

2. Respondents are certificated employees of the District.

3. On or about February 11, 2009, Superintendent Smith recommended that the Board give notice that certain services performed by certificated employees be reduced or eliminated for the 2009-2010 school year. Mr. Smith also recommended that the Board adopt a resolution to reduce or discontinue particular kinds of services for the 2009-2010 school year. Specifically, Mr. Smith recommended the reduction and/or elimination of 6.5 full-time-equivalency (FTE) certificated employees as follows:

| | |
|---|---------|
| K-6 Regular Education Self Contained Classrooms | 5.0 FTE |
| 7 – 8 Block Scheduling | 1.0 FTE |
| Literary Coach | .5 FTE |
| <hr/> | |
| Total | 6.5 FTE |

4. On February 11, 2009, the Board adopted Resolution No. 09-16, to discontinue or reduce the particular kinds of services as set forth in Factual Finding 3. The Board further determined that based on the discontinuance or reduction of services, it would be necessary to decrease the number of certificated employees at the close of the present school year by a corresponding number of full-time equivalent positions. The Board also directed the Superintendent to notify the employees affected by the Board's resolution.

5. On February 27, 2009, Mr. Smith notified certificated employees, including Respondents, in writing that it had been recommended their services would not be required for the next school year. The mailing included the reasons for the notification. Respondents made timely requests for hearing.

6. On March 19, 2009, the Superintendent made and filed Accusations against each Respondent.

7. Notices of Defense were timely filed by Respondents. All prehearing jurisdictional requirements were met.

8. The reduction or discontinuation of the particular kinds of services set forth in Factual Finding 3, related to the welfare of the District and its pupils.

9. The District maintains a Seniority List which contains employees' seniority dates (the first date of paid service in a probationary position), current assignments and locations, advanced degrees, credentials, and authorizations.

10. No junior certificated employee is being retained to perform services which a more senior employee subject to layoff is certificated and competent to render.

LEGAL CONCLUSIONS

1. All notices and other requirements of Education Code sections 44949 and 44955 were met. Therefore, jurisdiction was established for this proceeding as to all Respondents.

2. Cause was established as required by Education Code section 44955 to reduce the number of certificated employees due to the reduction or discontinuation of particular kinds of services. The Board's decisions to reduce or eliminate the identified services were neither arbitrary nor capricious. The decisions relate solely to the welfare of the District's schools and the pupils within the meaning of Education Code section 44949.

3. No junior certificated employee is being retained to perform services which a more senior employee subject to layoff is certificated and competent to render.

ORDER

Notice may be given to Respondents Deana Danelz and Amy Haverstock that their services will not be required for the 2009-2010 school year.

Dated: April 7, 2009

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings