

BEFORE THE GOVERNING BOARD  
NOVATO UNIFIED SCHOOL DISTRICT  
STATE OF CALIFORNIA

In the Matter of the Non-Reemployment of  
Certain Certificated Employees

OAH No. 2009030088

**PROPOSED DECISION**

Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, heard this matter in Novato, California, on April 8, 2009.

Attorney Ingrid A. Scherschel, Miller Brown Dannis, 71 Stevenson Street, 19th Floor, San Francisco, represented the Novato Unified School District. Louise Koenig, Director of Human Resources, was present as a representative of the District.

Attorney Stewart Weinberg, Weinberg, Roger & Rosenfeld, 1001 Marina Village Parkway, Suite 200, Alameda, represented respondents.

Pursuant to discussions among the parties, the matter was submitted based on stipulations. No witnesses were called to testify. No factual or legal issues are in dispute. The matter was submitted for decision on April 8, 2009.

**FACTUAL FINDINGS**

1. Dr. Jan La Torre-Derby, Superintendent, Novato Unified School District, made the accusation in her official capacity.
2. The respondents in this matter are listed in Appendix A, attached hereto. Each of the respondents is a certificated employee of the District.
3. There are no issues or disputes regarding the service of the accusation, requests for a hearing, or the notice of the hearing.
4. On February 24, 2009, the Governing Board of the Novato Unified School District adopted Resolution #2008/09-35, directing the Superintendent or his designated representative to give notices to certificated employees that their services would not be

needed for the 2009 – 2010 school year. The resolution further reduced particular kinds of services by 73.0 full time equivalent (FTE) positions.

5. On April 7, 2009, the Governing Board modified Resolution #2008/09-35 to not eliminate the following particular kinds of service: Middle School Assistant Principal (1.0 FTE); and, K-5 Principal (2.0 FTE).

In addition, the District notes that although a Student Services Program Manager (1.0 FTE) was listed among the particular kinds of service to be reduced or eliminated, that position has not been and will not be reduced or eliminated.

Thus, 69.0 FTE positions are affected by the reduction of particular kinds of service set forth in Resolution #2008/09-35, as modified on April 7, 2009, and taking into account the non-elimination of the 1.0 FTE Student Services Program Manager.

6. The District's February 3, 2009 certificated seniority list (District Exhibit 1) is the latest and most accurate certificated seniority list.

7. The District's layoff notice list (District Exhibit 7) reflects the application of the reduction or elimination of particular kinds of services to certificated employees, takes into account seniority and credentials, and shows respondents' order of layoff.

8. The reduction or elimination of particular kinds of services relates solely to the welfare of the District's schools and pupils within the meaning of Education Code section 44949.

#### LEGAL CONCLUSIONS

1. Cause exists for the elimination of 69.0 FTE positions in accordance with Education Code sections 44949 and 44955. Further, cause exists to give notice to respondents representing up to an equal number of positions that their services will not be required for the 2009 – 2010 school year. This cause relates solely to the welfare of the schools and pupils within the meaning of Education Code section 44949.

2. The District's layoff notice list (District Exhibit 7) reflects the application of the reduction or elimination of particular kinds of services to certificated employees, takes into account seniority and credentials, and shows respondents' order of layoff.

#### RECOMMENDATION

Notice may be given respondents representing up to 69.0 FTE positions that their services will not be required for the 2009 – 2010 school year. The District’s layoff notice list (District Exhibit 7) provides the order of layoff. The accusations issued to all remaining respondents shall be dismissed.

DATED: \_\_\_\_\_

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STEVEN C. OWYANG  
Administrative Law Judge  
Office of Administrative Hearings

Appendix A:

**Novato Unified School District**  
**List of Respondents**  
**OAH No. 2009030088**

Baraban, Deborah
Batchelder-Larsen, James
Brandi, Maureen
Bruns, Danielle
Castro, Jodi
Cavallero, Emily
Cheema, Tehniat
Chung, Jennifer
Correa, Laura
Dees, Deborah
Desmond, Kirk
Distad, Anne
Eshoff, Ann
Fellows, Gina
Fisher, Mariah
Fried, Colleen
Fritsche, Courtney
Fung, Julie
Gildengorin, Aaron
Golden, Laurel
Hanley, Lisa
Herndon, Trisha
Hoag, Marie
Hughes, Raymond
Jacobsen, Lisa
Jones, Juliette
Joseph, Jeffrey
Joseph, Heidi
Kodros, Craig
Kriesler, Angela
Kuhn, Kristina
Meditz, Cori
Mulligan, Catherine
Noonan, Matthew
Olufs, Adrienne
Oropallo, Allison
Peters, Emily
Restivo, Cristina

Rosichan, Lee
Schaefer, Anne
Schaffer, Melissa
Shinzato, Diva
Tran, Thuy
Willits, Gail