docked for that day. (**Exhibit 5 to Tab A**)
13. You were absent again on October 15 and 16, 2013. You again submitted an absence certificate for these two days as “personal leave” as the reason for an allowable absence. The District later learned that you again had been in Washington D.C. for a protest march on the Supreme Court regarding a variety of political causes. (Refer to BAMN flier – **Exhibit 6 to Tab A**)
14. On October 30, 2013, you received a letter from the District again advising you that your absence was not authorized by Section 12.6.2 of the CBA and that you would be docked two days’ pay for your unauthorized absence. (**Exhibit 7 to Tab A**)
15. On October 29, 2013, you were absent yet again. You had entered the absence into AESOP as “sick leave.” (**Exhibit 8 to Tab A**)
16. Based on your past history of abuse of leave, the District had reason to believe that you were not actually sick on October 29, 2013. Therefore, on November 1, 2013, Director of Personnel Services Mary Buttler sent you an email message advising that she needed to meet with you about your absence. (**Exhibit 9 to Tab A**)
17. Only after receiving Ms. Buttler’s email message did you fill out a formal “absence certificate,” which you dated November 1. It was not signed by the principal or submitted for processing until November 5, 2013. The absence certificate included information that contradicted the information you input into AESOP, in that it requested “personal leave.” (**Exhibit 10 to Tab A**)
18. A meeting was scheduled to discuss the matter on November 19, 2013. You had advised the District in advance that you were bringing an attorney. Therefore, the

District arranged to have its legal counsel present as well, creating additional expense.

19. The meeting was scheduled to begin at 5:00 p.m., at the District office. Shortly before the meeting was scheduled to begin, employees in the District office were confronted with a loud group of over ten young people, who appeared to be in the age range of 15-20, chanting and carrying signs. The students were chanting slogans such as, "Hey hey, ho ho, teacher harassment has got to go." Apparently, the students made their way to the second floor of the building which is where the meeting was scheduled. You arrived with two people who introduced themselves as Mark Airgood and Caroline Wong. Both admitted that they were not lawyers. Initially, Ms. Wong claimed she was with the law office of Sheff, Washington and Driver, but then admitted that she was a BAMN volunteer. Mr. Airgood declined to state his official affiliation as any sort of legal representative, but also claimed to be a BAMN volunteer. In the interest of completing the interview in an expeditious manner, Ms. Buttler and Ms. Marleen Sacks, the District's lawyer, agreed to let them stay, although because they were neither attorneys nor BFT representatives, they had no legal right to be there.
20. Ms. Buttler began the interview by noting that you had been absent on October 29 and had called in sick, and asked if you were sick that day. You were advised that you did not need to provide any confidential medical information. You responded by stating in a defiant and indignant tone that you thought it was "ridiculous" that you were being questioned about your absence. Given your regular abuse of leave, as noted above, the District had every right to question you on this matter.
21. You then demanded to know what the absence certificate indicated regarding the reason for your absence. Ms. Buttler indicated that she did not have a copy. You then attempted to scold Ms. Buttler for not having a copy of the document at the ready. Your tone and attempt to scold Ms. Buttler were insubordinate, rude, and inappropriate.
22. You then admitted that you were in Santa Rosa "marching for justice for Andy Lopez." A BAMN flier regarding the event is attached hereto as **Exhibit 11 to Tab A**.
23. Ms. Buttler then advised you that participating in such political activities was not a valid ground for taking "personal leave" under the contract. You then attempted to argue with her, claiming that "nobody else" follows the contract. You claimed nobody else was requesting permission in advance for taking personal leave, or being restricted to the reasons enumerated in the contract. However, you could not cite any specific teacher names, and moreover, you would not necessarily know whether other teachers were complying with the contract or not. When asked why you did not ask for advance permission to go to the protest in Santa Rosa, which was clearly planned in advance, you said you "couldn't recall." Your response was not credible.

24. You then claimed you were being “harassed” for your absence, and that it was “crystal clear” that the District was “targeting” you. You noted that you had a petition signed by 50 teachers supporting you. However, you never provided a copy of the petition. Please be aware that the District is not “harassing” or “targeting” you. Rather, the District is attempting to uphold the terms of the contract, and ensure that the District and taxpayers are not actually paying you for your leisure time. You were interviewed because your abuse of personal leave has been significant and repeated multiple times over a few short months.
25. You cited the fact that the District brought an attorney to the interview as evidence of alleged “harassment.” However, Ms. Buttler pointed out to you that you had previously indicated you would be bringing an attorney which completely justified the District’s decision to bring an attorney as well. It was evident that your claims of “harassment” and “targeting” were an attempt to try to manipulate and bully District officials into not holding you accountable. Your baseless accusations and insubordinate tone and demeanor were completely inappropriate.
26. As the interview continued, the young people outside continued to chant loudly, which was disruptive. You were then asked if any of your middle school students were outside as part of this group. You answered that this was “none of your business.” You were then directed by Ms. Buttler to answer the question. Only then did you state that there were no King students outside, to your knowledge. Your initial refusal to answer the question, and stating that this was “none of your business” was rude, insubordinate, defiant, and completely inappropriate.
27. Shortly thereafter, the students improperly entered the private office area of the second floor and disrupted the meeting. You were then asked how the students knew where the interview was being held. You smirked and stated defiantly that asking such a question was an “abridgment of my rights and I won’t answer how they knew there was an interview going on.” Mr. Airgood, likely realizing that you were being blatantly insubordinate again, jumped in and stated that he advised some of the students about the interview. Either Mr. Airgood was improperly coaching you, or he admitted to participating in the disruption of the interview. In any event, Mr. Airgood’s conduct was inappropriate, and as a result, the District will no longer permit you to bring non-BFT representatives to such investigatory meetings in the future.
28. Following the meeting, you apparently went on Facebook, and posted the following: “Today went great! TODAY’S PICKET WAS FUN! Thanks everyone for your support. In addition to the great people who picketed today, 50 teachers and staff at my school signed the petition, a whole bunch more students, parents and community members signed, and some students and parents sent emails to the administration, too. So during my meeting with Personnel Director Mary Buttler and the BUSD Attorney Marlene Sachs (sic), we heard the rhythmic sounds of chanting supporters ringing through into the meeting the whole time. I think the Administration is going to back down on the discipline, but they still

plan to dock me another day's pay for attending the Andy Lopez march. We're gaining ground, but the fight continues. Si se puede!"

29. Your Facebook posting also indicates that you clearly helped organize the protest at the District office, as you provided the relevant information regarding the time and location of the meeting on your posting. Therefore, your allegation that it was an "abridgement of your rights" to ask how the people knew where to come was bogus, insubordinate and dishonest. (**Exhibit 12 to Tab A**)
30. Your Facebook posting also includes a request for supporters to sign "the petition" and that you were a victim of "harassment" which "must stop."
31. The "petition" is attached as **Exhibit 13 to Tab A**. In the petition, you claim that you are being "targeted" and "harassed" for your "commitment and leadership in fighting for equality." You claim that you are a "highly regarded," "loved" and "respected" teacher, "talented" and "hard working," who is regarded as a "hero" and a "role model." The petition called on signatories to "call for an end to the harassment" and allow you to continue in your fight for the interests of various interest groups, and for the "right to use personal leave for whatever they believe is necessary, for themselves, and for our community."
32. Your Facebook posting demonstrated that you actively took part in organizing the protest and tried to disrupt the investigative process, bully and manipulate the District into not disciplining you for your clear misconduct. It is apparent from your Facebook posting that you enjoy defying the administration and taking an adversarial position against the administration of your employer. This is blatant insubordination and will not be tolerated. You must work with and support the administration in the implementation of the mutually-bargained collective bargaining agreement. If you have an issue with the restrictions on "personal leave," you can take that up with BFT. However, the restrictions in the contract are clear, and you are to adhere to them at all times. Your Facebook posting and the petition also make clear that you are intentionally providing the readers with biased, slanted information, which is misleading. The issue at hand was your lack of compliance with District rules and regulations for absences. The verbiage of your post and petition which is embarrassingly narcissistic makes it clear that you were trying to provide readers only with information that would support you, not the actual facts. The District was unable to establish whether the young people who took part in the demonstration were District students, or students elsewhere. Regardless, it was evident that you and your BAMN representatives were actively trying to brainwash and manipulate these young people to serve your own selfish interests in not being held accountable to the same rules that apply to everyone else. As a teacher, your conduct was particularly reprehensible.
33. To make matters worse, on November 21, 2013, you sent an email message, during District time, using the District's email distribution list, to the "King Conference" distribution list, which includes many, if not most, employees at the

school. The email message reads: "Hi Folks, Thank you for supporting my fight against BUSD's political harassment and for teachers' right to use our personal leave however we want, free of censorship and bullying."

My meeting with Personnel Director Mary Buttler and BUSD's attorney Marlene Sachs (sic) was very short, and the administration quickly backed off their attempt to discipline me. Thanks to the 50 teachers and staff here at King who joined other teachers, students, parents, and community members who have signed my petition, and thanks to those who added their voices and energy to the picket outside the meeting, too! All those expressions of support helped a lot.

However, the Administration is still planning to dock me another day's pay, this time for marching for justice for Andy Lopez in Santa Rosa. They are continuing their monetary form of discipline and harassment.

If you haven't already, you can still sign the petition with me or online at bamn.com. I'm also mobilizing to future school board meetings, so I'll let you know when and hope you can join. This issue is fundamental to the ideals and reality of free speech, political activism, and education in Berkeley.

Email me directly or stop in my room (102) if you have any questions or comments. Thanks again!

—Yvette" (**Exhibit 14 to Tab A**).

34. Your email message to your colleagues at King was inappropriate for the same reasons as your Facebook posting and your petition. However, it was worse in that you abused your access to District time and technology to berate the District administration, and spread misinformation regarding why you were being investigated. Board Policies 3512 (District Equipment) and 4040 (Employee Use of Technology) and their affiliated administrative regulations are attached hereto as **Exhibit 15 to Tab A**. The policies make clear that employees are to use District equipment for District purposes. Your classroom is District equipment as well, and you clearly are not entitled to invite staff members to come into your classroom using District email so that you can berate the District administration and try to convince them how you are being "harassed." Policy 3512 makes clear that use of District equipment for personal use is prohibited, and subjects offenders to disciplinary action. Policy 4040 makes it clear that District technology may not be used for political activity. You clearly violated these District policies. In addition, you engaged in overt insubordination by trying to challenge the authority and actions of the administration in conducting its investigation. Worse yet, you tried to brainwash and manipulate the opinions of your co-workers by spreading misinformation.

35. As a result of your apparent misuse of District equipment, and your unsupported belief that you were not going to be disciplined, on November 22, 2013, Ms. Buttler sent you an email message advising you that you would be disciplined, and that your sending that email message was inappropriate. (**Exhibit 16 to Tab A**)
36. On November 21, 2013, the parent of a 10th grade student at Berkeley High School called Ms. Buttler after her daughter saw somebody handing out flyers in front of the school to support your cause. The parent advised the District that her daughter had you in seventh grade and did not appreciate the manner in which you conducted the class, making reference to her daughter's "white privilege" without knowing anything about her background. She indicated her daughter felt that you marginalized Caucasian students, that you did not present a balanced view of controversial issues in the classroom, and that she (the parent) also did not support the idea of you using District time to support your personal causes.
37. As a result of the misconduct outlined above, you were given the following directives:
38. To overcome the deficiencies noted above, you are hereby directed to do or comply with the following directives:
 - a) You are to use AESOP as soon as possible to communicate all absences. You are to ensure that thorough and proper lesson plans are in your classroom or emailed to the substitute in advance of your absence. Following your absence, you are to complete the absence certificates promptly and accurately in accordance with District/school policies stated above.
 - b) You are not to use personal leave for any reasons not authorized in the collective bargaining agreement. Specifically, you may not take such leave for recreational or political activities. If you need personal leave, you must comply with the terms of the collective bargaining agreement, including advance notification. You are never to claim sick leave if you are not actually sick or injured.
 - c) Based on your past history of abuse of leave, in the future you must provide a statement from a licensed medical practitioner justifying any use of paid sick leave, pursuant to Section 12.17.1 of the collective bargaining agreement.
 - d) Under no circumstances may you or anyone else acting on your behalf use class time, District resources including classrooms, technology or other District property to try to influence or manipulate students or employees into supporting you in a private, confidential, personnel matter. Moreover,

you are not to discuss this private, confidential, personnel matter with students or employees, or take any action including actions taken on your behalf by your designated representatives, such as BAMN to try to manipulate or influence students or employees to support you by making disparaging statements about the administration, or the administration's motives. This includes passing around petitions or flyers to students or staff about a private, confidential, personnel matters that undermine the authority of the administration.

- e) Under no circumstances may you try to present material to students in a biased and one-sided manner in order to try to influence or indoctrinate students into a particular way of thinking about any subject.
- f) You are to treat all students equally regardless of their ethnicity, socio-economic background, or other membership in a protected classification. You are to abide by the District's policies on non-discrimination and must refrain from making disparaging statements that directly or indirectly disparage students based on their membership in a protected classification.
- g) You are not to lie or engage in any type of dishonesty when speaking to District personnel. You are not to speak to any District administrator in a defiant, rude or insubordinate tone. When asked a question relevant to District business, you are to answer the question and cooperate with the District's goals in conducting District-related investigations. You may not refuse to answer questions or otherwise act in a defiant, insubordinate manner to try to bully or manipulate District officials.
- h) You are not to use the District's computers, email system, or District time to send out email messages that are not related to District business, and which do not support the District's mission. Specifically, you are not to do so in a manner that undermines or is designed to undermine the District administration in any way.
- i) You are to immediately ensure that all materials that undermine the District's authority with respect to this confidential personnel matter (i.e. the investigation into your abuse of leave) are removed from your Facebook page, the BAMN website, or other on-line locations available to the public. This includes the "petition" that you have been circulating. Furthermore, in the future, you are not to take any action that undermines the District's authority with respect to confidential personnel matters, including circulation of the petition referred to herein, or similar petitions, rallying students, staff and/or community members to support you in order to disrupt District investigations or challenge potential disciplinary action over confidential personnel matters. You are only permitted to communicate with staff and others as authorized by law to represent yourself in labor relations matters.

C. Abuse of Leave November 19, 20, 25 and December 10, 2014

39. A summary of your absences from December 17, 2013 through December 9, 2014 is attached as **Exhibit B**. Since being issued the NUC/NUP referenced above, you have claimed sick leave on December 17, 2013, January 14, 2014, February 5, 2014, February 7, 2014 March 27, 2014, October 14, 2014, October 15, 2014, November 19, 2014, November 20, 2014, November 25, 2014 and December 9 (partial day), 2014.
40. Attached as **Exhibit C** are copies of absence certificates covering the fall of 2014. The only absence for which you actually submitted a medical note was for an eye doctor appointment on November 19, 2014 at 3:10 p.m., and an OB/GYN appointment on October 16, 2014 at 3:51 p.m. This was contrary to the clear directives you had been given to provide medical verification for any medically-related absence.
41. Beginning on approximately December 8, 2014, the District began receiving several complaints about your political actions and statements in the media. One such complaint, which was sent to you as well, is attached as **Exhibit D**.
42. The District also received information that you were participating in political activities during regular school hours. Notably, the UC Regents had a scheduled meeting from November 18-20, 2014 at UCSF. An agenda for the meeting is attached as **Exhibit E**.
43. As noted above, you claimed you were “sick” on November 19 and 20, 2014. However, the District uncovered evidence that in fact, you had gone to San Francisco to participate in protests at the UC Regents.
44. One YouTube video shows you speaking during the public comment on November 20, 2014. Another shows you speaking outside on November 19, 2014 to a group of students. <https://www.youtube.com/watch?v=n4ZR-knG2I4> <https://www.youtube.com/watch?v=qTpwy1qxjq0> (**Exhibit F**.)
45. An Associated Press photo of you speaking during the public comment on November 20 was included in several news articles regarding the event. (**Exhibit G**)
46. The link with the copies of these videos is attached as **Exhibit H**.
47. You were absent for a portion of the day on December 9, 2014. Notably, there were large demonstrations in Berkeley and Oakland on December 8 and 9, 2014 related to a recent legal proceeding in New York involving Eric Garner. You claimed “sick leave” but failed to submit any medical verification to cover that absence. Students and staff reported to the principal that they thought you were

“in jail” that day. Notably, you never provided any medical verification that you were actually sick that day.

48. Attached as **Exhibit I** is an article about a Berkeley High School student “die-in” that started at approximately 2:30 p.m. on December 10, 2014, to protest recent events in Ferguson, MO. You were supposed to attend staff development that afternoon, which is required every Wednesday. At 2:23 p.m., in the middle of the staff development, you sent Ms. Levenson an email message advising that you “had to leave” the staff meeting early. You provided no reason for your sudden need to leave, and left seven minutes later. (**Exhibit J**) On your absence certificate, you claimed “business necessity in excess of personal leave.”
49. “Personal Leave” is defined in Article 12.6 of the collective bargaining agreement and permits teachers to use up to nine sick days a year for “personal leave” for the limited reasons listed in Article 12.6.2. Attending protests is not an approved use of personal leave. Moreover, Section 12.6 requires that wherever possible, the teacher shall make a request for the leave in writing at least 24 hours in advance. As applied here, you failed to request the leave in writing in advance, and the apparent reason for the leave was not authorized, as outlined below. The contract specifically outlines that the District has the right to ask about the nature of the need for personal leave, if there is “reasonable doubt” about its use. Section 12.6.3 permits the District to deduct from salary any personal leave in excess of the nine days allotted.

D. February 6, 2015 Yvette Felarca Interview

50. February 6, 2015, you were interviewed about the absences noted above. You were interviewed in my presence and that of your attorney, Monica Smith.
51. You were asked if you were absent on November 19 and 20, 2014, and you stated you couldn’t recall. Once showed the absence certificates for those dates, you confirmed you were absent. You were asked why you submitted a doctor’s note for the optometrist appointment on November 19, but no medical verification for November 20. You claimed, “Nobody asked me.” When you were reminded that there had been a written directive issued to you to provide medical verifications for all illness related absences, in the form of the NUC/NUP, you offered a variety of vague, evasive and intentionally obtuse answers. You were asked repeatedly if you recalled that specific directive, to which you responded, “I recall a lot of directives.” You then said that you remembered that there were things you needed to do “for 90 days.” When told that the NUC/NUP was not just valid for 90 days, but was still in effect, you insisted that you thought you only needed to do those things for 90 days. After repeated questioning, you finally admitted that you recalled a directive to submit verification for medically-related absences. When asked why you didn’t provide verification for November 20th, you snidely responded that you had provided one for the 19th. Notably, the fact that you

provided verification for the 19th makes it apparent that you were well aware that you were supposed to submit verifications for medically-related absences.

52. When asked again why you did not provide verification for November 20th, you stated, "I can't recall." When asked if you were at a protest that date, you evasively responded, "I remember that I was sick." When asked again if you were at a protest related to UC tuition hikes, you took an excessively long pause and responded, "I don't remember."
53. When asked if you recalled ever going to protests related to UC tuition hikes, you failed to provide an answer. You were then asked if this was a cause you cared about. You evasively responded, "I care about a lot of causes." You were asked the question again, and you gave the same response. You finally admitted that you cared about that cause "and many causes."
54. When asked if going to a protest about UC tuition hikes was something you'd recall, you again stated, "I don't remember." When asked if you recalled that the UC Regents were voting on this issue in November (just two and a half months earlier) you said, "Maybe, I'm not sure." You denied any awareness that your vocal protests and presence had been documented in the media. You claimed you weren't aware of the YouTube videos. When showed a printout of the YouTube video with the caption, and asked if this refreshed your recollection that you were at the protests, you again evasively responded, "It's possible."
55. You continued to insist that you had no independent recollection of being at and speaking at these protests. This was despite the fact that you had taken two full days off of work to attend, had spoken during public comment, had a large bullhorn in your hand outside and spoke to a large group of students, and passionately and loudly advocated for your cause; and despite the fact that you clearly wanted the attention and media coverage. Your continued and repeated claims, frequently accompanied by long pauses and a smirk on your face, that you could not recall being there, were patently dishonest.
56. You were asked if you thought you had a bad memory. Initially you admitted that this was the case, but then you changed your answer to "maybe."
57. When asked if you were at the protests during work hours, you said, "I'm not sure." You admitted it was "possible" you were there. You then tried to change the subject by saying, "I remember I had eye problems in November." Even when confronted with the YouTube captions, you continued to insist that you were "not positive" that you had been there, even on one of the days. You would only say it was "possible." You were reminded that dishonesty was grounds for dismissal, and were asked if you wanted to change your answer. You refused to change your answer. You stated it was "possible" that you were at the protests both days, and "maybe" during work hours.

58. When asked how you were able to go to protests if you were too “sick” to go to work, you said, after long pauses, “‘Work is different.’ It is a different set of demands,” but failed to elaborate. You claimed, “I was having problems with my eyes. It is not easy...it is hard to be at work under those circumstances.” When asked how you were able to get to San Francisco, you stated, “I can’t recall.” You admitted, however, that it was possible that you drove. When asked how you got to the eye doctor appointment, you claimed, not credibly, that a friend took you. When asked for the friend’s name, you paused, smirked, and said, “I don’t remember.” You then said, “I’ll think about it and if I remember I’ll let you know.” Your responses were patently dishonest. It was apparent that driving yourself to an eye appointment would have made the problem (if there even was one) seem less serious, so you invented a “friend” who supposedly drove you, and then, contemplating who you might get to lie to say they went with you, said you’d let the District know who that was if you came up with a name.
59. You were then asked about your partial day absence on November 25, 2014, from 12:45 p.m. to 3:05 p.m. On your absence certificate you claimed that you were “ill” but did not submit any medical verification. When asked why you did not, you again stated, “Nobody asked for one,” and claimed you thought the previous directive had only covered 90 days. You admitted that you did not have any medical verification for this absence. When asked if you were at a protest that day, you said, “I don’t think so.” Notably, this was the day that the grand jury announced its decision in the Michael Brown case in Ferguson, and BAMN, your organization, has been active and vocal on that case.
60. You were then shown a photo of you at the UC fee hike protest on November 19th, and asked if that refreshed your recollection that you had been there. Only then did you finally admit that you actually had been there. When asked how many hours you had been there on that date, you said, “I don’t remember.”
61. When asked whether any of your other cohorts from BAMN were present, you evasively responded, “It’s possible,” but denied any specific recollection of who else specifically from your group was there. Your response was patently unbelievable.
62. When asked about your absence on December 10, 2014, you admitted that you have professional development scheduled every Wednesday from 2:30 p.m. to 4:30 p.m. When confronted with your absence certificate, you admitted leaving school that day. When asked if you had gone to a protest that day, you said, “Yes, it is possible.” You said you might have given the principal advance notification of your absence, but you had no specific recollection of having done so.
63. Overall, you were repeatedly and intentionally dishonest throughout the interview. It was obvious that you had openly and defiantly violated the previous directives not to abuse sick leave, and to provide medical verification of sick leave usage. It was obvious that you had repeatedly and knowingly violated those directives and

had utilized sick days, which are funded by the taxpayers and designed to be used only in cases of legitimate injury or illness, not to pay your salary while you participated in controversial political activities. These were precisely the same issues for which you had previously been disciplined and directed.

64. You are expected to be at work every day, and arrive and depart at designated hours, except where specifically excused under the collective bargaining agreement. You are clearly flouting those requirements, to the detriment of students, your co-workers, and the District's reputation. When you are absent, it creates disruption and a lack of continuity in the classroom, and student learning is negatively impacted. When you fraudulently abuse sick leave, it sends an appalling example to students and staff, and sets an unacceptable precedent. It also costs the District significant amounts of money, unless it is caught (in which case, as here, you will be docked). The District can ill afford to sacrifice taxpayer dollars, which should be used to fund student learning, to subsidize your own private political causes. Your blatant and open defiance, as well as dishonesty, is reprehensible, particularly given the obvious and clear directives given to you previously.

E. 2014 - 2015 Absences

65. Attached as **Exhibit K** are copies of records related to your absences for the fall of 2014 through the fall of 2015.
66. On December 9, 2014, you were absent for one full work day. You claimed "personal illness within allowed sick leave." Pursuant to Directive # 3 of the December 16, 2013 NUC/NUP, you were required to provide medical verification to support the reason for your absence. You failed to provide any such medical verification.
67. On December 10, 2014, you were absent from 3:30 to 4:30 p.m. You claimed "Personal business in excess of personal leave." Pursuant to Section 12.6.3 of the collective bargaining agreement, you were not entitled to be paid for this excess leave.
68. On January 7, 2015, you were absent for one full day, and claimed "Personal Illness within Allowed Sick Leave." You failed to provide any medical verification substantiating the need for the leave.
69. On January 14, 2015, you were absent for two hours. You checked "Personal Necessity" and wrote in "meeting with lawyer." Section 12.6.1 of the CBA provides: "Whenever possible, a request for this leave shall be made in writing to the immediate supervisor prior to taking the leave or in any event no later than 24 hours following the start of the personal leave." You never submitted anything in writing to Ms. Levenson indicating the need for two hours of leave to meet with a

lawyer. Presumably, such a meeting could have been scheduled outside of your regular duty hours and there would have been no need for you to take personal leave for this reason.

70. On January 20, 2015, you were absent for one full day. You checked the box “Personal Illness within Allowed Sick Leave.” You failed to provide any medical verification supporting the need for the leave.
71. On February 4 and February 5, 2015, you were absent. You checked the box for “Personal Necessity – Appearance in Court.” As noted above, you were required to notify your supervisor in writing, in advance for your need to take this leave, which you failed to do. To date, you have provided no proof that this was the actual reason you were absent.
72. On February 27, 2015, you were absent for one full day and claimed “Personal Illness within Allowed Sick Leave.” You submitted a medical verification from Kaiser.
73. On March 4, 2015, you were absent for one full day. You listed “Personal Business in Excess of Personal Leave” and were docked for one day of pay, as the absence was not authorized.
74. On April 13, 2015, you were advised in writing that you had taken leave in excess of your available personal leave (regarding the March 4 absence) and that you would be docked for one day of pay from your April pay warrant. You were advised that any absence certificates submitted to HR for accrued personal leave would be deducted from your pay warrant going forward.
75. On May 15, 2015, you were absent from 12:00 to 3:05 p.m. You claimed “Personal Illness within Allowed Sick Leave.” You submitted a doctor’s note from Kaiser to cover this absence.

F. Unauthorized Absences Fall 2015 and Dishonesty

76. On October 26, 2015 you sent Principal Janet Levenson an email requesting permission to take students to two separate events as field trips. The first event was on November 6, 2015. You wanted to take students to the “Immigration Court” in San Francisco to observe the asylum hearing for a local woman from Guatemala who was seeking asylum for herself and her four year old son. The second event was on November 9, 2015 at UC Berkeley. You described the event as a “Day of Education and Action to Defend Public Education for All, including increasing Black, Latino, and Native American student enrollment.” You noted in your email that “The relationship between citizenship and opportunity as it pertains to our UC system and understanding various types of admissions policies...are a vital [sic] for our students to understand as they develop into

future leaders.” You noted that the teachers could get parent chaperones and an eating and meal plan, but the logistics were not specified. (**Exhibit L**)

77. As you have previously made District officials aware, you are a member of “By Any Means Necessary” and are actively involved in that group’s political causes. A Google search for the name of the Guatemalan asylum seeker, Rosalinda Lorenzo Matias, makes it clear that this was a matter that you and BAMN were actively involved in. A YouTube video shows you giving a presentation advocating, as a BAMN member, for her asylum, and demanding asylum “for all Central American refugees.” Another article published by BAMN regarding this woman’s asylum efforts makes arguments that the “American political elite has sought to transform Latin America into a giant market for cheap labor” and “enacting policies that have driven millions to flee their homes.” The article goes on to argue that the “act of deporting refugees back to life –threatening conditions is itself a form of mass murder...the only humane and democratic policy is an open border and the right to asylum.” (**Exhibit M**) As can be seen on the YouTube video, the attorney for the asylum seeker happens to be your attorney as well – Shanta Driver.
78. It is clear that your request to take these students to witness the asylum seeker’s hearing was misleading and in clear violation of the previous directives that you had been given not to try to indoctrinate your students into your political viewpoints. The position taken by you and BAMN that U.S. borders should be entirely open is a very radical and controversial idea that many students and parents would not support. There was no way that this field trip was going to be an opportunity for students to learn about or openly and freely discuss the various political positions on immigration, asylum, and other related issues. Rather, it was going to be an opportunity for you to indoctrinate students into your way of thinking, and to use the students as a form of “protest” to lobby in in favor of this woman’s asylum application. Your failure to disclose your involvement in this political/ legal matter, your failure to disclose your motivations, and your effort to misuse your power and influence as a teacher are reprehensible and in clear violation of the directives that had previously been given.
79. With respect to the field trip for the “Day of Action” at UC Berkeley, **Exhibit N** shows all of the events sponsored by U.C. Berkeley on November 9, 2015. The event you list is not mentioned as a U.C. sponsored event. It was also evident from your email that, as in the past, you wanted to take students to a protest supporting affirmative action in order to indoctrinate students and use them as part of your own political agenda. As noted above, this is reprehensible and in violation of clear past directives.
80. On October 28, 2015 you were absent for 1 hour and 30 minutes. There was a staff meeting that day, and you left early. On October 30, 2015, you submitted an absence certificate indicating: “Concern family emergency.” (As outlined below,

there was no family emergency and it is evident that you left early that day to prepare for a board meeting at Oakland Unified School District.”(Exhibit O)

81. Later that day, at 5:10 p.m., while you were supposedly dealing with a “family emergency”, you sent an email to Ms. Levenson that read: “Hi Janet, I forgot that Nov. 6 is a staff development day, so I’m only requesting a field trip for Mon. November 9 to UCB.” (Exhibit P)

82. On October 28, 2015, you and a group of protestors went to a board meeting at Oakland Unified School District, which was scheduled to begin at 6:00 p.m. During the “public comment” portion of the meeting, which occurred toward the beginning of the meeting, you got up to speak. You were given two minutes to speak. You spoke loudly and passionately about proposed changes that the school district was planning to make with respect to “full inclusion” of special education students. You accused district leadership of trying to “destroy and attack” what you described as one of the most important and successful programs in the district. You claimed that charter schools could not provide quality programs for special education students, and that the principles of “full inclusion” would mean that students would receive, in effect, “no real services.” You then spoke in support of a teacher named Angela Dancev, a substitute teacher you claimed had been terminated in retaliation for speaking out at a previous board meeting and accused the district of imposing “Jim Crow” conditions for some students. You shouted that you and your group were opposed to Superintendent Antwan Wilson’s efforts to fire, intimidate, bully and censor teachers. You yelled that this was “discrimination” and that he was part of the “new Jim Crow” and was an “Uncle Tom.” You were notified that your time had expired, and you stopped speaking. Another public speaker, who was Black, came up to the podium and announced that he was there to talk about his support for a job fair, but felt he had to respond your offensive remarks. He noted that leadership is “not about figuring out which way the wind is blowing” and “you white folks need to quit coming here and talking about the new Jim Crow...” Fellow protestor Adarene Hoag said something in response and got up to challenge him, at which point he said, “Sit your ass down! I got the floor!” Board members asked you and fellow protestors to be seated and respect the speaker’s right to address them. You and your fellow protestors then began chanting and marching.

83. A group of police officers immediately approached you and your group and repeatedly asked you to leave, which you refused to do. You and your fellow protestors were chanting, “Hey hey, ho ho, Antwan Wilson has to go!” The Board members were then forced to leave the dais and recessed the meeting because your disruptive behavior was preventing any meaningful business from being conducted. You refused to respect repeated instructions from board members and police to halt the disruption. The school board president, James Harris, finally asked police to have you removed.

84. You were then arrested. A copy of the police report is attached as **Exhibit Q**. You were cited with violation of Penal Code Section 403 (Disturbance/Etc. at assembly); Penal Code section 415.5(A)(2) (loud/unreasonable notice within university/school etc.); and Penal Code 626.6(A) (nonstudent refusing to leave campus). You and two other protestors were transported to Santa Rita Jail.
85. AESOP records indicate that on October 28 at 9:59 p.m. you used the internet to log in and registered that you would be sick the following day, October 29, 2015. **Exhibit R**.
86. A copy of a "Change.Org" petition is attached hereto as **Exhibit S**. The document asks people to sign the petition to "demand" that no charges be brought against you and your fellow protestors, and to demand the re-hire of the substitute teacher who was let go. The Petition accuses the Oakland Superintendent, Antwan Wilson, of running the district like a "dictator" and claimed that you were arrested for "speaking out in defense of special education students." (In fact, your speaking time was up and you were arrested for interrupting another speaker and refusing to stop disrupting the meeting).
87. A copy of the minutes from the Oakland board meeting listing the speakers who were with you is attached as **Exhibit T**.
88. On October 29, 2015, you were absent from school. You submitted an absence certificate indicating "Personal Illness." (**Exhibit U**) You submitted medical verification from Kaiser indicating that you had "telephone treatment" at 2:40 p.m. that day.
89. At approximately the same time you were receiving telephone treatment from Kaiser, you sent an email to Ms. Levenson indicating: "Janet, I left the staff meeting at 3 pm to take care of a family health concern." (**Exhibit V**)
90. Also on October 29, 2015, Ms. Levenson sent you an email advising that she needed to know more about your "objectives" for taking students on a field trip to UC Berkeley. She inquired: "What is the goal in taking middle schoolers to such an event...What grade level standards does it address and how does it tie into the 7th grade curriculum? You may very well have parents who do not want their students to go. I share the politics but have concerns about whether a BAMN event is most appropriate for middle school students. I need to be convinced." (**Exhibit W**)
91. Following your arrest, the Department of Justice sent a "subsequent arrest notification" to the District informing them of your arrest. (**Exhibit X**)
92. On October 30, 2015, you sent Ms. Levenson an email responding to her request for additional information as to how the field trip request for UC Berkeley was

appropriate. Your email indicated that the event “will be centered on the past and living history of movements to open up college and university education to the state’s majority minority students, and how policies that protect the civil rights of students from oppressed minority groups have benefitted students and communities of all races by making public education a right for all....” You noted that in your classroom you discuss “the ways that social inequality in society creates obstacles to equal opportunity for black and Latina/o students who deserve an equal right to attend the best universities and educational institutions.” You went on to note that the trip would provide students with a “form of agency and leadership development by participating in efforts to equalize the playing field today and advocate for historically oppressed communities to gain equal access to higher education...” You provided an itinerary for the day, which would involve taking public transportation to UC Berkeley, noted that students whose parents would not let them come would have a “substitute teacher” and outlined how you believed the trip fit into the curriculum and the District’s mission. **(Exhibit Y)** It was clear from your email that your goal was to encourage students to advocate for a cause that you wanted to advocate for. Your email demonstrated no appreciation for the fact that this was a controversial political position that not all students or parents would support.

93. On November 2, 2015, Ms. Levenson sent you an email advising that she was not approving the field trip you proposed for November 9, 2015. **(Exhibit Z)**
94. On November 8, 2015, at 3:56 p.m., you entered into AESOP that you would be absent the following day to meet with a lawyer.
95. Despite the fact that you were denied permission for the November 9, 2015 field trip, you were absent that day. According to a televised report on Channel 7 ABC News, you were at U.C. Berkeley that day and were interviewed. You and your supporters were advocating that U.C. Berkeley admit the top 10% of minority students.
96. On November 10, 2015, you submitted an absence certificate claiming “personal leave” and noted “lawyer” as the need for the leave. Under the Collective Bargaining Agreement between The Berkeley Unified School District and The Federation of Teachers, Article 12.6.1, “...Whenever possible, a request for this leave shall be made in writing to the immediate supervisor prior to taking the leave or in any event no later than twenty-four (24) hours following the start of the personal leave...,” you could have and should have requested advance permission for personal leave for such a reason, but you failed to do so. Moreover, there was no pressing emergency to meet with your lawyer, let alone miss an entire day of school. In fact, you were not meeting with your lawyer; you were at a protest at U.C. Berkeley. **(Exhibit AA)**
97. An article from November 21, 2015, published in the Oakland Tribune and related newspapers, regarding you and your group attacks on the Oakland

Superintendent's actions with respect to special education programs. The article addresses your use of the terms "New Jim Crow" and "Uncle Tom" and how offensive that was found to be by primarily African American leaders, including the leader of the local chapter of the NAACP, and Oakland's black superintendent. Your actions were referred to as a "total embarrassment" as well as "rude" and "disrespectful." (**Exhibit BB**)

G. Interview November 20, 2015

98. On November 20, 2015, you were interviewed in my presence and that of your attorney, Monica Smith.
99. When asked about the circumstances of your leaving early on October 28, 2015, you took a very long pause and didn't answer the question. You were then reminded that you had claimed "family emergency" on your absence certificate and asked if there had been such an emergency. After a very long pause you finally said, "As I sit here today I cannot recall the family emergency." You were asked if your absence was in the morning or the afternoon. You again took a very long pause, and you finally said you couldn't recall. When asked if you let anybody know in advance about your reason to leave, you said you "think" you told the principal. You said you couldn't recall if it was via voice mail, email or in person. When asked what you would have said, you said, "I would have told her there was a family emergency." When asked about securing a substitute for your absence, you recalled that it was a staff meeting that you missed, and that your absence was in the afternoon. Overall, your responses were not entirely credible. You knew that this was the day you were arrested and that you had left to go to the Oakland board meeting.
100. When asked about your absence on November 29, 2015, you were similarly evasive and non-responsive. You took long pauses and were writing on a paper tablet. When asked if you recalled claiming personal illness that day, you said, "I can't recall." When showed your absence certificate you admitted that was what you claimed. When asked if you saw a doctor that day, you said, "I don't remember."
101. When asked if you were arrested on October 28, 2015, you said, "yeah." You were asked where. You said, "I was in Oakland." When asked, "Where in Oakland?" you took a very long pause and said, "I was at a school board meeting." You were asked when the meeting started, and you said, "I don't recall." You were asked approximately when it started, and when you got there. You wouldn't answer. You were asked if it was in the morning (which of course, you knew was not the case). You smirked. You were asked if you went straight from your school to the school board meeting. You responded, "I don't remember." You were asked why you went to an Oakland school board meeting. After a long pause, you said, "I don't recall." Of course, given the publicity on your BAMN website, the Change.org website, and the passion with which you

spoke at the meeting, it was evident that you clearly remembered why you were there and you were being deliberately evasive and dishonest in your responses.

102. When pressed about the reason why you were at the board meeting and for which "cause" it related to, you said, slowly and defiantly, "There could be so many reasons...." You were reminded that you were arrested because of this particular cause, and you had to recall the cause. You said, "There are so many causes. I spoke at almost every school board meeting in Oakland." You were reminded that it was not believable that you wouldn't remember the cause, and the District was well aware that you were arrested because of whatever had occurred. You asked how, and you were advised that the District receives notice anytime a teacher is arrested. You seemed surprised and sarcastically stated, "I need to write that down...."
103. You were pressed for further information about your arrest and asked what happened to lead to your arrest. You sarcastically and slowly said, "That's a good question." You finally admitted that you were speaking at the podium. You said you could not recall how long you spoke or how many people were present at the meeting. You admitted you were there with other people. You were asked for their names. You said Tylon Hung, Tanya Kappner, and Mark Airgood. When asked how you knew these people, you gave very evasive and meaningless responses, like, "Through speaking at school board meetings." You were pressed for further details about the topic of your presentation, and you finally admitted that it had to do with changes to the special education program, including the mainstreaming of special education students. Given the volume of your knowledge and the passion with which you spoke at the meeting, it was evident that you were being intentionally disruptive, defiant and evasive with your responses to this line of questioning.
104. When asked what you did to prompt your arrest, you insisted you didn't know. You claimed you did not know what the charges were. The charges were read to you. You denied any verbal altercation, which clearly was not true, given that the African American man who you interrupted told you and your fellow protestors to "sit your ass down!" when you tried to interrupt him.
105. You were asked if you were rowdy during the meeting. You said were not. You were asked if you disturbed the board meeting. You said you didn't do anything that others might interpret as disturbing the meeting. You claimed you had no recollection about the chronology of your speaking time, how long you spoke etc. You admitted the location of the meeting at La Escuelita Elementary School. You said you "couldn't recall" being asked to leave. When asked whether your associates were arrested as well, you claimed you "couldn't recall." Given that two of your associates were arrested along with you, your claims were patently not credible.

106. When asked if the police said anything to you prior to the arrest, or if the arresting officer was male or female, you said you "couldn't recall." Given that you were chanting "Hey hey, ho ho, Antwan Wilson has got to go" for approximately 15 minutes, and were repeatedly asked to leave and stop being disruptive, your response was patently dishonest.
107. When asked if you did anything to disturb the board meeting, you said, "I spoke." When pressed again, you said, "I think that is a political question. I think that is up for interpretation – whether I disturbed the board meeting."
108. When asked what occurred after your arrest, you were similarly vague and evasive. You said, "It is hard to remember...." You admitted you were put in a squad car. When asked where you were taken, you said, "I don't know where I was taken." When asked where you were when you exited the car, you said, "I was at Santa Rita Jail." You claimed you had no idea what time it was, but admitted it was "dark." You admitted you were put in a room and made to wait for probably more than two hours. When asked if your associates from the meeting were with you in the room, you wouldn't respond. When asked if you were there alone, you said, "I can't remember." Your answers were patently evasive and dishonest. When asked about a mug shot and fingerprinting, you said, "I'm still trying to remember" and took long pauses. When the question was repeated, you ultimately would not answer, other than saying, "possibly." When asked if you were using any sort of substance or medication that was impairing your memory, you said, "I don't drink. I don't smoke." Then you laughed, and said, "I don't know if I could have taken anything." You finally admitted that you "thought" they took your fingerprints.
109. You claimed you didn't know if they gave you any paperwork. You said you "didn't know" if you had any court dates coming up. You admitted you had a criminal lawyer (Shanta Driver) who was helping you with the criminal case. You claimed you "didn't know" the status of the criminal charges.
110. When asked how you got home from Santa Rita Jail, you claimed you couldn't remember. This was not credible. When asked when you got home, and if you spent the entire night in jail, you said you couldn't recall. You admitted you did not go to work the next day. When asked why not, you said, "I was sick." When asked if you saw a doctor that day, you said you could not recall. When confronted with your medical note, you claimed you couldn't recall if you saw a doctor or just talked to somebody over the phone. Again, your responses were evasive and dishonest.
111. Regarding your absence on November 9, 2015, you admitted you were absent. When asked if you took personal leave that day, you paused, then said, "I'm trying to remember." You said you met with your lawyer that day. When asked if you told anybody in advance that you were taking the day off, you said you didn't remember. When asked why you took the entire day off, and how long you met

with the lawyer, you said you didn't remember how long you met with your attorney, Shanta Driver. When asked if you were at a protest that day, you paused and said, "I'm trying to remember." You were asked, "Wasn't there a big day of action at UC Berkeley that day?" You took a long pause and said, "Yes."

112. You finally admitted that you were at a protest at UC Berkeley that day. You claimed you couldn't recall how long you were there or whether you were there all day. When asked if your lawyer was there as well you said, "maybe." You insisted you could not recall if she was there. When asked if any of your political associates were there as well, who may have seen you, you said, "I need to think about that."
113. When asked if you had been interviewed by a news team, you said you couldn't recall.
114. When you were asked what you were advocating for, you evasively responded, "A lot of things." You were asked to name the main issue, and you admitted it was "to increase black and Latino student enrollment." You admitted that you had asked Ms. Levenson for permission to take students to the event. You admitted she had said no. You admitted that the purpose was to take a field trip. You said you teach English Language Development and a 7th period Humanities class. You stated you had asked in advance to take the students on a field trip, and the plan was to get parent permission slips and use AC Transit to get to the campus. When asked what you would have done if students had been there, i.e. spoken out in support of your cause, you said, "I don't know if I would have spoken if kids had been there. I'm a teacher so I speak." When asked to reflect on whether it would have come across as trying to indoctrinate your students, you stated that advocating to increase black and Latino enrollment was not indoctrination. Your statement indicated a lack of appreciation for the fact that affirmative action continues to be a controversial and debatable issue. In response, you stated that students with parents who allowed them to go would be the ones going, and hence, this was not indoctrination. You said you could not understand how students who would not be going might feel excluded or marginalized. When asked if you had ever spoken to your students about this particular cause, you stated that you didn't remember, and "I talk to my students about a lot of things." You stated that you talk to them about current events. When asked if you would present the other side of the argument on affirmative action, you smirked and said, "Of course." As an English and Humanities teacher, it is imperative that you encourage critical thinking skills with your students and encourage them to see issues from all sides, and that they feel free to express opinions and ideas that may not be your own. It was evident from your responses that the goal of this field trip was to both indoctrinate your students, as well as use them as pawns in your own personal cause. It was also evident that you did not even understand that there was another perspective on this issue, and that you would not have been able to present the topic in a neutral and unbiased fashion. Your claim to the contrary was sarcastic and dishonest.

H. Applicable Laws, Regulations and Policies

115. Education Code section 233.5, subdivision (a) provides: “Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism and a true comprehension of the rights, duties and dignity of American citizenship, and the meaning of equality and human dignity, including the promotion of harmonious relations . . . , to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government.” Abusing sick leave in violation of clear contract language and previous directives, and then repeatedly lying about your actions during your interview, were contrary to this statute. In addition, trying to indoctrinate students and use them as puppet protestors to support your causes was also in violation of this provision.
116. Education Code section 44805 provides in relevant part that “every teacher in the public schools shall enforce the course of study...and the rules and regulations prescribed for schools.” As noted above, you violated the clear contractual language governing sick leave and behaved in a dishonest and insubordinate manner.
117. A copy of Article 12 of the BFT collective bargaining agreement, governing leaves, is attached hereto as **Exhibit 1 to Tab A**. Section 12.2.6 provides that sick leave is to “be used for personal illness, including quarantine, disability and necessary appointments for health treatment.” Section 12.6 governs personal leave. Section 12.6.1 provides that a teacher may use up to a maximum of nine (9) days of accumulated sick leave annually “in cases of personal necessity listed in Section 12.6.2 below. Whenever possible, a request for this leave shall be made in writing to the immediate supervisor prior to taking the leave or in any event no later than 24 hours following the start of the personal leave. A teacher may be required to further substantiate the need for such leave.” As noted above, you misused sick leave and other leaves to attend protests, which is impermissible.
118. Section 12.6.2 includes a list of the authorized uses of personal leave, such as “appointments to see a lawyer; wedding in the family; religious observance; to attend professional conferences; emergencies; death of a member of the teacher’s immediate family; serious or critical illness of a member of the immediate family; appearance in court as a litigant; an occurrence of an accident involving the teacher’s person or property or the person or property of a member of the immediate family; in the case of death of a member of the teacher’s immediate family, such leave may be in addition to normal bereavement leave.” The provision goes on to state: “It is understood that Personal Leave is for instances of personal need, not for recreational purposes, vacation, travel, or that which is related to activity for which the teacher may receive additional remuneration. The District may request the reason for Personal Leave days if there is reasonable doubt regarding this use.” As noted above, you abused this leave as well

119. Board Policy 6144 (Controversial Issues) (**Exhibit 17 to Tab A**) provides in relevant part that: “The study of a controversial issue should help students learn how to gather and organize pertinent facts, discriminate between fact and fiction, draw intelligent conclusions and respect the opinions of others.” It also provides that the policy on controversial issues “is hereby stated by the Board in order to... ensure youth a well-balanced education. ...Teachers should not spend class time on any topic which ...is not...related to the established course of study...The Board also expects teachers to ensure that all sides of a controversial issue are impartially presented...[Without] promoting any political ...social...point of view....The teacher may not use his/her position to forward his/her own...bias. The teacher may express a personal opinion if he/she identified it as such and does not express the opinion for the purpose of persuading students to his/her point of view...” Based on your efforts to bring students to BAMN events, and your apparent unwillingness to recognize alternative viewpoints on controversial issues, there is concern that you are not presenting a sufficiently balanced view during class time presenting controversial issues, in violation of the District policy, and contrary to the clear and specific directives that you have been given in the past.
120. Board Policy 5145.2 (Freedom of Speech/expression) (**Exhibit 19 to Tab A**) provides that free inquiry and exchange of ideas are essential parts of a democratic education. The policy provides that the Board respects students’ rights to express their own ideas and opinions and take stands on issues and causes. Based on your attempt to take your students to two BAMN events, and your failure to recognize alternative viewpoints, there is concern that you are not respecting all students’ opinions and backgrounds, and are using your classroom and other media as a soapbox to advance your personal agendas.
121. Article 21, Section 2 of the BFT contract provides: “Teachers agree not to exploit their professional relationship with their students or knowingly permit any commercial or political exploitation of their students.” (**Exhibit 20 to Tab A**) You have been attempting to exploit your authority and power as a teacher in an effort to lobby support for you from students in violation of the agreement.

I. Directives

122. To overcome your deficiencies noted above, you are hereby directed to do or comply with the following directives immediately:
123. You are to use AESOP as soon as possible to communicate all absences. You are to ensure that thorough and proper lesson plans are in your classroom or emailed to the substitute in advance of your absence. Following your absence, you are to complete the absence certificates promptly and accurately in accordance with District/school policies stated above.

124. You are not to use personal leave for any reasons not authorized in the collective bargaining agreement. Specifically, you may not take such leave for recreational or political activities. If you need personal leave, you must comply with the terms of the collective bargaining agreement, including advance notification. You are never to claim sick leave if you are not actually sick or injured.
125. Based on your past history of abuse of leave, in the future you must provide a statement from a licensed medical practitioner justifying any use of paid sick leave, pursuant to Section 12.17.1 of the collective bargaining agreement.
126. Under no circumstances may you or anyone else acting on your behalf use class time, District resources (including classrooms, technology or other District property) to try to influence or manipulate or indoctrinate students for your own political causes.
127. Under no circumstances may you try to present material to students in a biased and one-sided manner in order to try to influence or indoctrinate students into a particular way of thinking about any subject.
128. You are to treat all students equally regardless of their ethnicity, socio-economic background, or other membership in a protected classification. You are to abide by the District's policies on non-discrimination and must refrain from making disparaging statements that directly or indirectly disparage students based on their membership in a protected classification.
129. You are not to lie or engage in any type of dishonesty when speaking to District personnel. You are not to speak to any District administrator in a defiant, rude or insubordinate tone. When asked a question relevant to District business, you are to answer the question and cooperate with the District's goals in conducting District-related investigations. You may not refuse to answer questions or otherwise act in a defiant, insubordinate manner to try to bully or manipulate District officials.
130. You are not to use the District's computers, email system, or District time to send out emails that are not related to District business, and which do not support the District's mission. Specifically, you are not to do so in a manner that undermines or is designed to undermine the District administration in any way.

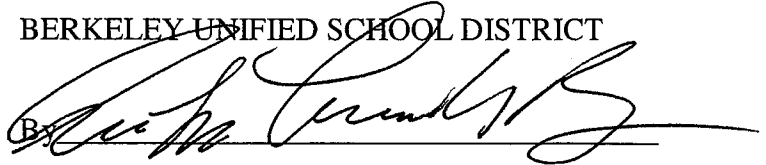
These directives are in effect immediately and shall continue to be in force indefinitely.

It is evident that the previously issued Notice of Unsatisfactory Performance and Unprofessional Conduct has been insufficient to correct the deficiencies noted therein. You were given explicit directives regarding expectations for the future, and you have repeatedly and deliberately violated those directives. You have been repeatedly and openly defiant and dishonest, and have displayed an utter lack of remorse for any of your misconduct.

The District will dock from your pay due to your failure to comply with the provisions for paid leave under the CBA. Pursuant to Education Code section 44031, also attached, you have the right to respond in writing to this notice and to have your response included in your personnel file. A copy of this notice will be placed in your personnel file thirty (30) working days from the date of its issuance. You are entitled to respond to this notice in writing within thirty (30) working days, and such response will be attached to this notice and made part of your file. **(Exhibit CC)**

DATED: June 30, 2016

BERKELEY UNIFIED SCHOOL DISTRICT

A handwritten signature in black ink, appearing to read 'Evelyn Tamondong-Bradley', is written over a horizontal line.

Evelyn Tamondong-Bradley
Director, Personnel Services

Copy to: Personnel File
Cathy Campbell, President, BFT
Janet Levenson, Principal, King Middle School

Enclosures: Education Code sections 44031, 44932 and 44938
Exhibits A through CC