

BEFORE THE  
GOVERNING BOARD OF THE  
NATOMAS UNIFIED SCHOOL DISTRICT  
STATE OF CALIFORNIA

In The Matter of the Reduction In Force of:

CERTAIN CERTIFICATED PERSONNEL  
EMPLOYED BY THE NATOMAS  
UNIFIED SCHOOL DISTRICT,

Respondents.

OAH No. 2009060848

**PROPOSED DECISION**

This matter was heard before Administrative Law Judge Jonathan Lew, State of California, Office of Administrative Hearings, on July 14, 2009, in Sacramento, California.

James Scot Yarnell, Attorney at Law, appeared on behalf of the Natomas Unified School District.

Carolyn Langenkamp, Attorney at Law, appeared on behalf of all but six respondents. The six unrepresented respondents did not appear.<sup>1</sup>

Evidence was received and submission of the matter was deferred pending receipt of additional written argument. The District and respondents filed post-hearing briefs on July 20, 2009.<sup>2</sup> The case was thereafter submitted for decision.

**FACTUAL FINDINGS**

1. Kenneth Whittemore is the Assistant Superintendent, Human Resources of the Natomas Unified School District (District). The actions of Mr. Whittemore, and the actions of the District Governing Board, were taken in their official capacities.

---

<sup>1</sup> The six unrepresented and non-appearing respondents include: Kathryn Arsenault, Carrie DiPinto, Shazana Gardner, Jean-Pierre Grelet, Hilary King and Barbara MacFarlane. At hearing, it was represented that Jean-Pierre Grelet had resigned. As to these non-appearing respondents, the hearing proceeded by way of default under Government Code section 11520.

<sup>2</sup> The District's Post-Hearing Brief and Respondent's Closing Argument were marked respectively as Exhibits 15 and BB for identification.

2. Respondents are permanent or probationary certificated employees of the District. On June 22, 2009, the District served on each respondent a written notice that it had been recommended that notice be given to respondents pursuant to Education Code sections 44949, 44955 and 44955.5 that their services would be reduced or would not be required for the 2009-2010 school year. Each written notice set forth the reasons for the recommendation and noted that the District Governing Board had passed a Resolution reducing the certificated staff by 60.1 full-time equivalent (FTE) positions. Respondents timely requested in writing a hearing to determine if there is cause for not reemploying them for the ensuing school year.

3. The Assistant Superintendent made and filed Accusations against respondents. The Accusations with required accompanying documents and blank Notices of Defense were timely served on respondents. Respondents timely filed Notices of Defense to the Accusation. Each respondent identified in ATTACHMENT A to this Decision timely filed a Notice of Defense to the Accusation, either in person or through counsel.

4. On June 17, 2009, at a regular meeting, the District Governing Board was given notice of the Superintendent's recommendations that certificated employees holding 60.1 FTE positions be given notice that their services would be reduced or not required for the next school year and stating the reasons for that recommendation.

5. On June 17, 2009, the District Governing Board determined that it was necessary to decrease programs and services and thus it was necessary to reduce teaching and other certificated services affecting employment of 60.1 FTE positions. The District Governing Board adopted Resolution No. 09-43 providing for the reduction or elimination of the following particular kinds of services (PKS):

<u>Elementary Teaching Services</u>	<u>Equivalent Positions</u>
Multiple Subject Service	44.5
Elementary Counselors	2.0
Elementary Prep Specialist	1.0
 <u>Secondary Teaching Services</u>	
English	2.6
Social Science	3.3
ROP Business Management	1.0
Computer/Business/Technology	0.5
Physical Education	2.6
Counseling	2.6
Total	60.1 FTE

6. The Governing Board's resolution to reduce or discontinue particular kinds of services was made in anticipation of significant and unexpected shortfalls in District revenues occasioned by the Governor's state budget. State school district funding was dramatically reduced in the state's FY 2008-2009 budget, and additional cuts were implemented as part of the state's 17-month budget approved in February 2009. When the May 2009 initiatives (Propositions 1A through 1E) did not pass, the District determined that summer certificated layoffs were necessary under Education Code section 44955.5. Section 44955.5 authorizes a public school district governing board, whenever the "total revenue limit per unit of average daily attendance for the fiscal year of that Budget Act has not increased by at least 2 percent," to reduce or eliminate services of certificated employees when, in the opinion of the District Governing Board, it is "necessary" to do so.

The parties agree that the base revenue limit per average daily attendance (ADA) has not increased by at least two percent. In fact, it has decreased.

7. The District's revenue limit calculation does not include fluctuations in enrollment, categorical funds outside of the revenue limit, federal funds or other aggregate funds received by the District. It is determined annually by applying the cost-of-living adjustment (COLA) and deficit factors to the base revenue limit per ADA. In this case the District's total base revenue limit per ADA, after applying the COLA, was \$6,240.49 for FY 2008-2009; and \$6,501.49 for FY 2009-2010. After applying deficit factors, the total funded base revenue limit per ADA was \$5,527.33 for FY 2008-2009; and \$5,333.37 for FY 2009-2010. The difference between these figures represented a decrease of 3.5091 percent in total revenue limit funding per ADA for FY 2009-2010.

The District also did an alternative calculation by dividing its total revenue limit for each fiscal year by the District's revenue limit ADA for each of the respective fiscal years. The District's total revenue limit for each fiscal year includes the COLA, deficit factor, and other revenue limit items. Using this method, the District's total revenue limit per ADA was \$5,669.58 for FY 2008-2009; and \$5,469.62 for FY 2009-2010. The difference between these figures represented a decrease of 3.5269 percent in total revenue limit funding per ADA for FY 2009-2010.

The District relied upon the more conservative of the above two calculations in making its base revenue limit calculations. Either way, the District Governing Board determined that its total revenue limit per unit of average daily attendance for the fiscal year for the Budget Act has not increased by at least two percent under Education Code section 44955.5.

8. Respondents complain that the District used deficit factors from May revisions to the Budget Act that had not yet been passed, and that the correct deficit factors were those associated with the February 20, 2009 Budget Act, which was adopted.<sup>3</sup> By using the

---

<sup>3</sup> The February 2009 deficit factors were .92156 for FY 2008-2009; and .86906 for FY 2009-2010. The May Revise figures were .88572 for FY 2008-2009; and .82035 for FY 2009-2010.

February 2009 deficit factors, respondents believe the combined deficit loss for FY 2008-2008, and FY 2009-2010 school years is \$2,651,635.<sup>4</sup> In contrast, the District calculated its combined deficit loss for this same period to be closer to \$7.8 million.

John Christ is the District's Assistant Superintendent for Business Services. He explained that the May Revise deficit factors were used because the Sacramento County Office of Education (SCOE) recommended that the districts within its jurisdiction use the updated figures for budgeting purposes. The District followed SCOE budget recommendations and submitted its budget to SCOE for approval based upon budget assumptions provided to the District from SCOE. In addition, the District followed the recommendation of School Services of California, a statewide consulting service to California school districts, that the May Revise deficit factors be used for planning purposes. The District viewed the May Revise figures as the Governor's most current budget recommendations. It was not unreasonable for the District to rely upon these more recent figures in making its base revenue limit calculations.

9. Respondents also point to a number of alternative funding sources which it believes can be used to offset District revenue losses, and otherwise prevent or reduce the number of layoffs. They point to the District's receipt of \$2,812,317 in State Fiscal Stabilization Fund (SFSF) Entitlements under the American Recovery and Reinvestment Act (ARRA), Public Law 111-5. The District is receiving \$232,501 in ARRA Title 1 Entitlements, and \$776,030 in SFSF Categorical Stimulus unrestricted funds. These additional funds total \$3,820,848. Respondents believe these funds are both intended for the purpose of avoiding teacher layoffs, and are sufficient to offset losses from the deficit funding of the base revenue limit. Respondents contend that given these additional funds, there is no financial necessity to justify any layoffs in this case.

10. Mr. Christ prepared the District's 2009-2010 budget. It detailed and fully accounted for the District's use of SFSF and other federal stimulus funds. The District is dealing with ongoing revenue losses and a corresponding need to reduce expenditures. The FY 2009-2010 net decrease in fund balance (Revised Total Revenues minus Revised Total Expenditures) is estimated to be \$7,814,023. Mr. Christ described upwards of \$32 million in ongoing budget reductions after taking away "everything imaginable" in non-salaried cuts. As noted in Finding 8, he believes the primary disagreement between the District and respondents is over the use of different deficit factors in calculating the total revenue limit per unit of average daily attendance. He explained the District's rationale for using updated May 2009 revised figures, and the reasons for not basing projections on earlier February 2009 budget projections.

The budget prepared by Mr. Christ, and adopted by the District's Governing Board, contains a number of shaded items representing those adjustments that were not included in the 2009-2010 Adopted Budget, but that would be included in the 45-day budget revisions.

---

<sup>4</sup> This is based upon a deficit of \$1,608,050 for school year 2008/2009, and \$1,043,585 for school year 2009-2010.

For example, the District's 2009-2010 budget seeks to take advantage of reduced penalties for not maintaining student teacher ratios of 20:1. The District plans to lay off a sufficient number of teachers to have class sizes between 25 and 30 in grades kindergarten through third, resulting in a net saving of at least \$617,626, or 32.1 FTEs. Other budget item savings will be realized by reducing junior and senior high physical education (4.0 FTE), social studies (2.0 FTE) and other classified and certificated layoffs (18.2 FTE).

It does appear that the particular kinds of services identified in the resolution for elimination or reduction were reasonably prompted by anticipated and significant reductions in revenues to the District.

11. Respondents also contend that certificated employees are being laid off in numbers that are disproportionate to the need, and also in disproportion to other District employees. They contend that the District's revenue loss of \$2,651,635 does not justify laying off the number of certificated employees noticed by the District. In making this argument, respondents engage in the following analysis. They estimate District's cost per teacher to be \$60,251. Using this figure as the denominator; and using as numerators the base revenue limit (BRL) losses for FY 2008-2009 (\$1,608,050), and FY 2009-2010 (\$1,043,585); respondents calculate the layoffs needed to balance BRL losses for FY 2008-2009 to be 27 FTE, and for FY 2009-2010 to be 17 FTE.

In short, respondents believe a reduction of only 44 FTE certificated positions was needed to account for revenue shortfalls. This calculation uses the February 2009 deficit factor, but disregards federal stimulus monies and other additional funds that respondents also believe are available. Respondents further suggest that the District must include more administrators and classified employees within its planned layoffs. They note that administrator and classified salaries made up 8.6 percent and 21.8 percent of total District salaries, respectively, for FY 2008-2009. Respondents therefore argue that certificated reductions should not exceed their proportion (69.6 percent) of the revenue loss, which they believe translates into no more than 30.6 FTE certificated positions.<sup>5</sup>

12. The District articulated its rationale for using the more conservative May Revise deficit factor (Finding 8), and for reducing the certificated positions it identified in the Board resolutions. It has accounted for the additional federal stimulus and additional funding. It was not required to reduce certificated employees proportionately to District administrators or classified employees. The identification of District positions for reduction or elimination is a policy decision that should remain within the exclusive province of the District's Governing Board. Arguments raised here by respondents are better made directly to the Board at the time of its consideration of these policy issues.

---

<sup>5</sup> Respondents arrive at this figure by using the \$2,651,635 base revenue loss figure, taking 69.6 percent of this amount, and then dividing it by the estimated cost per teacher (\$60,251).

For these reasons, it was well within the discretion of the District Governing Board to make these fiscal policy decisions. In the absence of any evidence that the Board acted arbitrarily or abused its discretion in making such decisions, it is not proper to raise questions about the wisdom of their decision here.

*Stipulations*

13. The parties entered into the following stipulations at hearing:
  - a. The precautionary layoff notice to Taniia Edwards is rescinded.
  - b. The layoff notice to Linda Cravens is rescinded. Ms. Cravens wins the tie breaker over Anna Williams. There was no layoff notice to Ms. Williams.
  - c. The precautionary layoff notice to John Nguyen is rescinded. Mr. Nguyen bumps Dominique Groom.
  - d. The seniority date of Jennifer Sare is changed to October 10, 2007.
  - e. The seniority date of Chandra Irvine is changed to July 5, 2008.
  - f. The seniority date of Jennifer Seto-Nollie is changed to July 7, 2008.
  - g. The layoff notice to Zenia Treto is rescinded. Ms. Treto wins the tie breaker over Callie Gibson. There was no layoff notice to Ms. Gibson.
  - h. The seniority date of Holly Finely is changed to August 10, 2007.

*Other Individual Respondents*

14. Shazana Gardner. Ms. Gardner received a precautionary notice. She has a District seniority date of August 11, 2008. She holds a preliminary multiple subject credential with supplementary authorizations in English (K-9) and Science (K-9). She is assigned full time to teach middle school science. Respondent Corey Weber has District seniority date of August 8, 2007. She also holds a multiple subject credential with supplementary authorizations in English (K-9) and Science (K-9). However, she is currently in a .51 FTE elementary school position. The District is unwilling to split the middle school position and Ms. Weber has no right to bump into one FTE middle school science, regardless of her relative seniority, if she occupies less than one FTE. That is the case here. The precautionary layoff notice to Shazana Gardner is rescinded.

15. Tanya Mendoza. Ms. Mendoza has a District seniority date of August 15, 2007. She holds a preliminary single subject teaching credential in physical education, with a supplementary authorization in music. The supplementary authorization allows her to teach “the subject matter content for the ‘introductory’ subject or subjects named above as

supplementary authorizations which is typically included for that subject in curriculum guidelines and textbooks for study in grades nine and below.”<sup>6</sup> Ms. Mendoza is therefore authorized to teach music at the introductory or 9th grade level.

Ms. Mendoza was the past band director at Inderkum High School and taught instrumental music and choir in the past. She taught Beginning, Intermediate and Advanced Band, and Beginning and Advanced Choir during school year 2007 – 2008. She is senior to Shawn Hines, who has a District seniority date of August 6, 2008. Mr. Hines holds a single subject music credential and is being retained to teach Tiger Marching Band, Guitar Beginning, Concert Choir, Electronic Music and Symphonic Band for school year 2009 – 2010.

Although Ms. Mendoza appears to have taught and provided the same services the District is retaining Mr. Hines to provide, she was not and is not authorized to do so. She is not credentialed and qualified to teach marching band or symphonic band. To the extent that she taught advanced music courses for the District in school year 2007 – 2008, the District acknowledges that she was not properly assigned to do so. The District is concerned that if she were to teach such courses in school year 2009 – 2010 the District could be found out of compliance were it to be audited. Ms. Mendoza’s seniority and experience teaching such music courses in the past notwithstanding, she may not properly bump Mr. Hines. He was properly retained by the District to be the high school band director.

### *Counselor Positions*

16. Respondents contend that the District failed to consider the positively assured attrition created by the resignation of Jessica White, one of its certificated employees serving as a counselor. They believe her resignation would satisfy 1.0 FTE of the 4.6 FTE counselor reductions. Mr. Whittemore indicated that the District was aware of Ms. White’s resignation when it determined to reduce the counseling services by 4.6 FTE at the June 17, 2009 Board meeting. The 4.6 FTE cuts were intended to be in addition to Ms. White’s resignation. The District did consider positively assured attrition when it terminated 4.6 FTE certificated counselor positions.

### *Other Matters*

17. The rescission of layoff notices to respondents Linda Cravens and Zenia Treto reduces the number of District layoffs by 2.0 FTE, and the number of layoffs is accordingly adjusted from 60.1 to 58.1 FTE. (Finding 13.)

---

<sup>6</sup> Language is from description of Supplementary Subject(s) and Authorization(s): Introductory Music on Preliminary Single Subject Teaching Credential issued to Tanya Monica Mendoza from the State of California Commission on Teacher Credentialing. (Valid January 5, 2005, to February 1, 2010.)

The District prepared a bumping chart for the 2009 Summer Certificated Layoffs that was marked and received into evidence as Exhibit 3. Based upon review of this document and the other matters set forth above in the stipulations and Factual Findings, it was established that the District applied bumping rules correctly, allowing bumping based upon the more senior employee holding a credential or authorization to teach the assignment of the less senior teacher. No permanent or probationary certificated employee with less seniority is being retained to render a service which respondents are certificated and competent to render.

18. Cause exists for the reduction of the particular kinds of services and for the reduction of 58.1 full-time equivalent certificated positions at the end of the 2008-2009 school year pursuant to Education Code sections 44949, 44955 and 44955.5. Therefore, and except as otherwise noted above, cause exists to give respondents notice that their services will be reduced or will not be required for the ensuing 2009-2010 school year.

20. The reduction or discontinuation of the particular kind of service set forth in Resolution No. 09-43 is related to the welfare of the schools and the students thereof within the meaning of Education Code sections 44949 and 44955. The decision to reduce or discontinue these services was neither arbitrary nor capricious, but rather a proper exercise of discretion of the District's Governing Board.

## LEGAL CONCLUSIONS

1. All notice and jurisdictional requirements set forth in Education Code sections 44949, 44955 and 44955.5 were met. The notices sent to respondents indicated the statutory basis for the reduction of services and, therefore, were sufficiently detailed to provide them due process. (*San Jose Teachers Association v. Allen* (1983) 144 Cal.App.3d 627; *Santa Clara Federation of Teachers v. Governing Board* (1981) 116 Cal.App.3d 831.) The description of services to be reduced, both in the Board Resolution and in the notices, adequately described particular kinds of services. (*Zalac v. Ferndale USD* (2002) 98 Cal.App.4th 838. See, also, *Degener v. Governing Board* (1977) 67 Cal.App.3d 689.) As to non-appearing and non-represented respondents, this matter proceeded by way of default under Government Code section 11520.

2. Education Code section 44955.5, subdivision (a) provides as follows:

During the time period between five days after the enactment of the Budget Act and August 15 of the fiscal year to which that Budget Act applies, if the governing board of a school district determines that its total revenue limit per unit of average daily attendance for the fiscal year of that Budget Act has not increased by at least 2 percent, and if in the opinion of the governing board it is therefore necessary to decrease the number of permanent employees in the district, the governing

board may terminate the services of any permanent or probationary certificated employees of the district, including employees holding a position that requires an administrative or supervisory credential. The termination shall be pursuant to Sections 44951 and 44955 but, notwithstanding anything to the contrary in Sections 44951 and 44955, in accordance with a schedule of notice and hearing adopted by the governing board.

3. Education Code section 44955 provides in pertinent part:

¶...¶

(b) Whenever in any school year ... whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, ...or whenever the amendment of state law requires the modification of curriculum, and when in the opinion of the governing board of the district it shall have become necessary by reason of any of these conditions 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.

¶...¶

4. As noted in Findings 6 and 7, the District’s total revenue limit per unit of average daily attendance will not increase by at least two percent. The District’s Governing Board has determined that as a result it needs to reduce the number of certificated employees in the District. The District’s revenue limit will actually decrease by 3.5091 percent.

5. Respondents contend that the District has not demonstrated that it is financially necessary to reduce certificated employees by 58.1 FTE. Education Code section 44955.5 authorizes a public school governing board to “terminate the services of any permanent or probationary certificated employees” where the “total revenue limit per unit of average daily attendance for the fiscal year ... has not increased by at least 2 percent.” It is undisputed in this case that the District’s total revenue limit per unit of average daily attendance will not be increased by at least two percent. Education Code section 44955.5 makes no mention of the need to also consider other revenue sources, including federal stimulus or other fund balances on reserve. It does appear that once a threshold

determination is made that the two percent increase has not been satisfied, the District Governing Board has discretion to opine that it “is therefore necessary to decrease the number of permanent employees in the district, ...”

6. The “necessity” language is substantially identical to Education Code section 44955. The determination of the necessity to reduce or discontinue particular kinds of services should therefore be reserved to the discretion of the District Governing Board. The policymaking decisions of a district governing board, an elected legislative body, should not be subject to arguments as to the wisdom of their enactment, the necessity of the resolution, the selection of services, or questions as to the board’s motivation. (*California Teacher’s Assn. v. Huff* (1992) 5 Cal.App.4th 1513, 1529; *Horwath v. Local Agency Formation Comm. of San Mateo County* (1983) 143 Cal.App.3d 177, 182.) The board’s action need only be reasonable under the circumstances. (*Campbell Elementary Teachers Assn. v. Abbott* (1978) 76 Cal.App.3d 796.) Here, the District articulated its rationale for using the May 2009 revise deficit factor, and not the February 2009 deficit factor, in calculating its base revenue limit. It has accounted for its use of federal stimulus and other funding sources to pay teacher salaries. It is not bound to reduce certificated employees in proportion to their historical dollar share of salaried positions within the District. There was no evidence that the District Governing Board acted arbitrarily or capriciously in passing Resolution No. 09-43. It was within the discretion of the District Governing Board to make such fiscal and policy decisions.

7. Respondents contend that section 44955.5 allows layoffs for only one reason – necessity due to a shortfall in the district’s revenue limit – and that a district should not be allowed to proceed with layoffs for the reasons stated in section 44955. They argue that to interpret section 44955.5 otherwise would impermissibly infringe upon the reach of section 44955 which respondents believe by its terms permits a school district to lay off employees due to the type of long-term programmatic changes in how the school district will conduct its operations such as decreases in average daily attendance, decisions to reduce or discontinue a particular kind of service, and state law mandated changes in a district’s curriculum. (Ed. Code, § 44955, subd. (b).) Respondents believe that to proceed with such layoffs necessitated by long-term programmatic changes, the district must comply with a timeline designed to give employees notice in advance of the next school year of their employment status. And that requiring such advance notice is the “quid pro quo” for allowing school districts to make such programmatic reductions in force.

Education Code section 44955.5 specifically incorporates by reference the reasons for layoffs in section 44955. It allows for additional adjustments upon an event trigger – a determination that the base revenue limit per average unit of daily attendance has not increased by more than two percent. It then allows a district to account for fiscal changes and to make additional reductions in force, including those based on the reasons specified in section 44955, as the budget revenue picture changes. Respondents’ characterization of section 44955 layoff as being limited to long-term programmatic changes is not persuasive. The District Governing Board is certainly authorized to make programmatic changes, even long term, when changes in fiscal circumstances dictate that such is necessary. The

administrative law judge then performs much the same evaluation under Education Code section 44955.5, as under sections 44949 and 44955. The same consideration is given to issues relating to seniority, bumping, skipping, tie-break criteria, teacher certification, competency and classification. In contrast, and as already noted, review of the necessity or wisdom of the governing board's decision is very limited. Board actions should not be subject to independent de novo review. Rather, the administrative law judge should look only to whether there is any evidence that a board's decision was arbitrary or capricious. In this case the action taken by the District's Governing Board was reasonable under the circumstances.

8. The particular kinds of services to be reduced by the District are adjusted from 60.1 to 58.1 FTE positions, by reason of the matters set forth in Findings 13 and 17.

The District has further rescinded notices of layoff to respondents Taniia Edwards, Linda Cravens, John Nguyen, Zenia Treto and Shazana Gardner. (See Findings 13 and 14.)

9. As set forth in the Factual Findings, the District applied bumping rules correctly, allowing bumping based upon the more senior employee holding a credential or authorization to teach the assignment of the less senior teacher. Respondent Tanya Mendoza is not certificated and competent to bump into a music position held by a junior teacher. (Finding 15.)

10. No permanent or probationary certificated employee with less seniority is being retained to render a service which respondents are certificated and competent to render. The District articulated the rationale for its bumping decisions and properly applied them, along with tie-break criteria, when the process so required.

11. The services identified in Board Resolution No. 09-43 are particular kinds of services that may be reduced or discontinued under Education Code sections 44955 and 44955.5. The District Governing Board's decision to reduce or discontinue the identified services was neither arbitrary nor capricious, and was a proper exercise of its discretion.

12. Cause exists for the reduction of the particular kinds of services and for the reduction of full-time equivalent certificated positions at the end of the 2008-2009 school year pursuant to Education Code sections 44949, 44955 and 44955.5. Therefore, and except as otherwise noted above, cause exists to give respondents notice that their services will be reduced or will not be required for the ensuing 2009-2010 school year.

Cause for reduction or discontinuation of services relates solely to the welfare of the schools and the pupils of the Natomas Unified School District within the meaning of Education Code section 44949.

## ORDER

Cause exists for the reduction of 58.1 full-time equivalent certificated positions at the end of the 2008-2009 school year. After making the adjustments set forth in the Factual Findings and Legal Conclusions, notice shall be given to remaining respondents that their services will be reduced or will not be required for the ensuing school year, 2009-2010, because of the reduction and discontinuance of particular kinds of services.

DATED: July 27, 2009

---

JONATHAN LEW  
Administrative Law Judge  
Office of Administrative Hearings