

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

In The Matter Of The Accusation Against:

REGINA BRYANT, and other certificated
employees of the LAS VIRGENES
UNIFIED SCHOOL DISTRICT,

Respondents.

OAH No. 2010031167

PROPOSED DECISION

Michael A. Scarlett, Presiding Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on May 4, 2010, at the Las Virgenes Unified School District, in Calabasas, California.

James B. Fernow and Keith Yanov, Attorneys at Law, represented Las Virgenes Unified School District (School District).

Tareq M. Hishmeh, Attorney at Law, represented respondent members of the California Teachers Association.¹

This was originally set for hearing on April 6, 2010. Pursuant to a motion by the parties, the hearing was continued to May 4, 2010. Consequently, pursuant to Education Code section 44949, subdivision (c), and 44955, subdivision (c), the dates prescribed in the provisions are extended for a period of time equal to the continuance. This matter was submitted May 4, 2010.

¹ The Respondents included: Regina Bryant, Anush Chalian, Jessica Dickinson, Catherine Foley, Garry Galvan, Casey Hambly, Jody Hepps, Natasha Hutchison, Bobbie Johnson, Jennifer Kestenbaum, Joanne Kress, Cathy Latty, Carrie McClellan, Linda Ordin, Jonathan Palarz, Marianne Pall, Gregory Poppen, Beth Quinlan, Nadia Rizk, Katherine Roland, Steve Scifres, Heidi Serbick, Amy Seror, Brittany Stone, Janet Svoboda, Lisa Villongco, Cindy Walczuk, Kim Wildman, Christine Zacha.

FACTUAL FINDINGS

1. Assistant Superintendent Dan Stepenosky, Personnel Services of the Las Virgenes Unified School District (District), filed the Accusation in his official capacity as a public officer of the District.
2. Respondents are certificated employees of the District.
3. Pursuant to a stipulation between the parties at hearing, the following Factual Findings and Legal Conclusions were made.
4. On or before March 15, 2010, the District personally served on each respondent a written notice that it had been recommended that notice be given to respondents pursuant to Education Code sections 44949 and 44955 that their services would not be required for the next school year. Each written notice set forth the reasons for the recommendation and noted that the Board had passed a Resolution reducing the certificated staff by 70.65 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.
5. The Superintendent made and filed Accusations against each of the respondents who requested a hearing. The Accusations with required accompanying documents and blank Notices of Defense were timely served pursuant to stipulation between the parties on April 14, 2010.
6. Respondents' counsel filed a timely Notice of Defense on April 16, 2010, for the 29 respondents listed above.
7. Pursuant to stipulation, Respondent Beth Quinlan is deemed to have withdrawn her Request for Hearing and Notice of Defense.
8. Respondents in this proceeding are probationary or permanent certificated employees of the District.
9. Board Resolution No. 20-09, adopted on February 23, 2010, proposed a layoff of 70.65 FTE certificated employees. Specifically, Board Resolution provided for the reduction or elimination of the following particular kinds of services:

Service

FTE² Reduction

² Full-time equivalent position.

Elementary Teacher	41.0
Counselor	7.5
Middle School Assistant Principal	0.6
Middle School Dean	1.75
Middle School English Teacher	1.6
Middle School Social Science Teacher	1.8
Middle School Physical Education Teacher	0.8
High School Social Science Teacher	4.2
High School English Teacher	6.0
High School Math Teacher	2.0
High School Physical Education Teacher	3.4

Total 70.65 F.T.E

10. Subsequent to the adoption of Board Resolution No. 20-09, on May 3, 2010, the Board amended the Resolution, and the District rescinded its Notices of Recommendations Not to Re-Employ as to all Respondents except one, Bobbie Johnson.

11. The parties stipulated that Respondent Bobbie Johnson submitted a timely request for hearing and a timely notice of defense.

12. It is further stipulated between the parties that Respondent Bobbie Johnson is the most junior counselor and she has no bumping rights as to any other junior certificated employee retained by the District.

13. Finally, the parties stipulated that the reduction of Respondent Bobbie Johnson's counselor position is only as to twenty percent (20%) and that she shall continue with an eighty percent (80%) counselor position assignment in the 2010-2011 school year.

14. No junior certificated employee is scheduled to be retained to perform services which a more senior employee is certificated and competent to render.

LEGAL CONCLUSIONS

1. All notice and jurisdictional requirements set forth in Education Code sections 44949 and 44955 were met.

2. The services identified in Board Resolution 20-09 are particular kinds of services that could be reduced or discontinued under Education Code section 44955. The Board's decision to reduce or discontinue the identified services was neither arbitrary nor capricious, and was a proper exercise of its discretion. Cause for the reduction or discontinuation of services relates solely to the welfare of the District's schools and pupils within the meaning of Education Code section 44949.

3. Cause exists to reduce number of certificated employees of the District due to the reduction and discontinuation of particular kinds of services by reason of Factual Findings 1 through 14. The District identified the certificated employees providing the particular kinds of services that the Board directed be reduced or discontinued.

ORDER

1. Notice shall be given to Respondent Bobbie Johnson that twenty-percent (20%) of her full-time equivalent counselor position will not be required for the 2010-2011 school year because of the reduction and discontinuance of particular kinds of services.

2. The District may give notice to Respondent Beth Quinlan, who withdrew her notice of defense and request for hearing, that her services will not be required for the 2010-2011 school year.

3. The Accusations against Respondents Regina Bryant, Anush Chalian, Jessica Dickinson, Catherine Foley, Garry Galvan, Casey Hambly, Jody Hepps, Natasha Hutchison, Bobbie Johnson, Jennifer Kestenbaum, Joanne Kress, Cathy Latty, Carrie McClellan, Linda Ordin, Jonathan Palarz, Marianne Pall, Gregory Poppen, Nadia Rizk, Katherine Roland, Steve Scifres, Heidi Serbick, Amy Seror, Brittany Stone, Janet Svoboda, Lisa Villongco, Cindy Walczuk, Kim Wildman, Christine Zachain are dismissed.

Dated: May 25, 2010

MICHAEL A. SCARLETT
Presiding Administrative Law Judge
Office of Administrative Hearings