

BEFORE THE
GOVERNING BOARD OF THE
SAN CARLOS SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AUDREY CHAN and various other
certificated employees of the District,

Respondents.

OAH No. 2010021048

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in San Jose, California, on April 20, 2010.

Chesley D. Quaide, Attorney at Law, Atkinson, Andelson, Loya, Ruud & Romo, represented the San Carlos School District.

Christopher Schumb, Attorney at Law, represented all the respondents.

The matter was submitted on April 20, 2010.

FACTUAL FINDINGS

1. Craig Baker made the accusations in his official capacity as the Superintendent of the San Carlos School District (District) and not otherwise.

2. Each of the named respondents was at all times mentioned herein, and now is, a certificated employee of the District.¹

3. On March 11, 2010, the Governing Board of the District was given written notice by the Superintendent of his recommendation that notice be given respondents that his/her services will be terminated at the close of the current school year and stating the reasons for the recommendation.

4. On or before March 15, 2010, respondents were given written notice by the Superintendent that it was recommended that notice be given respondents that his/her services will not be required for the ensuing school year.

¹ A list of the respondents is attached as Attachment A.

5. Respondents timely requested, in writing, a hearing to determine if there is cause for terminating his/her services for the ensuing school year.

6. On March 11, 2010, the Governing Board adopted Resolution No. 35:09/10, directing the Superintendent or his designee to give notices to certificated employees that their services will not be required for the 2010-2011 school year.

7. The programs to be reduced or eliminated include 18.5466 FTE²'s as follows:

A. Services to be Discontinued:

K-4 Self Contained Classroom Teacher	9.7 FTE
Humanities Teacher	1.6 FTE
Social Studies Teacher	.6 FTE
Math Teacher	1.0 FTE
Special Day Class Teacher	.2 FTE
Literacy Program Teachers	2.8 FTE
Literacy Program Coach	<u>.5 FTE</u>

Total FTE Discontinued 16.4 FTE

B. Services to be Reduced:

Two (2) Middle School Assistant Principals to be reduced from 1.0 FTE to .5 FTE each
Two (2) Middle School Counselors to be reduced from 1.0 FTE to .5 FTE each
Two (2) K-4 Counselors to be reduced from .5 FTE to .4267 FTE each

Total FTE Reduced: 2.1466

The Governing Board rescinded the notice given to Jennifer Crettol (.5 FTE Humanities).

8. All jurisdictional requirements were met.

9. The Governing Board by Resolution No. 35:09/10 dated March 11, 2010, has further determined that, as between employees who first rendered paid service on the same date, the order of termination listed on the seniority list has been based solely on the basis of the needs of the District and the students thereof.

10. The Governing Board cannot reduce two middle school counselors .5 FTE each. The reduction must be in a particular kind of service, a particular position. Vivian Garlick is the senior counselor. She must be allowed to retain her full 1.0 FTE. The junior

² Full-time equivalent

counselor, Julie Jobak, can be reduced .5 FTE and only .5 FTE since that was what was called for in the resolution³ and that is what was called for in her notice.

12. Talia Stamos and Shannon Lynch were given notice based on the reduction of services of K – 4 self contained classroom teachers.⁴ The District claimed that they were being bumped. However, Ms. Stamos and Ms. Lynch are not K – 4 classroom teachers⁵ and the District could not identify any senior teacher(s) that were bumping into their positions. Ms. Stamos and Ms. Lynch cannot be given a final layoff notice.

13. Julie Fox retains her .20 FTE in computers. There is no resolution to reduce or discontinue that service. Ms. Fox may have other issues concerning tie breaking that do not affect this layoff hearing. She can be given notice for .80 FTE.

14. Other than as set forth above, no permanent or probationary certificated employee with less seniority is being retained to render a service, which the respondents, or any of them, are certificated and competent to render.

15. The cause for not reemploying respondents relates solely to the welfare of the schools in the District and the pupils thereof.

LEGAL CONCLUSIONS

1. Cause for the termination or reduction of the particular kinds of service listed in Finding 7 and the corresponding positions exists in accordance with Education Code sections 44949 and 44955. It is determined that the cause relates solely to the welfare of the schools and their pupils.

2 Pursuant to Education Code section 44955, subdivision (b), only the Governing Board can determine the order of termination for employees who first rendered paid service to the district on the same date. It has done so.

3 Except as set forth in the Factual Findings above, notice shall be given in inverse order of seniority.

³ The other “Services to be Reduced” are not the subject of this hearing since none of a affected employees requested a hearing.

⁴ Anne Stephanos is in the same position as Ms. Stamos and Ms. Lynch, but she did not request a hearing and therefore her situation is not addressed in the proposed decision.

⁵ They each teach a core middle school class.

ORDER

1. The accusations against Vivian Garlick, Talia Stamos and Shannon Lynch are each dismissed.
2. Julie Fox can be given notice that her services will be reduced by .80 FTE.
3. Notice may be given to all other respondents in accordance with the Legal Conclusions that their services will not be required for the 2010-2011 school year.

DATED: _____

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings