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THE BOARD OF EDUCATION OF  
THE LOS ANGELES UNIFIED SCHOOL DISTRICT

IN THE MATTER OF THE DISMISSAL OF ) ACCUSATION AND STATEMENT OF  
MARK BERNDT (EN 260261), A ) CHARGES  
PERMANENT CERTIFICATED )  
EMPLOYEE )

The undersigned herewith files the following Accusation and Statement of Charges (hereinafter "Accusation") against MARK BERNDT (hereinafter "BERNDT"), a permanent certificated employee of the Los Angeles Unified School District (hereinafter "LAUSD" or the "District") and asks for his dismissal for the following causes as specified in Sections 44932 and 44939 of the California Education Code:

CAUSES

1. Unprofessional conduct. (Cal. Ed. Code Section 44932(a)(1).)
2. Immoral conduct. (Cal. Ed. Code Sections 44932(a)(1) and 44939.)
3. Evident unfitness for service. (Cal. Ed. Code Section 44932(a)(5).)

CHARGES

The foregoing causes for dismissal are stated by reason of the following charges:

///


- 1 1. During the 2009-2010 and 2010-2011 school years, Mr. Mark Berndt, third grade  
2 teacher at Miramonte Elementary School, exhibited poor judgment,  
3 unprofessional and immoral conduct when he caused several students to be  
4 blindfolded.
- 5 2. During the 2009-2010 and 2010-2011 school years, BERNDT exhibited poor  
6 judgment, unprofessional and immoral conduct when he allowed himself to be  
7 blindfolded.
- 8 3. During the 2009-2010 and 2010-2011 school years, BERNDT exhibited poor  
9 judgment, unprofessional and immoral conduct when he caused several students  
10 to have tape placed over their mouths.
- 11 4. During the 2009-2010 and 2010-2011 school years, BERNDT exhibited poor  
12 judgment, unprofessional and immoral conduct when he allowed himself to have  
13 tape placed over his mouth.
- 14 5. During the 2009-2010 and 2010-2011 school years, BERNDT exhibited poor  
15 judgment, unprofessional and immoral conduct when he caused several students  
16 to be feed with a spoon containing an unknown cloudy-colored liquid substance.
- 17 6. During the 2009-2010 and 2010-2011 school years, BERNDT exhibited poor  
18 judgment, unprofessional and immoral conduct when he caused several students  
19 to eat cookies with an unknown cloudy-colored liquid substance on them.
- 20 7. During the 2009-2010 and 2010-2011 school years, BERNDT exhibited poor  
21 judgment, unprofessional and immoral conduct when he touched several students  
22 by placing his arm around them.

23 WHEREFORE, under the provisions of Education Code Section 44934, the undersigned  
24 asks that the Board of Education give notice to BERNDT of its intention to dismiss him at the  
25 expiration of thirty (30) days from the date of service of this notice, and that he be dismissed at

1 the expiration of those thirty (30) days unless he demands a hearing as provided under Education  
 2 Code Section 44937, and that the Board attach to this notice, under Education Code Section  
 3 44936, a copy of these charges together with a copy of Sections 44930 through 44988 of the  
 4 Education Code, and copies of Government Code Sections 11570.5, 11507.6, and 11507.7.

5 The undersigned also asks that, if BERNDT does demand such hearing as thus provided,  
 6 the Board schedule a hearing under the applicable statutory provisions.  
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 10 Dated: February 7, 2011

  
 Vivian K. Eshian  
 Chief Human Resources Officer

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1 DAVID HOLMQUIST, General Counsel, SBN 179872  
 2 DIANE H. PAPPAS, Associate General Counsel II SBN 102855  
 3 MY T. HUYNH, Assistant General Counsel SBN 199460  
 4 LOS ANGELES UNIFIED SCHOOL DISTRICT  
 5 OFFICE OF GENERAL COUNSEL  
 6 333 S. Beaudry Avenue, 20<sup>th</sup> Floor  
 7 Los Angeles, CA 90017  
 8 Telephone: (213) 241-7600  
 9 Facsimile: (213) 241-3311

6 Attorneys for Complainant  
 7 Los Angeles Unified School District

8 **BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS**  
 9 **OF THE STATE OF CALIFORNIA AND**  
 10 **THE COMMISSION ON PROFESSIONAL COMPETENCE**

12 IN THE MATTER OF THE DISMISSAL ) CASE NO.: 2011020862  
 13 OF MARK BERNDT (EN 260261), )  
 14 A PERMANENT CERTIFICATED ) ACCUSATION AND STATEMENT OF  
 15 EMPLOYEE ) CHARGES  
 16 )  
 17 )

18 The undersigned herewith files the following Accusation and Statement of Charges  
 19 (hereinafter "Accusation") against Mark Berndt, a permanent certificated employee of the Los  
 20 Angeles Unified School District (hereinafter "LAUSD" or "the District") and asks for his  
 21 immediate suspension and dismissal for the following causes as specified in Sections 44932 and  
 22 44939 of the California Education Code:

23 **CAUSES**

- 24 1. Unprofessional conduct. (Cal. Ed. Code Section 44932(a)(1).)
- 25 2. Immoral conduct. (Cal. Ed. Code Sections 44932(a)(1) and 44939.)
- 26 3. Evident unfitness for service. (Cal. Ed. Code Section 44932(a)(5).)

27 **CHARGES**

28 The foregoing causes for dismissal exist by reason of the following charges:

1           1.     During the 2009-2010 and 2010-2011 school years, Mr. Mark Berndt, third grade  
2 teacher at Miramonte Elementary School, exhibited poor judgment, unprofessional and immoral  
3 conduct when he caused several students to be blindfolded.

4           2.     During the 2009-2010 and 2010-2011 school years, Berndt exhibited poor  
5 judgment, unprofessional and immoral conduct when he allowed himself to be blindfolded.

6           3.     During the 2009-2010 and 2010-2011 school years, Berndt exhibited poor  
7 judgment, unprofessional and immoral conduct when he caused several students to have tape  
8 placed over their mouths.

9           4.     During the 2009-2010 and 2010-2011 school years, Berndt exhibited poor  
10 judgment, unprofessional and immoral conduct when he allowed himself to have tape placed  
11 over his mouth.

12           5.     During the 2009-2010 and 2010-2011 school years, Berndt exhibited poor  
13 judgment, unprofessional and immoral conduct when he caused several students to be feed with  
14 a spoon containing an unknown cloudy-colored liquid substance.

15           6.     During the 2009-2010 and 2010-2011 school years, Berndt exhibited poor  
16 judgment, unprofessional and immoral conduct when he caused several students to eat cookies  
17 with an unknown cloudy-colored liquid substance on them.

18           7.     During the 2009-2010 and 2010-2011 school years, Berndt exhibited poor  
19 judgment, unprofessional and immoral conduct when he touched several students by placing his  
20 arm around them.

21           The above charges demonstrate separately and, in any combination, Mr. Berndt's  
22 immoral conduct, unprofessional conduct, evident unfitness for service, and support his dismissal  
23 from the District.

24           Unless a written request for a hearing signed by or on behalf of Respondent is delivered  
25 or mailed to the District within fifteen (15) days after the accusation is personally served on or  
26

1 mailed to Respondent, the District may proceed upon the accusation without a hearing. The  
2 request for a hearing may be made by delivering or mailing the enclosed Notice of Defense, or  
3 by delivering or mailing a Notice of Defense as provided by Section 11506 of the Government  
4 code to the Board of Education of the District, 333 South Beaudry Avenue, 24<sup>th</sup> Floor, Los  
5 Angeles, California 90017.

6  
7 Respondent may, but need not, be represented by counsel at any time or at all states of  
8 these proceedings. If Respondent desires the names and addresses of witnesses or an opportunity  
9 to inspect and copy the items mentioned in Section 11507.6 of the Government Code in the  
10 possession, custody or control of the District, he may contact My Huynh, Esq., Los Angeles  
11 Unified School District, Office of General Counsel, 333 S. Beaudry Avenue, 20<sup>th</sup> Floor, Los  
12 Angeles, California, 90017. The information shall be made available only if such request is  
13 made within thirty (30) days after service of this accusation.

14  
15 The hearing may be postponed for good cause. If the Respondent has good cause, he is  
16 obligated to notify the District, or if an administrative law judge has been assigned to the  
17 hearing, the Office of Administrative Hearings, within ten (10) days after discovering the good  
18 cause. Failure to give notice within ten (10) working days will deprive Respondent of a  
19 postponement. A copy of Sections 44930-44988 of the Education Code and copies of  
20 Government Code Sections 11507.5, 11507.6, and 11507.7 are attached hereto as Exhibit "A"  
21 and incorporated herein by this reference.

22  
23 WHEREFORE, the Board of Education of the Los Angeles Unified School District  
24 respectfully requests a decision as follows:

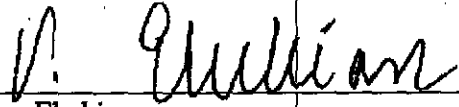
- 25 1. That the charges contained in the Accusation and Statement of Charges are  
26 sustained by the evidence and related to the causes herein enumerated;
- 27 2. That Mark Berndt be dismissed from employment as a permanent certificated  
28 employee of the Los Angeles Unified School District; and

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3. Such other and further relief as the Commission on Professional Competence  
deems just and proper.

Dated: March 15, 2011

Respectfully Submitted,



Vivian Ekchian  
Chief Human Resources Officer  
Los Angeles Unified School District