

BEFORE THE GOVERNING BOARD OF THE  
SANTA YNEZ UNION HIGH SCHOOL DISTRICT

In the Matter of the Layoffs of:

Cameron Clarno and other Certificated  
Employees of the Santa Ynez Union High  
School District,

Respondent.

OAH No.: 2009040033

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Santa Ynez, California, on April 28, 2009.

Bruce A. Barsook, Attorney at Law, represented the Complainant.

Tareq M. Hishmeh, Attorney at Law, represented the Respondent Gretchen Smith.

Respondents Susana Rodriguez, Jennifer Croll and Cameron Clarno appeared in persona propria.

Oral and documentary evidence and evidence by way of stipulation and official notice was received.

The Administrative Law Judge now finds, concludes and orders as follows:

SUMMARY

The Governing Board (Board) of the Santa Ynez Union High School District (District) decided to reduce or discontinue particular kinds of services provided by certificated personnel for the 2009/2010 school year for budgetary reasons. The decision was not related to the competency and dedication of the teachers whose services were proposed to be reduced or eliminated. District staff carried out the Board's decision by using a selection process involving review of credentials and seniority.

## FACTUAL FINDINGS

### *Parties*

1. Complainant Paul Turnbull filed the accusation<sup>1</sup> in this proceeding in his official capacity as Superintendent of the District.

2. The following persons are certificated employees of the District who received layoff notices:

1. David Bisbee
2. Lisa Boyer
3. Cameron Clarno
4. Jennifer Croll
5. Cheryl Lee
6. Jenele Martin
7. Karen Nguyen
8. Susana Rodriguez
9. Diane Siegel
10. Gretchen Smith

Cameron Clarno, Jennifer Croll, Susan Rodriguez, and Gretchen Smith each requested a hearing and are the Respondents herein.

### *Reduction of Services*

3. On March 6, 2009, the Board adopted and issued resolution number 2008/2009-15 (Resolution) to reduce or discontinue particular kinds of certificated services no later than the beginning of the 2009/2010 school year because of the financial constraints resulting from revenue being insufficient to maintain the current levels of programs, and necessary program changes resulting therefrom.

4. The Resolution incorporated therein and specified the Reduction or Elimination of Particular Certificated Services as follows:

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<sup>1</sup> The term “accusation” refers to a pleading utilized under the Administrative Procedure Act, Government Code section 11503. Respondents are not “accused” in the every-day sense of that word, unless it can be said they are accused of not having enough seniority to retain their positions with the District in the face of a resolution to reduce positions.

<u>TYPE OF PROGRAM</u>	<u>FTE (Full-Time Equivalent)</u>
Art	1.0
English	2.8
Counseling	.6
Adv. Video Production/Film Making	.4
Mathematics	2.0
Music	.6
Physical Education	.6
Science	1.0
Social Science	1.6
Spanish	<u>.4</u>
Total	11.0

The services which the District seeks to discontinue or reduce are particular kinds of services that may be reduced or discontinued under Education Code section 44955.

5. With regard to services provided by the District a policy paper adopted March 14, 2000 entitled “Certificated Personnel – Seniority” details the criteria to be applied to determine the order of layoff for those certificated employees with the same date of first paid probationary service.

6. The decision by the Board to reduce or discontinue services was neither arbitrary nor capricious, but rather was a proper exercise of the District’s discretion given the budgetary constraints, other factors considered by the Board, and the manner in which the decision to reduce or discontinue services was reached.

7. The reduction and discontinuation of services 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 Board.

*Notice and Process*

8. On March 5, 2009, the Complainant gave written notice to the Board of his recommendation that notice be given to Respondents that their services would not be required for the ensuing year, 2009/2010, and stating the reasons therefore.

9. On March 6, 2009, the Board, in the Resolution, directed the Complainant to give notices to the certificated employees that their services would not be needed for the 2009/2010 school year.

10. Before March 15, 2009, Respondents were served in the manner prescribed by law with written notice that it had been recommended that notice be given to them that their services would not be required for the ensuing school year, 2009/2010, and stating the reasons therefore.

11. Each Respondent herein, within the time limit specified in Education Code section 44949, subdivision (b), requested a hearing to determine if there is cause for not re-employing the Respondent for the ensuing school year.

*Finding Re: Susan Rodriguez*

12. Respondent Susana Rodriguez is a credentialed and competent mathematics teacher. However, no less senior employee is being retained to perform services which Ms. Rodriguez is certificated and competent to render.

*Finding Re: Jennifer Croll*

13. Respondent Jennifer Croll is a credentialed and competent health teacher. However, no less senior employee is being retained to perform services which Ms. Croll is certificated and competent to render.

*Findings Re: Cameron Clarno*

14. Respondent Cameron Clarno is the District's music teacher and he is competent and credentialed to teach music. The District in its discretion – as to set forth in Finding 4 – is eliminating its music program thus, in effect, eliminating Mr. Clarno's service to the District. No junior employee is being retained to perform services which Mr. Clarno is certificated and competent to render.

*Findings Re: Gretchen Smith*

15. Respondent Gretchen Smith's current assignment with the District is teaching mathematics at Santa Ynez High School. She is competent and credentialed to teach mathematics. On January 10, 2009, after appropriate examination, Respondent received authorization (credentials) from the California Commission on Teacher Credentialing to teach the science of chemistry. The District did not receive official notice of the chemistry credential from the appropriate authority until March 19, 2009 but did have actual notice from Respondent that she was so credentialed. Accordingly, for the purpose of this hearing, Respondent is credentialed to teach chemistry.

16. Prior to her teaching career Ms. Smith worked for Chevron USA and Chevron Chemical for a number of years as a chemical engineer. She has a bachelors degree in chemical engineering. To receive such a degree she underwent rigorous instruction and training in mathematics and chemistry. While employed at Chevron her duties included research and design. She has experience in the classroom as a teacher of mathematics. Mathematics is a discipline akin to the sciences of chemistry and physics. Ms. Smith is competent to teach chemistry by virtue of her background, qualifications, training and experience. Ms. Smith's present ability to ably teach mathematics or chemistry relates, positively, to the welfare of the District and the pupils thereof.

17. By reason of Findings 15 and 16 Ms. Smith is competent and credentialed to teach chemistry. However, a teacher junior to Ms. Smith may be retained to perform a service – teaching chemistry – which Ms. Smith is both competent and credentialed to teach.

*Seniority*

18. The District maintains a Seniority List which contains employees’ seniority dates (the first date of paid service) current assignments and locations, credentials, authorizations and employment status. Other than as set forth in Finding 17 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 notice and other requirements of Education Code sections 44949 and 44955 were met. Therefore, jurisdiction was established for this proceeding as to all Respondents by reason of Findings 8, 9, 10 and 11.

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 by reason of Findings 3, 4 and 5. The Board’s decision to reduce or eliminate the identified services set forth in Finding 4 was neither arbitrary nor capricious in that the decision relates solely to the welfare of the District’s schools and the pupils within the meaning of Education Code section 44949, by reason of Findings 6 and 7.

3. Cause exists under Education Code section 44955 to dismiss the accusation as to Gretchen Smith by reason of Findings 15, 16 and 17.

4. Other than as set forth in Finding 17 no permanent or probationary employee with less seniority is being retained to render a service for which Respondents are certificated and competent by reason of Finding 18.

5. Cause exists to give notice to Respondents Cameron Clarno, Jennifer Croll and Susana Rodriguez that their services will not be required for the 2009/2010 school year by reason of the whole of the Findings herein.

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ORDER

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The Accusation against Gretchen Smith is dismissed.

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Notice may be given to Respondents Cameron Clarno, Jennifer Croll and Susana Rodriguez that their services will not be required for the 2009/2010 school year.

Dated: \_\_\_\_\_

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RICHARD J. LOPEZ  
Administrative Law Judge  
Office of Administrative Hearings

RJL:rfm