

BEFORE THE GOVERNING BOARD  
OF THE  
CORONA-NORCO UNIFIED SCHOOL DISTRICT

In the Matter of the Reduction in Force  
Involving Certain Employees of the  
Corona-Norco Unified School District,  
  
Respondents.

OAH No. 2009020715

**PROPOSED DECISION**

James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Norco, California, on April 20, 2009.

Margaret A. Chidester, Attorney at Law, represented the Corona-Norco Unified School District.

Marianne Reinhold, Attorney at Law, and Kent Morizawa, Attorney at Law, represented the certificated employees named as respondents in this layoff proceeding other than Luis Cardozai III and Robyn Soriano.

The matter was submitted on April 24, 2008.

**FACTUAL FINDINGS**

*The Corona-Norco Unified School District*

1. The Corona-Norco Unified School District (CNUSD or the district) is located in northeast Riverside County and serves the educational needs of approximately 52,000 students living the cities of Corona and Norco. CNUSD operates 31 elementary schools, seven intermediate schools, and eight high schools. The district employs about 4,200 individuals, approximately 2,200 of whom are certificated. CNUSD's annual budget is approximately \$380 million, most of which pays employee salaries and benefits.

2. The district is governed by an elected five-member Board of Education (the governing board). Kent L. Bechler, Ph.D. (Dr. Bechler), the Superintendent of Schools, is the district's Chief Executive Officer. Michael Lin, Ed.D. (Dr. Lin) is the district's Assistant Superintendent of Schools, Human Resources, and the district's Chief Personnel Officer. Jay Johnson (Director Johnson) is the district's Administrative Director, Human Resources.

### *The Fiscal Crisis – Economic Layoffs*

3. Proposition 13 limited the imposition of local property taxes and reduced a major source of assured revenue for funding public education in California. Since the passage of Proposition 13, public school districts have looked primarily to the State of California and to other governmental entities for funding.

A school district cannot determine the level of state funding it will receive until the state budget is chaptered, an event usually occurring in late June, but sometimes taking much longer, as occurred in 2008 and 2009. Before then, a school district's governing board must take steps to make certain that ends meet if the worst-case financial scenario develops.

A school board's obligation to balance its budget often requires that some teachers, administrators and other certificated employees be given preliminary layoff notices, warning them that their services will not be required for the next school year. Under Education Code section 44949, these preliminary layoff notices must be given no later than March 15.

The economic layoff statutes found in the Education Code generally require the retention of senior employees over more junior employees and the retention of permanent employees over probationary employees and others with less seniority. A public school district may deviate from the general rule requiring termination in reverse order of seniority only if it can demonstrate that identifiable junior employees possess a credential, special training, experience or other qualifications necessary to teach a course of study or to provide services which more senior employees do not possess.

4. In late 2008 and in early 2009, CNUSD's governing board and administration (as well as the governing boards and administrators of most other school districts) became acutely aware of the State of California's massive budget deficit and its likely crippling fiscal impact on the district. As a result of the financial crisis, CNUSD projected a budget deficit of about \$16 million. CNUSD was required to look into ways to balance its budget including the reduction of certificated and classified staff and the elimination or reduction of various programs.

### *The District's Response*

5. The district's administrative staff prepared a recommendation for Dr. Bechler to present to the governing board which outlined the reduction and elimination of particular kinds of services being provided by certificated employees within the district. On March 3, 2009, Dr. Bechler recommended to the governing board that the board adopt Resolution No. 98, which related to the reduction or discontinuation of particular kinds of services.

6. On March 3, 2009, the governing board passed the following resolution:

**RESOLUTION NO. 98**

**RESOLUTION OF THE GOVERNING BOARD OF THE  
CORONA-NORCO UNIFIED SCHOOL DISTRICT  
REGARDING A REDUCTION OR DISCONTINUANCE  
OF PARTICULAR KINDS OF SERVICE**

WHEREAS, the District's governing board, upon recommendation of the Superintendent, has determined that it is in the best interests of the District, and the welfare of the students thereof, to reduce or discontinue certain particular kinds of services hereinafter enumerated.

**NOW THEREFORE, IT IS HEREBY RESOLVED, DETERMINED AND  
ORDERED AS FOLLOWS:**

1. Pursuant to Education Code §§ 44949 and 44955, the following particular kinds of service shall be reduced or discontinued at the close of the 2008-2009 school year. These services, listed by full-time equivalent (FTE) positions, and performed by certificated employees are as follows:

- (1.1) Assistant Principal Adult Education (1 FTE)
- (1.2) Assistant Principal Alternative High Schools (3 FTE)
- (1.3) District Level Administrative Director (1 FTE)
- (1.4) District Level Coordinators (3 FTE)
- (1.5) Elementary School Self-Contained Classroom Teachers (65 FTE)
- (1.6) High School English Teachers (15 FTE)
- (1.7) High School Math Teachers (14 FTE)
- (1.8) High School Social Science Teachers (2 FTE)
- (1.9) High School Fine Arts Teachers (2 FTE)
- (1.10) High School Spanish Teacher (2 FTE)
- (1.11) High School Agricultural Science Teacher (1 FTE)
- (1.12) High School Counselors (17 FTE)
- (1.13) Middle/Intermediate School Counselors (7 FTE)
- (1.14) High School Student Advisors (1 FTE)
- (1.15) Middle/Intermediate School Student Advisors (7 FTE)
- (1.16) K-12 Opportunity Classroom Teachers (7 FTE)
- (1.17) Teachers on Special Assignment (BTSA) (7 FTE)
- (1.18) Teachers on Special Assignment (EETT) (1 FTE)
- (1.19) School Psychologists (2 FTE)
- (1.20) School Librarians (5 FTE)
- (1.21) K-12 Music Teachers (7 FTE)

**170.00 TOTAL FTEs**

- 2. The Superintendent or his/her designee is hereby directed to serve notices of termination in accordance with and in the manner prescribed by Education Code §§ 44955 and 44949. In addition, the Superintendent/designee is authorized, where deemed necessary, to issue additional notices so that certain other employees whose rights may be affected will have an opportunity to be heard.
- 3. In selecting those certificated employees who shall receive notice of termination pursuant to this resolution and the provisions of Education Code § 44955, those certificated employees

whose names and positions are set forth in Exhibit "A," a copy of which is attached hereto and by this reference incorporated herein, shall receive notice; however, an exception from the order of layoff will be sought because of the special training and experience of certain certificated employees who are assigned to teach a course of study or to fulfill a particular administrative task which others with more seniority do not possess.

4. The Governing Board has determined that as between certificated employees who first rendered service in a probationary position on the same date, the order of termination of said employees shall be determined by reference to the tiebreaker criteria and points to be assigned as described in Exhibit "B," a copy of which is attached hereto and by this reference incorporated herein.

ADOPTED, SIGNED AND APPROVED THIS 3rd DAY OF March, 2009.

Exhibit A provided:

**CERTIFICATED PERMANENT, PROBATIONARY AND TEMPORARY  
PERSONNEL WHOM THE DISTRICT SHALL SEEK TO EXEMPT FROM  
THE ORDER OF LAYOFF BY VIRTUE OF THEIR CREDENTIALS,  
COMPETENCE, ASSIGNMENT, EXPERIENCE OR CERTIFICATION**

The Governing Board will seek to exempt from the order of certificated layoff, pursuant to Education Code section 44955 because of special training, experience, or credential that others with more seniority do not possess:

1. Certificated personnel who possess administrative credentials, who are currently assigned to administrative positions, and who will be assigned to administrative positions for the 2009-2010 school year.
2. Certificated personnel who possess a credential authorizing service in special education, who are presently assigned within the scope of that credential, and who will be assigned within the scope of that credential for the 2009-2010 school year.
3. Certificated personnel who possess a credential authorizing service in language, speech and hearing, who are presently assigned within the scope of that credential, and who will be assigned within the scope of that credential for the 2009-2010 school year.
4. Certificated personnel who possess a single subject credential authorizing service in mathematics or science, who are presently assigned within the scope of that credential, and who will be assigned within the scope of that credential for the 2009-2010 school year.
5. Certificated personnel who possess a permit authorizing service in special education who are currently assigned under that permit area., and who, if serving in school year 2009-2010 will be placed in a special education assignment.

**Exhibit B provided:**

**EXHIBIT "B"**

The District values the services of all employees who may, by coincidence, share the same date of first paid service in a probationary position. Education Code section 44955 (b) states in part:

“As between employees who first rendered paid service to the district on the same date, the governing board shall determine the order of termination solely on the basis of needs of the district and the students thereof.”

1. The Governing Board has determined that as between certificated employees who first rendered service in a probationary position to the District on the same date, the order of termination of said employees shall be determined by reference to the tiebreaker criteria and points to be assigned as follows:
  - a. 1 point for holding a Cross-cultural, Language and Academic Development (CLAD) certificate.
  - b. 2 points for holding a Bilingual Cross-cultural, Language and Academic Development (BCLAD) certificate emphasis or Bilingual Certificate of Competence (BCC) or Bilingual cross-cultural special credential.
  - c. 5 points for currently teaching in a Dual Immersion program and Primary Language program (Option 3).
  - d. 5 points for “hard to hire” credentials held (Math, Science, English, Spanish, Special Education) for preliminary and clear.
  - e. 2 points for 1 or more years of service teaching in a “hard to hire” area (Math, Science, English, Spanish, Special Education) at the intermediate level within the last 3 years and will be assigned in that “hard to hire” area for the 2009-10 school year.
  - f. 5 points for teaching in a program improvement school for the 2007-2008 and 2008-09 school years.
  - g. 5 points for National Board Certification.
2. Individuals who are specifically exempted by resolution and individuals who do not receive a notice of layoff due to the scope of their credential will nevertheless receive point totals so that their service may be properly credited in the event of a dispute.
3. Employees who receive a notice and who share the same date of first paid service shall be ranked by point totals. Low point totals will indicate low seniority for that hire date. For example, an individual with a point total of “1” will be laid off before an individual with a point total of “3”, where both individuals share the same date, and provided layoff was not otherwise determined by virtue of credential or exemption.
4. If the criteria listed above do not break a tie, the District shall hold a lottery at least five work days prior to the layoff hearing. Each group of tied employees shall have the right to attend the lottery and pick a lottery number. In the absence of the employee, the Superintendent or designee will select a lottery number on behalf of the employee.

5. As between tied employees, low lottery numbers will indicate low seniority for that hire date. For example, an individual with a lottery number of “1” would be laid off before an individual with a lottery number of “10.”
6. These criteria have been determined to best serve the needs of the District and students thereof and will be applied in the April 20, 2009 & April 21, 2009 layoff hearing in which the issue may arise.

Under all the circumstances, the governing board’s approval of Resolution No. 98 and Exhibits A and B was in the best interest of the district and the students thereof.

### *The Reduction in Force*

7. The particular kinds of services identified in the governing board’s resolution were services the governing board was authorized to discontinue or reduce. The board’s resolution to eliminate or reduce certain services was neither arbitrary nor capricious, and the elimination or reduction of those services was a matter within the board’s sound discretion.

The district’s administrative staff issued more than 170 preliminary layoff notices. More notices were issued than there were reductions in full time equivalent positions in order to give certain employees whose rights might be affected an opportunity to be heard and to ensure that a sufficient preliminary notices were issued in the event that changes were required to be made to the district’s seniority, bumping, and tie-breaking lists. Before issuing preliminary layoff notices, the administrative staff considered all known positive attrition including resignations, retirements and probationary non-reelects. No particular kinds of services were lowered to levels below the levels mandated by state or federal law.

### *The Seniority List and the Implementation of Resolution No. 98*

8. For years NCUSD maintained a seniority list, a continuously evolving document that sets forth employees’ names, seniority dates, status (permanent, probationary 2, probationary 2, intern), the locations where the employee services are provided, employee credentials and any other authorizations, the subject taught by an employee, and any relevant comments related to the employee’s status. The seniority list is based on information obtained from an employee’s personnel file, data appearing on the California Commission on Teacher Credentialing website, and other relevant information provided by the employee or others to the district. The seniority list is modified as employees retire, resign, or are hired, and as new information becomes available to the district.

The district attempts to ensure that an employee’s seniority date is based on the employee’s first date of paid service with the district in a probationary position.<sup>1</sup>

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<sup>1</sup> Education Code section 44845 provides:

“Every probationary or permanent employee employed after June 30, 1947, shall be deemed to have been employed on the date upon which he first rendered paid service in a probationary position.”

A teacher who worked as a substitute or temporary employee for the district for at least 75 percent of the school days during the previous school year and performed the duties normally required of a certificated employee was deemed to have served a complete school year as a probationary employee if that teacher became employed by the district as a probationary employee the following school year. An employee's earlier year's service as a long-term temporary employee or substitute was counted as a year of probationary service. The prior year was "tacked" on for seniority purposes. <sup>2</sup>

9. The district established a policy with regard to seniority dates for teachers working under a 190 day contract and for those teachers working under a 185/186 day contract.

By virtue of an agreement between the district and the teachers' association, new teachers with no prior teaching experience were employed by the district under a 190 day per year contract, while higher paid and more experienced teachers who were new to the district were employed by the district under a 185/186 day per year contract. For teachers working under the 190 day contract, the district published approved training courses that the brand new teacher could attend to satisfy the extra five days of service that were required under the 190 day contract. The district compensated these 190 day contract employees at the teacher's standard rate of pay for those five additional days of required service.

The district takes the position that if the 190 day contract employee attended an approved course before the start of the school year, then that employee's seniority date relates back to the first day the employee attended the required course and was paid for that service; however, if the 190 day employee did not attend required training before the school year began, then the employee's seniority date became the date on which the employee first began providing services under the contract.

An inequity exists for teachers with prior experience who are new to the district and who are employed under a 185/186 day contract. Since there was no contractual obligation for these employees to attend additional training, the district takes the position that the seniority date for persons teaching under the 185/186 day contract is the date on which the employee first began providing services under the contract, even if that teacher voluntarily attended a training occurring before the start of the 185/186 contract that fulfilled the requirement of additional training for a brand new teacher and even if the teacher was compensated for attending that training at some rate of pay other than a full rate of pay (e.g., payment of a stipend or payment pursuant to a "buy back" day).

For the teachers working under a 185/186 day contract, the district takes the position that the pre-contract training obtained by the teacher was not required as part of the employee's

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<sup>2</sup> Education Code section 44918 provides in part:

"(a) Any employee classified as a substitute or temporary employee, who serves during one school year for at least 75 percent of the number of days the regular schools of the district were maintained in that school year and has performed the duties normally required of a certificated employee of the school district, shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year."

contract, that compensation at a different rate of pay than specified under the contract established that service was not under the contract, and that providing that more experienced teacher with seniority on the basis of voluntarily attending such a training would violate the district's agreement with the teachers' association.

The position taken by the district with regard to the seniority dates assigned to teachers employed under the 190 contracts and the 185/186 day contracts was not arbitrary or capricious, and was reasonable under all the circumstances.

10. On the basis of information currently in its possession, the district's administrative staff updated the seniority list as required. Before issuing the preliminary layoff notices in this matter, the district made the seniority list available to certificated employees and requested that any certificated employee who had any questions about seniority or wanted to provide additional information concerning his or her seniority contact the administrative staff. In this fashion, several matters were brought to the administrative staff's attention that necessitated a change in the seniority list, which was updated to reflect those changes.

11. Under Director Johnson's supervision, the updated master seniority list was utilized to produce the bumping list and retention schedule used in these layoff proceedings (Exhibit 2). No temporary employees or substitute employees were involved in this layoff proceeding. For employees who rendered service in a probationary position on the same date, the administrative staff used information in its possession and assigned points in a manner consistent with the governing board's tie breaking criteria (Exhibit B). A lottery was conducted to determine the order of layoff when several employees with the same seniority date had the same number of tie breaking points.

12. On and before March 15, 2009, each certificated employee who is a respondent in this layoff proceeding was given written notice that the Superintendent of Schools had recommended that his or her services be terminated at the conclusion of the current school year and that services would not be needed for the 2009-10 school year. Each respondent was notified of the right to a hearing. Each respondent who filed a request for a hearing was thereafter served with an accusation and other required jurisdictional documents.

#### *The Administrative Hearing*

13. On April 20, 2009, the record in the administrative hearing was opened. Jurisdictional documents were presented. Several stipulations were reached, official notice was taken, sworn testimony was given, and documentary evidence was received. When it became necessary as a result of evidence produced at the hearing to resolve the order of termination between several employees with the same date of seniority and the same number of tie breaking points, three new lotteries were conducted by the district. Representatives from the teachers' associations and interested parties attended those lotteries. The results of two of the lotteries were announced before the record was closed on April 20, but the result of the third lottery was not.

The administrative record was left open through the close of business on April 24, 2009, to permit the filing of written closing arguments. On April 24, 2009, following the submission of the district's written closing arguments, the record closed and the matter was submitted.

### *The District's Layoff Notices*

14. Every certificated employee who was served with a preliminary layoff notice and who requested a hearing was served then with an accusation and other required notices and documents. The parties stipulated that no respondent was precluded from participating in this layoff proceeding or from having his or her seniority determined in this layoff proceeding even though that respondent may not have filed a notice of defense.

### *Seniority Date Issues*

15. Guadalupe Dargavel: The seniority list indicated that Guadalupe Dargavel had a seniority date of August 26, 2008. Dargavel (and others similarly situated) was a 190 day contract employee. Dargavel was a first year probationary employee who taught English at Roosevelt High School. She held a single subject teaching credential in English. She was given a preliminary notice as a result of the governing board's determination to reduce high school English teachers by 15 full time equivalents.

Dargavel asserted a right to an earlier seniority date by reason of having attended a "Step-Up to Writing" workshop held on June 26, 2008, and, if that date was not accepted, then she asserted the right to a seniority date of August 20, 2008, by reason of having attended a required Language Arts Teacher Orientation.

The "Step Up to Writing" workshop held on June 26, 2008, involved a voluntary training, and Dargavel did not claim credit for it on the 190 day new teacher form she filed with the district. She did not establish that she was paid a standard contract rate of pay for attending that workshop. Thus, she did not establish a right to a June 26, 2008, seniority date. However, Dargavel produced a letter from Director Johnson requiring her to attend a Language Arts Teacher Orientation at the District Office on August 20, 2008. Dargavel attended that orientation, as directed, and she later listed her attendance at that orientation being one of the additional five days that she was required to work under her 190 day contract. The district approved the August 20, 2008 orientation and Dargavel was paid at her normal rate of pay for attending the orientation.

Dargavel's seniority date on the district's seniority list (and the seniority dates of others similarly situated) should be August 20, 2008, not August 26, 2008.

16. Brianna Meza: The seniority list indicated that Brianna Meza had a seniority date of August 18, 2008. While Meza was not scheduled to receive a final layoff notice under Exhibit 2, she was concerned that she was not given a seniority date of August 5, 2008.

Meza (and others similarly situated) was a 190 day contract employee.

Meza asserted a right to an earlier seniority date by reason of having attended SRA training at Santiago High School on August 5, 2008. Meza listed her attendance at that SRA training as one of the additional five training days that she needed to work under her 190 day contract. The district approved the SRA training and Meza was paid at her normal contract rate of pay for attending the SRA training.

Meza's seniority date on the district's seniority list (and the seniority dates of others similarly situated) should be August 5, 2008, not August 18, 2008.

17. Denise Castaneda: The seniority list indicated that Denise Castaneda had a seniority date of July 3, 2007, the same seniority date as many others. The seniority list indicated that Castaneda was a second year probationary teacher with a multiple subject teaching credential who taught at Jefferson Elementary. She was given a preliminary notice as a result of the governing board's determination to reduce elementary school self-contained classroom teachers by 65 full time equivalents.

Castaneda (and others similarly situated) was a 185/186 day contract employee and she was not on salary step A1, A2, A3 or B1 because of her prior experience teaching at other school districts.

Castaneda asserted a right to an earlier seniority date by reason of having attended the Step Up to Writing workshop held on June 26, 2007. While Castaneda had experience teaching in other school districts and was not on salary step A1, A2, A3, or B1, she was "new" to CNUSD. She believed that she was entitled to a seniority date of June 26, 2007, testifying that in the 2008 layoff proceedings, all teachers who began working on July 3, 2007, were assigned a July 3, 2007, seniority date whether they held a 190 day contract or a 185/186 day contract. Castaneda provided documentation which she believed supported her claim including: (1) a certificate of attendance for the Step Up to Writing workshop dated June 26, 2007; (2) a letter dated May 4, 2007, to "All New Corona-Norco Unified School District Teachers on Salary Steps A1, A2, A3 and B1; and, (3) a probationary employment contract dated June 12, 2007.

These documents did not support Castaneda's claim to an earlier seniority date, but, rather, sustained a contrary conclusion. The certificate of attendance was for a voluntary workshop, not a required workshop. Castaneda conceded that she did not contact the district to see if she was required to attend. The letter of May 4, 2007, was not addressed to persons outside of Salary Steps A1, A2, A3 and B1, and nothing in the May 4 letter could reasonably result in the belief that its receipt somehow transformed a 185/186 day contract into a 190 day contract. The certificate of attendance did not state that attending the workshop would result in an earlier seniority date. Finally, Castaneda did not establish that she was paid at her normal rate for voluntarily attending the workshop.

While there is some equity and common sense in Castaneda's position, the fact remains that the district set the seniority date in accordance with the district's agreement with the teachers' association. An error that was made the year before does not justify continuation of that error. So long as the district's agreement with the teachers' association

did not violate the Education Code, the district was powerless to adjust seniority dates simply because others believed doing so might be more equitable.

Castaneda's seniority date as set forth on the district's seniority list (and the seniority dates of others similarly situated) remains July 3, 2007.

18. Miriam Merkatz-Gardner: The seniority list indicated that Miriam Merkatz-Gardner had a seniority date of July 3, 2007. Merkatz-Gardner was a second year probationary teacher with a multiple subject teaching credential who taught at Jefferson Elementary. She was given a preliminary notice as a result of the governing board's determination to reduce Elementary School Self-Contained Classroom Teachers by 65 full time equivalents.

Castaneda was a 185/186 day contract employee who was not on salary step A1, A2, A3 or B1.

Like Castaneda, Merkatz-Gardner asserted a right to an earlier seniority date by reason of having attended a Step Up to Writing workshop held on June 26, 2007, but she also asserted that if that were not an appropriate date, then all employees with an employment contract providing for a July 3, 2007, start date should have that seniority date. Merkatz-Gardner asserted that it was unfair and nonsensical that a teacher with no prior teaching experience should be retained over a teacher with experience teaching in another district.

Merkatz-Gardner was not entitled to an earlier seniority date as a result of having attended the Step Up to Writing workshop for the same reasons Castaneda was not entitled to that seniority date.

There are some sound reasons in support of Merkatz-Gardner's position that all employees who stated working under the same contract should be given the same seniority date, and that it was to some extent unfair to assign more seniority to employees with less teaching experience; but, the fact remains that the district's setting of the seniority date was in accordance with the district's agreement with the teachers' association.

Merkatz-Gardner's seniority date as set forth on the district's seniority list (and the seniority dates of others similarly situated) remains July 3, 2007.

19. Dana Burr: The seniority list indicated that Dana Burr had a seniority date of August 30, 2006, the same seniority date as many others. Burr was a permanent employee with a single subject teaching credential in Art who taught visual arts at Roosevelt High School. Burr was a 185/186 day contract employee who was not on salary step A1, A2, A3 or B1. The sign-in sheet Burr provided to show that he had attended a workshop on August 15, 2006, indicated NP next to his name, meaning he was not paid for attending. Burr's participation in the August 15 workshop was voluntary and he was not required by his contract to attend that training.

Burr expressed a widely held, global view: everybody who was hired to start working on August 30, 2006, should have the same seniority date. If not, then Burr wanted a seniority date that related back to August 15, 2006, the date he attended the in-service training that was not mandatory for employees with a 185/186 day contract.

Fortunately for Burr, he is not scheduled to receive a final layoff notice. Nevertheless, Burr's seniority date as set forth in Exhibit 2 must be confirmed for the reasons stated previously.

20. Daniel Kirkpatrick: Daniel Kirkpatrick is a first year probationary teacher whose seniority date is August 26, 2008. Kirkpatrick teaches Math at Centennial High School under a single subject teaching credential. He was given a preliminary notice as a result of the governing board's determination to reduce high school Math teachers by 14 full time equivalents.

Kirkpatrick asserted that he also held a single subject teaching credential in Physical Science, a credential that was not reflected in Exhibit 2, and that as a result of holding that credential he was entitled to bump Jeffrey Wagoner, a probationary/intern with a seniority date of August 26, 2008, who taught Natural Sciences at Roosevelt High School under an internship authorization in Biology. Director Johnson reviewed the district's file and confirmed that Kirkpatrick held a credential in Physical Science, and he testified that as a result of this credential, Kirkpatrick was entitled to bump and the preliminary layoff notice issued to Kirkpatrick should be rescinded.

21. Stephen Singleton: Stephen Singleton, a second year probationary employee, has a seniority date of August 28, 2007, as do several others. Singleton teaches Health at Roosevelt High School under a single subject teaching credential in Health. At the hearing, Singleton reviewed Exhibit 2, after which he concluded that he had more seniority than Jose Robles, Jr., a first year probationary teacher whose seniority date is August 26, 2008, who also teaches Health at Roosevelt High School. Robles was not scheduled to receive a final layoff notice.

Director Johnson agreed that Singleton was more senior than Robles, that Singleton was properly credentialed and qualified, and that the preliminary layoff notice issued to Singleton should be rescinded and that a final layoff notice should be issued to Robles rather than Singleton.

#### *Other Respondents*

22. Danielle Gildner: Danielle Gildner has a seniority date of November 27, 2006. She is a second year probationary teacher with a multiple subject teaching credential (listed in the seniority list as "MS 2042 (HQ), BD RES 12-Engl., SocScie) who teaches core subjects at El Cerrito Middle School under a board resolution.<sup>3</sup> Gildner asserted that the

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<sup>3</sup> Education Code section 44258.2 provides:

following junior employees were being retained, that they had the same authorization that she held, and that she should be retained instead of those employees due to her seniority.

<u>Name (Status)</u>	<u>Seniority Date</u>	<u>Site-Assignment</u>	<u>Authorization</u>
K Falsetto (Prob 2)	July 3, 2007	El Cerrito Middle-English	MS: Elem, BD RES 12-Engl
L. Kulovitz (Prob 2)	July 3, 2007	Rainey Intermediate-English	MS 2042 (HQ), BD RES12-Engl.
H. Flynn (Prob 2)	July 3, 2007	River Heights Intermediate-English	MS Elem (HQ) BD RES12-Engl.
S. Robinson (Prob 2)	July 3, 2007	River Heights Intermediate-History	SS 2042 Social Science (HQ)
R. Martinez (Prob 2)	July 3, 2007	Auburndale Intermediate-History	SS 2042: Social Science (HQ)
S. Hilsinger-Pate (Prob 2)	August 6, 2007	River Heights Intermed-Expl/Core	MS 2042 (HQ) BD RES 12-Engl

Gildner conceded that she had no idea if the governing board was going to approve (by resolution) her employment for the 2009-10 school year, but it was equally clear that the administrative staff also had no idea whether the board would approve the employment of any others by resolution for the 2009-10 school year.

Gildner was not entitled to bump a junior employee whose credential specifically authorized that employee to provide services (e.g., S. Robinson or R. Martinez), but she established that the retention of a more junior employee to teach English at the middle school level, employees who held the same authorizations as she held and who were currently teaching English under a board resolution, violated the basic seniority rule expressed in the Education Code. Gildner was correct and on this basis, the notice issued to Gildner should be rescinded and a final layoff notice should be issued to the most junior employee teaching English at middle school under a board resolution.

23. Yolanda Gonzalez: Yolanda Gonzalez, a first year probationary employee with a seniority date of July 1, 2008, holds a PPS credential and works as a psychologist. Gonzales is one of 24 psychologists employed by the district and, to her knowledge, she is one of only two psychologists who is fluent in Spanish. Gonzales testified that besides herself, only one other psychologist in the district assesses bilingual students whose native language is Spanish, that there is a large Hispanic population in the district, that there are EL students within that Hispanic population who need assessments, and that providing an assessment through an interpreter would result in an invalid assessment.

Gonzalez provided rational reasons for her retention, but she provided no legal basis that would authorize her to skip her over other competent, more senior psychologists. There was no governing board authorization authorizing her to skip, and the administrative policy

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“The holder of a single subject teaching credential or a standard secondary teaching credential may, with his or her consent, be assigned by action of the governing board to teach classes in grades 5 to 8, inclusive, in a middle school, if he or she has a minimum of 12 semester units, or six upper division or graduate units, of coursework at an accredited institution in the subject to which he or she is assigned.”

did not provide for such skipping. There is no statute or regulation that required the district to retain the services of a bilingual psychologist fluent in Spanish over a more senior psychologist who does not possess such a language skills.

Gonzales failed to provide legal cause to rescind any final layoff notice that may be issued to her.

*Jennifer Freeman*

24. Jennifer Freeman (seniority date July 23, 2008) is a permanent employee by reason of her previous service with the district. She was hired by the district in 2003, but after she was hired she took a maternity leave. Freeman returned to employment within 39 months. Freeman holds a multiple subject teaching credential and teaches in a self-contained classroom at Vicentia Elementary School. She currently has a job share position. Freeman was exempted from this layoff proceeding by reason of her special education authorization, which she does not use, and she testified that she wanted to make certain that she would not be laid off if she continued to work in general education on a job share basis.

Freeman's issue was not properly before the governing board in this proceeding. For the time being, Freeman has been exempted from receiving a final layoff notice because of her special qualifications in special education. This layoff proceeding is not the forum to determine what remedy, if any, exists should Freeman decide not to accept an assignment in special education or a full time assignment.

*Shannon Juniper*

25. Shannon Juniper is a second year probationary teacher with a multiple subject credential who teaches at Wilson Elementary School. Juniper has a seniority date of July 6, 2006, but she is listed in Exhibit 2 as a second year probationary employee rather than a permanent employee because she failed to work 75 percent of the 2006-07 school year when she was out on maternity leave. Juniper testified that she mistakenly believed that she was a permanent employee, but even if the district had failed to notify Juniper of her probationary status (which was not established), Juniper suffered no prejudice because even if Juniper had known her probationary status, there is nothing she could have done to change her position in Exhibit 2.

Exhibit 2 showed that Juniper was bumped from her teaching assignment at Wilson Elementary School by Adrianna Magallanes, a permanent employee with a seniority date of August 22, 2006. Although Magallanes had previously served as an assistant principal at Orange Grove High School, she held a multiple subject teaching credential in addition to an administrative services credential and, thus, Magallanes was competent to fill Juniper's teaching position at Wilson Elementary School. Magallanes was a permanent employee and thus had the right to bump Juniper, who was a probationary employee.

Juniper's claim that she was entitled to retain her position over Magallanes was not supported by the evidence.

### *The Lotteries*

26. As a result of information that became known during this layoff proceeding, some employees who held the same seniority date as others received additional tie breaking points, making the previous lotteries invalid. New lotteries were conducted. District employees and teachers' association representatives attended those lotteries.

27. The lottery for the 27 employees with a seniority date of August 28, 2007, was conducted during this proceeding and the results of that lottery (Exhibit 12) were received before the record was closed. The lottery for the two employees with a seniority date of July 6, 2006, was conducted during this proceeding and the results of that lottery (Exhibit 12) were received before the record was closed.

It will be recommended that the governing board ratify the order of seniority established by those lotteries.

28. A lottery for seven employees with a seniority date of June 26, 2007, was conducted during this proceeding, but the results of that lottery (which has since been marked as Exhibit 13 for identification) was not received before the record was closed. Nevertheless, it will be recommended that the governing board ratify the order of seniority established by that lottery.

### *Conclusions Regarding the Layoff Procedure*

29. The governing board resolved to reduce or discontinue particular kinds of services provided by teachers and other certificated employees for budgetary reasons. The governing board's decision was not related to the competency or dedication of the employees who were issued preliminary layoff notices.

The governing board's decision to exempt certain employees, as set forth in Exhibit A, was a considered decision and was in the best interest of the district and its students. The reason for the exemptions related to a junior employee's special training, credential, experience or other objective qualifications, and the exemptions of these persons from the layoff proceeding were not arbitrary or capricious.

The governing board's adoption of the tie breaking point system and the ultimate use of a lottery where persons with the same seniority date held the same number of points was in the best interest of the district and its students. The manner in which points were assigned was reasonable and was based on objective matters.

In the course of this layoff proceeding, the district's administrative staff initiated and followed a systematic procedure to identify employees directly affected by the governing board's resolution to eliminate and reduce particular kinds of services being provided by certificated employees. A careful evaluation of each employee's seniority date, credential, and qualifications credentials preceded the determination of what bumping rights, if any, an

employee had. Adjustments were made to the seniority and bumping list where indicated throughout the hearing in this layoff proceeding.

Except as otherwise noted, no junior credentialed employee was retained by the district to provide services which a more senior employee was certificated, competent and qualified to render.

### *Teacher Testimony*

30. The painful, heartfelt testimony of those respondents who testified established their love of teaching and their desire to retain their employment within the district. More than anything, their testimony established the frustration, sorrow and inevitable loss that accompany the termination of bright, young, highly skilled, enthusiastic teachers.

## LEGAL CONCLUSIONS

### *Statutory Authority*

1. Education Code section 44944 provides in part:

“No later than March 15 and before an employee is given notice by the governing board that his or her services will not be required for the ensuing year . . . the governing board and the employee shall be given written notice by the superintendent of the district or his or her designee . . . that it has been recommended that the notice be given to the employee, and stating the reasons therefor . . .

(b) The employee may request a hearing to determine if there is cause for not reemploying him or her for the ensuing year . . . If an employee fails to request a hearing on or before the date specified, his or her failure to do so shall constitute his or her waiver of his or her right to a hearing . . .

(c) In the event a hearing is requested by the employee, the proceeding shall be conducted and a decision made in accordance with . . . the Government Code and the governing board shall have all the power granted to an agency therein, except that all of the following shall apply:

(1) The respondent shall file his or her notice of defense, if any, within five days after service upon him or her of the accusation and he or she shall be notified of this five-day period for filing in the accusation.

. . .

(3) The hearing shall be conducted by an administrative law judge who shall prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the

welfare of the schools and the pupils thereof. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the administrative law judge shall be binding on the governing board. Nonsubstantive procedural errors committed by the school district or governing board of the school district shall not constitute cause for dismissing the charges unless the errors are prejudicial errors. Copies of the proposed decision shall be submitted to the governing board and to the employee on or before May 7 of the year in which the proceeding is commenced. . . .”

2. Education Code section 44955 provides in part:

“(a) No permanent employee shall be deprived of his or her position for causes other than those specified in Sections 44907 and 44923, and Sections 44932 to 44947, inclusive, and no probationary employee shall be deprived of his or her position for cause other than as specified in Sections 44948 to 44949, inclusive.

(b) Whenever . . . a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year . . . and when in the opinion of the governing board of the district it shall have become necessary . . . to decrease the number of permanent employees in the district, the governing board may terminate the services of not more than a corresponding percentage of the certificated employees of the district, permanent as well as probationary, at the close of the school year. Except as otherwise provided by statute, the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to render.

. . .

As between employees who first rendered paid service to the district on the same date, the governing board shall determine the order of termination solely on the basis of needs of the district and the students thereof . . .

. . .

(c) Notice of such termination of services shall be given before the 15th of May . . . and services of such employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 44844 and 44845. In the event that a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 44949, he or she shall be deemed reemployed for the ensuing school year.

The governing board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render. However, prior to assigning or reassigning any certificated employee to teach a subject which he or she has not previously taught, and for which he or she does not have a teaching credential or which is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

(d) Notwithstanding subdivision (b), a school district may deviate from terminating a certificated employee in order of seniority for either of the following reasons:

(1) The district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services, which others with more seniority do not possess.

(2) For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.”

### *Jurisdiction*

3. Jurisdiction in this matter exists under Education Code sections 44949 and 44955. All notices and jurisdictional requirements contained in those sections were satisfied as to all respondent employees who were identified in Exhibit 1 to the accusation.

### *The Reduction of Particular Kinds of Services*

4. A school board's decision to reduce or discontinue a particular kind of service is not tied in with any statistical computation. Where a governing board determines to discontinue or reduce a particular kind of service, it is within the board's discretion to determine the amount by which it will reduce a particular kind of service as long as a district does not reduce a service below the level required by law. (*San Jose Teachers Assn. v. Allen* (1983) 144 Cal.App.3d 627, 635-636.)

### *Seniority, Bumping, and Skipping*

#### The Statutory Scheme

5. Education Code section 44955, the economic layoff statute, provides in subdivision (b), in part, as follows: “Except as otherwise provided by statute, the services of no permanent employee may be terminated under the provisions of this section while . . . any other employee with less seniority, is retained to render a service which said permanent

employee is certificated and competent to render.” Essentially this language provides “bumping” rights for senior certificated and competent employees, and “skipping” authority to retain junior employees who are certificated and competent to render services which more senior employees are not. Subdivision (d)(1) of section 44955 provides an exception to subdivision (b) where a district demonstrates specific need for personnel to teach a specific course of study and that a junior certificated employee has special training and experience necessary to teach that course that the senior certificated employee does not possess. (*Bledsoe v. Biggs Unified School Dist.* (2008) 170 Cal.App.4th 127, 134-135.)

### Bumping

6. The district has an obligation under section 44955, subdivision (b), to determine whether any permanent employee whose employment is to be terminated in an economic layoff possesses the seniority and qualifications which would entitle him/her to be assigned to another position. (*Bledsoe v. Biggs Unified School Dist.*, *supra.* at 136-137.)

### Skipping

7. Subdivision (d)(1) of section 44955 expressly allows a district to demonstrate its specific “needs” and there is nothing in the statute that requires such needs to be evidenced by formal, written policies, course or job descriptions, or program requirements. (*Bledsoe v. Biggs Unified School Dist.*, *supra.*, at 138.)

### *Temporary Teachers*

#### Categorically Funded Positions

8. The district correctly assigned temporary status to certificated employees who were employed in categorically funded positions. A categorically funded project need not involve the creation of special classes divorced from the normal curriculum, but may augment the curriculum in whatever manner is specified in the particular program. The defining characteristics are that the program be financed outside the base revenue limit with the funds designated for a use specified by the particular program. (*Zalac v. Governing Board of the Ferndale Unified School District* (2002) 98 Cal.App.4th 838, 848.)

#### Temporary Replacements

9. The district granted leaves of absence to certain certificated employees for the current school year. Reasons for those leaves included absences for medical reasons (Ed. Code, §§ 44920; 44986); placement of regular teachers on “special assignment” in non-teaching capacities (*Levy v. San Francisco Unified School District* (1978) 79 Cal.App.3d 953); and assignment of regular teachers to job-share arrangements, to the extent those assignments created full or partial FTE vacancies in the teachers’ regular positions.

The district employed temporary certificated employees for the current school year to fill the positions held by permanent and probationary employees on leave, and the district

provided each temporary employee with written notice of his or her temporary status under Education Code section 44916 and the decision in *Kavanaugh*. Each temporary employee expressly agreed to his or her temporary status for the 2008-09 school year by signing a valid temporary contract of employment for the current school year.

#### There Is No Direct One-to-One Replacement Requirement for Temporary Employees

10. Because the number of regular employees assigned to categorically funded programs plus the number of employees on other leaves of absence did not exceed the number of employees who were designated by the district as temporary employees, all of those temporary employees were properly classified. In *Santa Barbara Federation of Teachers, Local 1081 v. Santa Barbara High School District* (1977) 76 Cal.App.3rd 223, the court observed:

“[W]e do not believe that section 13337.3 [now section 44920] requires that a temporary teacher replace a particular employee on leave, as is contended by petitioners. Section 13337.3 should be viewed as the Legislature’s attempt to provide some stability for both pupils and teachers in the face of teacher shortages created by probationary and permanent employees on leaves of absence. By allowing school districts to replace such employees on a year long basis, the Legislature has created . . . a device which ensures continuity of instruction while avoiding the problems of overstaffing. Without this device, as noted above, school districts would resort to filling temporary vacancies on a day-to-day basis with various substitute teachers, such practice would be harmful to both the students and their substitute teachers.” (76 Cal.App.3rd at pp. 732-733.)

#### Temporary Employees Do Not Have the Same Protections

11. Temporary employees are not entitled to the protections of Education Code sections 44949 and 44955. (See Ed. Code, § 44955(a); *California Teachers Ass’n v. Vallejo City Unified School District* (2007) 149 Cal.App.4th 135, 152 [“These statutory rights are expressly provided only to permanent and probationary employees”]; *Bakersfield Elementary Teachers Ass’n v. Bakersfield City School District* (2006) 145 Cal.App.4th 1260, 1273 [“temporary employees, unlike permanent and probationary employees, may be dismissed at the pleasure of the board and need be given only a more limited form of notice before the end of the school year, *and no hearing*”].) Moreover, temporary employees do not accrue seniority, and so must be released before probationary employees. (*Bakersfield, supra*, 145 Cal.App.4th at p. 1273; *California Teachers Ass’n v. Vallejo City Unified School District* (2007) 149 Cal.App.4th 135, 145.)

#### *The District Properly Reexamined Seniority and Status*

12. In reviewing the seniority list, the district discovered that it improperly conferred tenure status under Education Code section 44911 on one or more certificated employees. The district corrected the status of these certificated employees by changing their status from permanent to probationary.

Under Education Code section 44845, seniority is determined by the date a certificated employee “first rendered paid service in a probationary position.” Education Code section 44929.21 states:

“Every employee of a school district of any type or class having an average daily attendance of 250 or more who, after having been employed by the district for two complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year be classified as and become a permanent employee of the district.”

Under Education Code section 44918, a certificated employee must serve at least seventy-five percent of the days of the school year to be deemed to have worked a complete school year.

In *Fleice v. Chualar Union Elementary School District* (1988) 206 Cal.App.3d 886, the school district misclassified Fleice as tenured employee after she worked for just one complete school year. The court stated: “[W]e believe that early tenure would conflict with the tenure statute and is, thus, beyond a school board's power.” (*Id.* at p. 890.) The court rejected Fleice’s argument that the legislature permitted a school board the right to grant early tenure, stating:

“Our school system is established not to provide jobs for teachers but rather to educate the young. Establishing a test period for teachers to prove themselves is essential to a good education system.” (*Id.* at p. 892, citing *Turner v. Board of Trustees* (1976)16 Cal.3d 818. 825.)

### *The Effect of Resignation and Reemployment on Seniority*

13. Permanent certificated employees who resign and are reemployed within 39 months retain their permanent status. Education Code section 44931 states:

“Whenever any certificated employee of any school district who, at the time of his or her resignation, was classified as permanent, is reemployed within 39 months after his or her last day of paid service, the governing board of the district shall, disregarding the break in service, classify him or her as, and restore to him or her all of the rights, benefits and burdens of, a permanent employee, *except as otherwise provided in this code*. However, time spent in active military service, as defined in Section 44800, subsequent to the last day of paid service shall not count as part of the aforesaid 39-month period.” (Emphasis added.)

Individuals who resign and are reemployed sometimes contend a seniority date relating back to their first date of employment. That contention ignores the effect of the “as otherwise provided in this code” exception.

Specifically, Education Code section 44848 states:

*“When any certificated employee shall have resigned or been dismissed for cause and shall thereafter have been reemployed by the board, his date of employment shall be deemed to be the date on which he first accepted reemployment (if reemployed before July 1, 1947) or rendered paid service (if reemployed after June 30, 1947) after his reemployment.*

When an employee’s services are terminated for lack of enrollment or discontinuance of service or are otherwise interrupted in a manner declared by law not to constitute a break in service, his original order of employment shall stand.” (Emphasis added.)

For seniority purposes, an employee who resigns and then is reemployed does not regain his or her original hiring date. (*San Jose Teachers Association v. Allen* (1983) 144 Cal.App.3d 627, 641.)

#### *Cause Exists to Give Notice to Certain Employees*

14. As a result of the governing board’s lawful reduction of particular kinds of service being provided by certificated employees, cause exists under the Education Code for the district to give notice to those respondents who are identified hereafter that their employment will be terminated at the close of the current school year and that their services will not be needed by the district for the 2009-10 school year.

#### *Determination*

15. The charges set forth in the accusation were sustained by a preponderance of the evidence and related to the welfare of the Corona-Norco Unified School District and the students thereof. CNUSD’s administrative staff made assignments and reassignments under the layoff resolution in such a manner that the most senior employees were retained to render services which their seniority and qualifications entitled them to render, except as otherwise noted herein. No employee with less seniority than any respondent will be retained to render a service which any respondent is certificated, competent and qualified to render.

This determination is based on all factual findings and on all legal conclusions.

### RECOMMENDATION

It is recommended that the governing board ratify the results of a lottery for seven employees with a seniority date of June 26, 2007, which was conducted on April 24, 2009.

It is recommended that Guadalupe Dargavel’s seniority date as contained in the district’s seniority list (and the seniority dates of others similarly situated) be corrected to August 20, 2008.

It is recommended that Brianna Meza's seniority date as contained in the district's seniority list (and the seniority dates of others similarly situated) be corrected to August 5, 2008.

It is recommended that the preliminary layoff notices issued to Danielle Gildner, Daniel Kirkpatrick, Stephen Singleton, and be rescinded and that the accusations filed against them be dismissed.

It is recommended that the governing board issue a final notice to the most junior employee teaching English at middle school under a board resolution, provided that employee was previously served with a preliminary layoff notice.

It is recommended that the governing board give notice to the respondents whose names are set forth below that their employment will be terminated at the close of the current school year and that their services will not be needed for the 2009-2010 school year:

1. Abrazaldo Reyna
2. Amidei Ashlee K
3. Arkin Chatom C
4. Babin Ann M
5. Bailey Amanda E
6. Ballard Jamie K
7. Barioni, Ana L.
8. Barrios, Nury D.
9. Begley Shontel L
10. Bell David W
11. Benor Ken S
12. Bernal Lauren E
13. Bond Amanda M
14. Bradbury Jason L
15. Brown Jennifer M
16. Brown Seva D
17. Bruce Kristin J
18. Buchheim Bohacs Julia G
19. Cabal Jr Alex D
20. Campos Johnny
21. Castaneda Denise M
22. Cerswell Jennifer M
23. Chollman Shannon
24. Cobb Jennifer A
25. Coleman Jamie J
26. Conlon Danici R
27. Cordero Kelly L
28. Cordura, Aldo
29. Cordura, Jennifer D.
30. Council Micah B

31. Dargavel Guadalupe I
32. Denson III Tommie H
33. Diaz De Mancilla Elizabeth
34. Dickey Lisa L
35. Dube Kerry A
36. Edwards Benjamin S
37. Emerson Jillian M
38. Felix, Mariana
39. Fernandez Ruben L
40. Ferrara Anna N
41. Finney Lashonn D
42. Fleischhacker Amanda G
43. Fritz Kelleen A
44. Fudge Patricia D
45. Fuller Jacob C
46. Galvan Nancy B
47. Gama Caressa H
48. Gamble Elisa C
49. Gamiz Hernandez Guadalupe
50. Gavares Narrie K
51. Gibbons, Mary B
52. Gonzalez Juan M
53. Gonzalez Yolanda M
54. Grothem Mary K
55. Gutman Jenna M
56. Hainsworth Sarah J
57. Hanrahan Margaret L
58. Hanrahan Mary C
59. Hansen Janelle A
60. Hanson Joanna R
61. Hawkins Tanisha L
62. Henderson Kama H
63. Hernandez Samuel C
64. Ho Linda M
65. Hopton Jaime A
66. Hughes Michael J
67. Humphreys David L
68. Humphreys Krista L
69. Jackson Vince R
70. Jew Jennifer M
71. Juniper Shannon E
72. Kaspar, Sabrina
73. Kenney Brian P
74. Kiefer Gladys
75. Knepeck Lisa M
76. Knight Timothy J

77. Knudson Richard K
78. Kruger Marjean L
79. Lamonica Claudia N
80. Lance Rachael E
81. Lazar Breann L
82. Lopez Alejandro B
83. Lucero Margaret A
84. Luna Rebecca E
85. Maldonado Anthony M
86. Maples Mark A
87. Marnin Patrick M
88. Marquez Erica
89. Martinez Ana L
90. Martinez Christy
91. Marvin Christy A
92. Maw Jennifer S
93. McGlenn Stephen P
94. McGonigle Martin Mary I
95. McGuire Douglas J
96. McInteer Kerry J
97. Merkatz Gardner Miriam M
98. Miller Kimberly A
99. Mitchell II Kenneth R
100. Molnaa Kimberly A
101. Moreno Ana L
102. Morris Michelle L
103. Myers Ester D
104. Myers Heather L
105. Nelson Peter J
106. Olsen Danielle D
107. Ourn Lauren A
108. Persson Trevor A
109. Pflug, John
110. Pitts Amanda N
111. Polmounter, Stephanie A
112. Pruett Lance E
113. Quach Jackie L
114. Quiroga Rocio
115. Ramirez Alissa M
116. Reeve Jennifer C
117. Rhodes Natalie C
118. Rivera Evelyn
119. Robles Jr., Jose
120. Roy Childress Brigitte A
121. Rudd Girard B
122. Sanchez Sheryl L

123. Sanchez, Jr David
124. Schneider Amy M
125. Sims Lori N
126. Smith Holly L
127. Smithley Crysta L
128. Solis Florence M
129. Soriano Robyn N
130. St Clair Norma K
131. Stackowicz John S
132. Steenhard Jessica L
133. Sullivan Sandra L
134. Sybesma Katrina J
135. Thompson Amber Y
136. Toner Theodore P
137. Torres Elena
138. Vasquez Alejandro
139. Vasquez Tracy L
140. Wagoner, Jeffrey M.
141. Webb Elizabeth D
142. Weichert, K.
143. Weinkauff Casey M
144. White Deena C

Dated:

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JAMES AHLER  
Administrative Law Judge  
Office of Administrative Hearings