

# Trygstad, Schwab & Trygstad

A LAW CORPORATION

1880 Century Park East • Suite 1104 • Los Angeles, California 90067-1600  
 Telephone (310) 552-0500 • Facsimile (310) 552-1306

Author's E-Mail: lkac@trygstadlawoffice.com

March 3, 2011

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Board Secretariat  
 Los Angeles Unified School District  
 333 S. Beaudry Ave., 24<sup>th</sup> Floor  
 Los Angeles, CA 90017

Re: Demand for Hearing  
 Employee: Mark Berndt

Dear Board Secretariat:

Pursuant to Education Code Sections 44937, 44938 and 44939, Mr. Mark Berndt hereby objects to the Notice of Board of Education Intention to Dismiss and Placement on Immediate Unpaid Suspension he was served with on February 17, 2011.

Pursuant to Title 2, Division 3, Part 25, Chapter 4, Article 3 of the Education Code of the State of California, this is to demand, on behalf of Mr. Mark Berndt, a hearing on the charges which have been filed against him as a permanent teacher of the Los Angeles Unified School District.

Furthermore, pursuant to Section 44943 of the Education Code, I request that the Board of Education of the Los Angeles Unified School District rescind its Resolution dismissing his employment with the Los Angeles Unified School District.

I further wish to advise you that I am representing Mr. Berndt. My office's contact details are as follows:

Lillian Kac, Esq.  
 Trygstad, Schwab & Trygstad  
 1880 Century Park East, Suite 1104  
 Los Angeles, California 90067  
 Tel. (310) 552-0500  
 Fax. (310) 552-1306

Accordingly, please direct all further communications to this office.

LAUSD

2011 MAR -7 PM 1:48

LAUSD  
 File No. 30546 001  
 SECRETARIAT

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Board Secretariat  
March 3, 2011  
Page 2

Additionally, please acknowledge receipt of this Demand by completing the statement attached to this letter and returning it to me forthwith.

Thank you for your anticipated cooperation.

Very truly yours,

TRYGSTAD, SCHWAB & TRYGSTAD



Lillian Kae

LK:rv

cc: Mr. Mark Berndt

I, \_\_\_\_\_, acknowledge that I received this Demand for Hearing from the above named individual this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Signature

Title

RECEIVED  
MAR 16 2011  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

1 Lillian Kae (Bar No. 261239)  
2 Trygstad, Schwab & Trygstad  
3 1880 Century Park East, Suite 1104  
4 Los Angeles, California 90067-1600  
5 Telephone: (310) 552-0500  
6 Facsimile: (310) 552-1306

7 Attorney for Respondent  
8 MARK BERNDT

9  
10 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
11 AND THE  
12 COMMISSION ON PROFESSIONAL COMPETENCE

13 In The Matter of the Dismissal of,  
14 MARK BERNDT (EN: 260261), a  
15 permanent certified employee,  
16 Respondent.

OAH Case No. 2011020862  
NOTICE OF DEFENSE

17  
18 I, the undersigned, on behalf of Respondent Mark Berndt, named in the above entitled  
19 proceeding, hereby constitute that this shall be Respondent's Notice of Defense.

20 On behalf of the respondent, I request a hearing.

21 Respondent's mailing address is:

22 Lillian Kae, Esq.  
23 Trygstad, Schwab & Trygstad  
24 1880 Century Park East, Suite 1104  
25 Los Angeles, CA 90067

26 (a) Under Government Code section 11506(a)(2), respondent objects to the  
27 Accusation on the ground that it does not state acts or omissions upon which the agency may  
28 proceed.

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MAR 16 2011

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(b) Under Government Code section 11506(a)(3), Respondent objects to the accusation on the ground that it is so indefinite and uncertain that she cannot identify the transaction or prepare her defense.

(c) Under Government Code Section 11506 (a)(b) Respondent presents new matter by way of defense in that the accusation is barred by reason of prejudicial delay under *Gates v. D.M.V.*, (1979) 95 Cal.App.3d 921, 928, and/or by the applicable statute of limitations.

(d) The Governing Board violated the Government Code sections 54950, 54953, 54957 by failing to give Respondent notice of the Board of Education meeting and holding a closed session on specific complaints or charges brought against Respondent by another person or employee without giving Respondent written notice of her right to have the complaints or charges heard in open session rather than in closed session at least 24 hours before the time of the closed session. Therefore, the action taken by the Governing Board to dismiss Respondent is null and void.

(e) Respondent hereby objects to the accusation on the ground that said charges fail to state any facts and are conclusive in nature.

(f) Respondent is fit to teach.

Date: March 16, 2011

Trygstad, Schwab & Trygstad

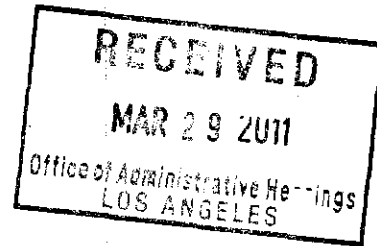
By: *Lillian Kae*  
LILLIAN KAE  
Attorneys for Respondent  
MARK BERNDT



6/13  
9/2  
10/17

1 DAVID HOLMQUIST, General Counsel, SEN 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

10 Attorneys for Complainant  
 11 LOS ANGELES UNIFIED SCHOOL DISTRICT



12 **BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS**

13 **OF THE STATE OF CALIFORNIA**

14 **THE COMMISSION ON PROFESSIONAL COMPETENCE**

<p>15 In The Matter Of The Dismissal Of )          16 MARK EERNDT (EN 260261), )          17 A Permanent Certificated Employee )          Respondent. )</p>	<p>Case No.: 2011020862  <b>NOTICE OF HEARING</b>          Dates: October 17-26, 2011          (Excluding Friday)          Time: 9:00 a.m.          Place: Office of Administrative Hearings          320 West Fourth Street, Ste 630          Los Angeles, California</p>
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18 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

19 **YOU ARE HEREBY NOTIFIED THAT** a hearing will be held before a Commission on  
 20 Professional Competence at the California Office of Administrative Hearings, 320 West Fourth  
 21 Street, 6th Floor, Suite 630, Los Angeles, California, on Monday, October 17, 2011, commencing at  
 22 9:00 a.m., upon the charges made in the accusation served upon you. The hearing will continue on a  
 23 day-to-day basis, (excluding Friday) as necessary, through Wednesday, October 26, 2011.

24 If you object to the place of hearing, you must notify the presiding officer at the California  
 25 Office of Administrative Hearings within 10 days after this notice is served on you. Failure to notify  
 26 the presiding officer within 10 days will deprive you of a change in the place of the hearing.

27 You may be present at the hearing. You have the right to be represented by an attorney at  
 28 your own expense. You are not entitled to the appointment of any attorney to represent you at




1 public expense. You are entitled to represent yourself without legal counsel. You may present any  
2 relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying  
3 against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses  
4 and the production of books, documents or other things by applying to the California Office of  
5 Administrative Hearings, State of California, 320 West Fourth Street, 6th Floor, Suite 630, Los  
6 Angeles, California, 90013.

7 **YOU ARE FURTHER NOTIFIED THAT** a Settlement Conference will be held on  
8 Monday, June 13, 2011, at 10:00 a.m., before an Administrative Law Judge, at the California Office  
9 of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California.

10 **YOU ARE FINALLY NOTIFIED THAT** a Prehearing Conference and Mandatory  
11 Settlement Conference will be held on Friday, September 2, 2011, at 10:00 a.m., before an  
12 Administrative Law Judge, at the California Office of Administrative Hearings, 320 West Fourth  
13 Street, 6th Floor, Suite 630, Los Angeles, California.

14  
15 Dated: March 25, 2011

16   
17 MY HUYNH  
18 Assistant General Counsel  
19 Attorney for Compliance  
20 Los Angeles Unified School District  
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