

BEFORE THE GOVERNING BOARD
LAS VIRGENES UNIFIED SCHOOL DISTRICT
COUNTY OF LOS ANGELES
STATE OF CALIFORNIA

In the Matter of the Layoffs Of:

Amy Aguayo and other certificated employees
of the Las Virgenes Unified School District,

Respondents.

OAH Case No. L2009031287

PROPOSED DECISION

Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, heard this matter on April 22, 2009, in Calabasas, California.

Mary L. Dowell and Shana Moses Bawek, Attorneys at Law, represented Donald M. Zimring (Zimring), Superintendent of the Las Virgenes Unified School District (District).

Tareq M. Hishmeh, Attorney at Law, represented Amy Aguayo, Molly Albertson, Stephanie Boyle, Elizabeth Brasler, Andrea Cirino, Erin K. Collins, Kelli Finigan, Erin Gourley, Michelle Kallman, Amber Lopez, Michelle Marsh, Scott McCreary, Linda Ruth Pimes, Nanci Powers, Lisa Quartararo, Nadia Rizk, Joann Soriano, and Cynthia Walczuk, collectively called Respondents.

The District has decided to reduce or discontinue certain educational services and has given Respondents notice of its intent not to reemploy them for the 2009-2010 school year. Respondents requested a hearing for a determination of whether cause exists for not reemploying them for the 2009-2010 school year.

Oral and documentary evidence was received at the hearing and the matter was submitted for decision.

FACTUAL FINDINGS

1. Superintendent Zimring filed the Accusation in his official capacity.
2. Respondents are certificated employees of the District.

3. On March 3, 2009, the Board of Education of the District (Governing Board) adopted Resolution number 22-08, reducing or discontinuing the following services for the 2009-2010 school year:

<u>Service</u>	<u>FTE¹ Reduction</u>
Elementary Teachers	39.0
Librarian Services	6.0
Elementary Counselors	2.0
Middle School Counselor	1.0
High School Counselors	2.0
Middle School Dean	1.0
High School English Teachers	4.8
High School Math Teachers	1.6
Independent Study Teacher	1.0
Continuation School Teacher	1.0
Technology TOSA	<u>2.0</u>
Total	61.4

4. Superintendent Zimring notified the Governing Board that he had recommended that notice be provided to Respondents that their services will not be required for the 2009-2010 school year due to the reduction of particular kinds of services.

5. On or about March 5, 2009, the District provided notice to Respondents that their services will not be required for the 2009-2010 school year due to the reduction of particular kinds of services.

6. Respondents thereafter timely requested a hearing to determine if there is cause for not reemploying them for the 2009-2010 school year.

7. On March 26, 2009, the District issued the Accusation, and thereafter served it on Respondents.

8. Respondents thereafter, through counsel, timely filed notices of defense.

9. All prehearing jurisdictional requirements have been met.

¹ Full-time equivalent position.

10. The services set forth in factual finding number 3 are particular kinds of services which may be reduced or discontinued within the meaning of Education Code section 44955.²

11. The Governing Board took action to reduce or discontinue the services set forth in factual finding number 3 primarily because of the uncertainty surrounding future State funding. The District estimates a revenue shortfall of approximately \$2.6 million for the 2008-2009 school year and \$3.2 million for the 2009-2010 school year. The decision to reduce the particular kinds of services is neither arbitrary nor capricious but is rather a proper exercise of the District's discretion.

12. The reduction of services set forth in factual finding number 3 is related to the welfare of the District and its pupils, and it has become necessary to decrease the number of certificated employees as determined by the Governing Board.

13. The District took into account 17 anticipated resignations and retirements in determining the number of certificated employees to layoff.

14. The Governing Board adopted criteria for breaking seniority ties for employees with the same first date of paid service and for determining which employees were competent to bump into positions held by less senior employees. The criteria are reasonable as they relate to the skills and qualifications of certificated employees, and the District properly applied the criteria.

15. No certificated employee junior to any Respondent was retained to render a service which any Respondent is certificated and competent to render.

LEGAL CONCLUSIONS

1. Jurisdiction for the subject proceeding exists pursuant to sections 44949 and 44955, by reason of factual finding numbers 1 through 9.

2. The services listed in factual finding number 3 are particular kinds of services within the meaning of section 44955, by reason of factual finding numbers 3 and 10.

3. Cause exists under sections 44949 and 44955 for the District to reduce or discontinue the particular kinds of services set forth in factual finding number 3, which cause relates solely to the welfare of the District's schools and pupils, by reason of factual finding numbers 1 through 15.

² All further references are to the Education Code.

4. Cause exists to terminate the services of Respondents Amy Aguayo, Molly Albertson, Stephanie Boyle, Elizabeth Brasler, Andrea Cirino, Erin K. Collins, Kelli Finigan, Erin Gourley, Michelle Kallman, Amber Lopez, Michelle Marsh, Scott McCreary, Linda Ruth Pimes, Nanci Powers, Lisa Quartararo, Nadia Rizk, Joann Soriano, and Cynthia Walczuk, by reason of factual finding numbers 1 through 15, and legal conclusion numbers 1 through 3.

ORDER

The Accusation is sustained and the District may notify Respondents Amy Aguayo, Molly Albertson, Stephanie Boyle, Elizabeth Brasler, Andrea Cirino, Erin K. Collins, Kelli Finigan, Erin Gourley, Michelle Kallman, Amber Lopez, Michelle Marsh, Scott McCreary, Linda Ruth Pimes, Nanci Powers, Lisa Quartararo, Nadia Rizk, Joann Soriano, and Cynthia Walczuk that their services will not be needed during the 2009-2010 school year due to the reduction of particular kinds of services.

DATED: _____

SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings