

**BEFORE THE
GOVERNING BOARD OF THE
CHULA VISTA ELEMENTARY SCHOOL DISTRICT
STATE OF CALIFORNIA**

In the Matter of the Reduction in Force of
Certain Certificated Employees of the Chula
Vista Elementary School District

OAH No. 2011030142

PROPOSED DECISION

Robert Walker, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter in Chula Vista, California, on April 26, 2011.

Dean T. Adams, Attorney at Law,¹ represented the complainant, the superintendent of the Chula Vista Elementary School District.

The respondents are listed in exhibit A.

Fern M. Steiner, Attorney at Law,² represented the respondents listed in exhibit B.

Jean Shin, Staff Attorney,³ Department of Legal Services, California Teachers Association, represented the respondents listed in exhibit C.

Raul Espino and Katherine Larsen appeared in propria persona. Mr. Espino was present throughout the hearing. Ms. Larsen was present until approximately 3:30 p.m., when she left.

The district served a precautionary Preliminary Layoff Notice on Cristina Areola, and she requested a hearing. As will be explained below, however, Ms. Areola is part of the

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district's management staff and is not entitled to the protections of Education Sections 44949 and 44955. She is not a party to this proceeding.

No appearance was made by or on behalf of Natasha Ain-Gonzalez, Sherri Avila, Neeru Bahadur, Joan Dedrick, Francisco Gil, Rosanne Goodwin, Anna Hunt, Krista Lopez, Kalen Miller, Sarah Reiff, Laura Roehrs, or Tiffany Walker.

The matter was submitted on April 26, 2011.

DEFAULT

As to Natasha Ain-Gonzalez, Sherri Avila, Neeru Bahadur, Joan Dedrick, Francisco Gil, Rosanne Goodwin, Anna Hunt, Krista Lopez, Kalen Miller, Sarah Reiff, Laura Roehrs, and Tiffany Walker, on proof of compliance with Government Sections 11505 and 11509, this matter proceeded as a default pursuant to section 11520.

FACTUAL FINDINGS

Ms. Areola is Not Entitled to Participate in the Layoff Hearing

1. The district served a precautionary Preliminary Layoff Notice on Cristina Areola, and she requested a hearing. Ms. Areola, however, is a school psychologist and is part of the district's management staff. Ms. Areola's contract specifies that it is for an "administrative position." A personnel action form specifies that the position is a certificated management position, and it calls for Ms. Areola to work 195 days per year, which is a management schedule; teachers work 185 days per year. Ms. Areola's salary is from the management scale. The district provides management training for the management staff, and Ms. Areola attends the management training sessions.

2. It is found that Ms. Areola is part of the district's management staff. As such, she is not entitled to participate in this layoff proceeding.

General Findings Concerning Statutory Requirements

3. Education Code sections 44949 and 44955,⁴ provide for two notices to be given in connection with terminating certificated employees. The first notice, which will be referred to as the Preliminary Layoff Notice, is given by the superintendent. It is given to the governing board and to the employees the superintendent recommends for layoff. The Preliminary Layoff Notice gives the board and the employees notice that the superintendent recommends that those employees be laid off. The superintendent must give the Preliminary

⁴ All references to the Code are to the Education Code unless otherwise specified.

Layoff Notice no later than March 15. There is no requirement that a governing board take any action in March. But while it is unnecessary, governing boards usually adopt a resolution ratifying the superintendent's recommendations.

4. The second notice is a notice of a governing board's decision to terminate an employee. That notice is provided for in Section 44955 and must be given before May 15. That notice advises a teacher that the district will not require his or her services for the ensuing school year. That notice will be referred to as a Termination Notice.

5. In this case, not later than March 15, 2011, the superintendent notified the governing board and the respondents that he recommended that the respondents not be retained for the ensuing school year.

6. The Preliminary Layoff Notice stated the reasons for the recommendation. The recommendation was not related to respondents' competency.

7. A Preliminary Layoff Notice was delivered to each respondent, either by personal delivery or by depositing the notice in the United States mail, registered, postage prepaid, and addressed to respondent's last known address.

8. The Preliminary Layoff Notice advised each respondent as follows: He or she had a right to a hearing. In order to obtain a hearing, he or she had to deliver a request for a hearing in writing to the person sending the notice. The request had to be delivered by a specified date, which was a date that was not less than seven days after the notice was served.⁵ And the failure to request a hearing would constitute a waiver of the right to a hearing.

9. Respondents either timely filed written requests for a hearing or obtained a waiver of their failure to file. An accusation was timely served on respondents. Respondents were given notice that, if they were going to request a hearing, they were required to file a notice of defense within five days after being served with the accusation.⁶ Respondents either filed timely notices of defense or obtained a waiver of their failure to file. All prehearing jurisdictional requirements were either met or waived.

⁵ Employees must be given at least seven days in which to file a request for a hearing. Education Section 44949, subdivision (b), provides that the final date for filing a request for a hearing "shall not be less than seven days after the date on which the notice is served upon the employee."

⁶ Pursuant to Government Section 11506, a party on whom an accusation is served must file a notice of defense in order to obtain a hearing. Education Section 44949, subdivision (c)(1), provides that, in teacher termination cases, the notice of defense must be filed within five days after service of the accusation.

10. The governing board of the district resolved to reduce or discontinue particular kinds of services. Within the meaning of Section 44955, the services are “particular kinds of services” that can be reduced or discontinued. The decision to reduce or discontinue these services was not arbitrary or capricious but constituted a proper exercise of discretion.

Services the District Intends to Reduce or Discontinue

11. The governing board of the district determined that, because particular kinds of services are to be reduced or discontinued, it is necessary to decrease the number of permanent or probationary employees in the district by 357 full time equivalents (FTE).

12. The particular kinds of services the governing board of the district resolved to reduce or discontinue are:

Services	Number of Full-Time Equivalent Positions
K-6 General Education Teachers	328
Associate Principals	5
Part-Time Program Support Teachers	5
Resource Teachers	2
Site Resource Teachers	6
Special Education	
Teachers, Special Day Class-Mild/Moderate	2
Teachers, Special Day Class-Moderate/Severe	1
Psychologists	6
Resource Specialists	2
Total Full-Time Equivalent Reduction	357

Notice to be Rescinded

13. The district stipulated that it will rescind the Preliminary Layoff Notice served on Noemi Talamante, who is a special education teacher. The reduction in force concerning special education teachers is separate from the reduction concerning general education teachers; therefore, the rescission will have no effect on the calculations regarding the general education teachers.

Tie-Breaking Criteria Based on the Current Needs of the District and Students

14. Pursuant to Section 44955, subdivision (b), the governing board of the district adopted criteria for determining the order of termination as among employees who first rendered paid service on the same day. Section 44955, subdivision (b), requires a district to adopt such criteria and provides that the criteria are to be based on “needs of the district and the students” The district’s tie-breaking criteria are as follows:

DETERMINATION OF TIE-BREAKING CRITERIA FOR
2011-12

Pursuant to provisions of Education Code Section 44955, the Board of Education is required to determine the District’s needs should it become necessary to determine the order of termination for certificated employees who first rendered paid service to the District on the same day.

For the 2011-12 school year only, to meet the requirements of Education Code Section 44955, the Board of Education determines the needs of the District and the students by establishing the following tie-breaking criteria.

The following rating system shall be applied in determining the order of termination of certificated employees:

<u>Criteria</u>	<u>Ratings</u>
BCLAD or its equivalent.	+4 points
Number of supplementary authorizations	+1 point per supplementary authorization
Number of teaching and/or services credentials	+1 point per credential

TIE-BREAKING PROCEDURE

In the event that common-day hires have equal qualifications based on application of the above criteria, the District will then break ties by utilizing a lottery.

15. The district did not find it necessary to use the tie-breaking criteria.

District's Intention to Deviate from Seniority (Skipping)

16. Pursuant to Section 44955, subdivision (d)(1), a district may deviate from terminating employees in the order of seniority, i.e., a district may *skip* over teachers with a particular qualification and terminate more senior teachers who do not possess that qualification. In order to skip, a district must demonstrate a specific need for personnel to teach a specific course or course of study or a specific need for personnel with a specialization in personnel services or nursing. If the need concerns a course or course of study, the district may skip a junior employee only if employees with more seniority do not possess the special training and experience necessary to teach the course and only if the junior employee does possess that special training and experience.

17. The district identified one specific course of study, the dual immersion (DI) classes, as creating a specific need for personnel.

18. The board resolved as follows:

The criteria that will be applied to deviate from terminating certificated employees who may otherwise be terminated by order of seniority will be based on the criteria within Education Code Section 44955(d):

(A) Teachers of dual immersion classes constitute a special and specific need in this District and shall be considered for this purpose as personnel teaching a specific course or course of study, and teachers teaching dual immersion classes have special training and experience necessary to teach dual immersion classes for purposes of Education Code Section 44955(d).

(B) Pursuant to Education Code Section 35161, the Board delegates to the District Superintendent and the Superintendent's designee(s) further implementation and determination of deviations from seniority in the order of termination of the District's certificated employees as is necessary to meet the needs of the District.

19. Emma Sanchez, the Executive Director for Language Acquisition Services for the district, testified about the DI program and the qualifications for teaching in it. She was a very impressive witness. DI classes are provided for all grade levels. Students in those classes study and learn in both Spanish and English. Some of the students are native Spanish-speaking; some are native English-speaking. The program is designed to build fluency in both Spanish and English. The program seeks to promote bilingualism, bi-literacy, academic achievement, and multicultural awareness. Academic achievement is stressed in language instruction as well as in the balance of the curriculum. There is a

particular need for this program in Chula Vista elementary schools because 9,000 students are native Spanish-speakers. Those students comprise 35 percent of the student population. Presently, 80 teachers provide this instruction.

20. Ms. Sanchez noted that, with native Spanish-speaking and native English-speaking students integrated in the same classroom, students learn from each other.

21. Ms. Sanchez requires teachers to use what have been identified as “best methods.” Teachers are expected to engage families and the community in the program. Teachers must have the ability to teach in two languages with high proficiency. It is essential that teachers be committed to the goals of the program. DI teachers must thoroughly understand and know how to teach language transferability, which has to do with the ways in which two or more languages are and are not similar. As a simple example, Ms. Sanchez pointed to cognates, words in two languages that sound somewhat alike and mean the same thing. DI teachers must know when there is transferability, when there is partial transferability, and when there is no transferability.

22. Ms. Sanchez said there has been a demand to expand the program, and she adds to the pool of teachers from time to time. Last year she added four new teachers. Those teachers had not had previous DI teaching experience. Ms. Sanchez said she prefers teachers who have had previous experience teaching DI.

23. A certification to teach English language learners, i.e., a certification such as BCLAD, is required of all teachers in the program. Such certification, however, does not necessarily cause a teacher to be qualified to teach DI. Most teachers who are certified to teach English language learners are not qualified to teach DI.

24. It is found that the district has demonstrated a specific need for personnel to teach in the DI program. It is further found that special training and experience are necessary to teach that course of study.

Ms. Camarena’s Special Training and Experience

25. Sandra Camarena holds a multiple subject credential. She is bilingual in Spanish and English and is certified to teach English language learners. She has a seniority date of October 8, 2007. Ms. Camarena was present during Ms. Sanchez’s testimony concerning the qualifications required of a DI teacher. Ms. Camarena testified that she heard Ms. Sanchez’s description of the qualifications and that she could teach in the DI program. She said that, when she was in college at San Jose State in 2006, she learned to teach all subjects in Spanish and English. She said she has transferability skills. During the current school year, Ms. Camarena participated in three one-day trainings regarding language acquisition. She and one other teacher in her school were designated to take the training and then share it with other teachers at their school. Four years ago, Ms. Camarena taught Spanish language acquisition in a transitional bilingual program at South Bay Union School. In 1986, she taught language acquisition to English-speaking adults. Ms. Camarena was a

very credible witness. Her testimony was succinct and clear. She appeared to be sincere and competent.

26. The board's resolution does not identify any special training or experience that is necessary to teach in the DI program. In that regard, the resolution provides only that, "[T]eachers teaching dual immersion classes have special training and experience necessary to teach dual immersion" And Ms. Camarena's testimony supports a conclusion that she has the special training and experience necessary to fill the position Ms. Sanchez described.

27. It is found that Ms. Camarena proved that she has the special training and experience necessary to teach in the DI program. She had the burden of proof on that matter, but she presented sufficient evidence to cause the burden to shift to the complainant. Ms. Sanchez was present during Ms. Camarena's testimony. If complainant believed there was evidence that Ms. Camarena does not have the necessary training or experience, complainant could have recalled Ms. Sanchez to testify to that effect.

28. The most junior DI teacher on whom the district served a precautionary Preliminary Layoff Notice is Blanca Hernandez-Stingl, whose date of hire is July 20, 2010. As noted above, Ms. Camarena's date of hire is October 8, 2007. The district may not terminate Ms. Camarena while retaining Ms. Hernandez-Stingl to perform a service for which Ms. Camarena possesses the necessary special training and experience.

Other Categories of Services

29. The district proved that it has cause to terminate one FTE associate principal.

30. The district proved that it has cause to terminate 1.2 FTE part-time program support teachers.

31. The district proved that it has cause to terminate 2.41 FTE site resource teachers.

32. The district proved that it has cause to terminate two FTE special education teachers.

Right to be Retained According to Seniority and Qualifications – Date of Hire

33. Job security is not inherent in seniority. The Legislature chose to provide teachers with limited job security according to their seniority.

34. There was no evidence that any teacher's date of hire was other than the date recorded on the district's seniority list.

Right to be Retained According to Seniority and Qualifications –Bumping

35. The second paragraph of section 44955, subdivision (c), does not add to teachers' seniority rights. It does, however, make it clear that governing boards must make assignments in such a way as to protect seniority rights. Employees must be retained to render any service their *seniority* and qualifications entitle them to render. Thus, if a senior teacher whose regular assignment is being eliminated is certificated and competent to teach a junior teacher's courses, the district must retain the senior teacher and reassign him or her to render that service. This is commonly referred to as bumping. The district must either reassign or terminate the junior employee.

36. The board adopted competency criteria, as follows:

Subject to requirements (if any) within the Educational Employment Relations Act that for purposes of "bumping" (displacement) rights and the determination of "competency" within the meaning of Education Code Section 44955(b) to the extent such might apply, "competency" shall be based upon possession and current filing (no later than March 1, 2011) of a preliminary or clear credential for the subject matter to which the employee would bump; see also sections 8 and 9 below, which are incorporated into this section 4.

[¶] . . . [¶]

In selecting those probationary and permanent certificated employees who shall receive notices of termination pursuant to this resolution, Education Code Section 44955(d) allows the Board to deviate from terminating a certificated employee in order of seniority.

The criteria that will be applied to deviate from terminating certificated employees who may otherwise be terminated by order of seniority will be based on the criteria within Education Code Section 44955(d):

(A) Teachers of dual immersion classes constitute a special and specific need in this District and shall be considered for this purpose as personnel teaching a specific course or course of study, and teachers teaching dual immersion classes have special training and experience necessary to teach dual immersion classes for purposes of Education Code Section 44955(d).

(B) Pursuant to Education Code Section 35161, the Board delegates to the District Superintendent and the Superintendent's designee(s) further implementation and determination of deviations from seniority in the order of termination of the District's certificated employees as is necessary to meet the needs of the District.

Mandated Services

37. State and federal laws mandate that certain services be provided at or above mandated levels. There was no evidence that the district is reducing those services below mandated levels.

The K-6 General Education Teachers

38. Sandra Villegas-Zúñiga, Assistant Superintendent for Human Resources, testified regarding the resolution and the notices that were sent to teachers. The following is a paraphrased summary of part of her testimony concerning the K-6 general education teachers.

39. K-6 General Education Teachers include teachers who teach in the DI program and teachers who do not teach in that program. With regard to the proposed layoffs, the district treated those two groups differently. Also, as noted above, the board treated part-time program support teachers, resource teachers, and site resource teachers as separate categories for purposes of specifying the FTE positions to be reduced for each one.

40. Ms. Villegas-Zúñiga served regular, i.e., not merely precautionary, Preliminary Layoff Notices on 245.74 FTE general education teachers who do not teach in the DI program.

41. Because of bumping, Ms. Villegas-Zúñiga served regular Preliminary Layoff Notices on an additional 10.65 FTE general education teachers who do not teach in the DI program. One FTE resulted from a general education teacher bumping into a position held by a junior general education teacher. Three resulted from assistant principals bumping into general education positions. One resulted from a resource teacher bumping into a general education position. Another 5.65 resulted from site resource teachers bumping into general education positions.

42. Thus, 245.74 FTE and 10.65 FTE notices were served on general education teachers who do not teach in the DI program, a total of 256.39 FTE.

43. In addition to serving 5.65 FTE on general education teachers because of site resource teachers bumping into general education positions, Ms. Villegas-Zúñiga served Preliminary Layoff Notices on 2.41 FTE site resource teachers. As noted above, the board authorized a reduction of only six FTE site resource teacher positions. Thus, the total

reduction of site resource teachers exceeded the authorization by 2.06 FTE. Because the senior site resource teachers had bumping rights and bumped into general education teaching positions, that resulted in an unauthorized over-noticing of general education teachers by 2.06 FTE. Ms. Steiner, on behalf of her clients, stipulated that, for purposes of making an adjustment, the number could be rounded to 2 FTE. Complainant's counsel, on behalf of complainant, stipulated that the FTEs to be reduced should be decreased by 2 FTE.

44. Ms. Steiner's stipulation with regard to rounding off the .06 FTE has no effect on the DI teachers because they are being skipped. It has no effect on Mr. Espino, who has a date of hire of July 27, 2006, and no effect on Ms. Larsen, who has a date of hire of July 19, 2004.

45. Thus, pursuant to stipulation, the 256.39 FTE must be decreased by 2 FTE, which leaves a reduction in staff of 254.39 FTE of general education teachers who do not teach DI. This adjustment results in the district's being permitted to serve termination notices on 2.41 FTE site resource teachers.

46. Ms. Villegas-Zúñiga testified that between March 15 and April 7, 2011, approximately 55 teachers gave notices that they would be retiring at the end of the current school year. The seniority list was revised on April 4, 2011, and using that list, Ms. Villegas-Zúñiga was able to positively identify a number of those teachers. She identified 30 teachers from the K-6 general education program who will be retiring and whose retirement has not yet been considered as satisfying the need to reduce services. Thus, the 254.39 FTE should be further decreased by 30, which leaves 224.39 FTE general education teachers who were served regular Preliminary Layoff Notices who may be terminated.

Summary of Findings Regarding Retention of Employees

47. With the above modifications, it is the case that, with regard to respondents who are permanent employees, the district is not retaining any probationary employee to render a service that such a respondent is certificated and competent to render.

48. With the above modifications, it is the case that, with regard to respondents who are permanent employees, the district is not retaining any employee with less seniority than such a respondent has to render a service that the respondent is certificated and competent to render.⁷

49. With the above modifications, it is the case that, with regard to respondents who are either permanent or probationary employees, the district is not retaining any

⁷ Section 44955, subdivision (b), provides seniority protection for a permanent employee in terms of the services *the employee is "certificated and competent to render."*

employee with less seniority than such a respondent has to render a service that the respondent's qualifications entitle him or her to render.⁸

LEGAL CONCLUSIONS

General Conclusions

1. Jurisdiction in this matter exists under Sections 44949 and 44955. Except as noted above, all notice and jurisdictional requirements contained in those sections were satisfied.

2. Within the terms of Sections 44949 and 44955, the district has cause to reduce or discontinue particular kinds of services and to give Termination Notices to certain respondents. The cause relates solely to the welfare of the schools and the pupils.

Skipping

3. Section 44955, subdivision (d)(1), provides, in part, that a district may deviate from terminating teachers according to seniority if the "district demonstrates a specific need for personnel to teach a specific course" and demonstrates that a junior "employee has special training and experience necessary to teach that course . . . which others with more seniority do not possess."

4. By reason of the matters set forth in Findings 17 through 24, it is determined that the district demonstrated a specific need for personnel to teach in the DI program and demonstrated that special training and experience are necessary to teach that course of study.

Conclusions Regarding Ms. Camarena

5. Section 44955, subdivision (d)(1), requires that a district satisfy two conditions before it can consider skipping a junior employee. First, a district must demonstrate a specific need for personnel to teach a specific course. Second, a district must demonstrate that employees with more seniority do not have the special training and experience necessary to teach that course. Until a district demonstrates both of those things, there is no reason to consider whether a junior employee has the special training and experience necessary to teach the course. Whether a junior employee has the special training and experience necessary to teach the course is irrelevant unless a district has demonstrated that employees with more seniority do not have the special training and experience necessary to teach it.

⁸ Section 44955, subdivision (c), provides seniority protection for both permanent and probationary employees in terms of the services *an employee's "qualifications entitle [him or her] to render."*

6. In *Bledsoe v. Biggs* (2008) 170 Cal.App.4th 127, the third appellate district dealt with a skipping issue. Bledsoe was senior to teachers who were skipped. Bledsoe contended he had the special training and experience necessary to teach the course for which the junior teachers were retained. The court did not read Section 44955, subdivision (d)(1), as requiring one to first dispose of the issue of whether a senior teacher has the special training and experience necessary. The court first found that Bledsoe had, at least, the minimal training and experience necessary to teach the course. The court then reviewed the junior teachers' *special* training and experience and found that the junior teachers had special training and experience necessary to teach the course. Finally, the court reviewed Bledsoe's *special* training and experience and found that he did not have the special training and experience *that the junior teachers had*. The court said, "This evidence supports the finding that Bledsoe does not possess the special training and experience that Gates and Sormano possess." (*Bledsoe, supra*, 170 Cal.App.4th at pp. 135 - 142.)

7. There is an ambiguity in the court's conclusion that "Bledsoe does not possess the special training and experience that Gates and Sormano possess." Immediately prior to that, the court found that "Gates and Sormano have the 'special training and experience necessary to teach' [the course.]" (*Bledsoe, supra*, 170 Cal.App.4th at p. 142.) Thus, the court's conclusion concerning Bledsoe could be taken to mean that he did not possess the special training and experience necessary to teach the course. And if the conclusion concerning Bledsoe is read that way, it is perfectly consistent with the requirements of Section 44955, subdivision (d)(1).

8. If, on the other hand, one reads the court's conclusion concerning Bledsoe as meaning only that he did not have as much special training and experience as Gates and Sormano had, the court failed to make an essential finding. Before a district may skip a junior teacher, section 44955, subdivision (d)(1), requires the district to demonstrate that personnel "with more seniority do not possess" the "special training and experience necessary to teach [the] course"

9. A district may not use specified periods of experience in its skipping criteria simply to secure continuity in a position. Section 44955, subdivision (d)(1), allows a district to maintain continuity in a position only if the district demonstrates that employees with more seniority do not have the special training and experience necessary to fill the position.

10. The rule-making authority conferred on the governing boards of school districts is limited to the adoption of rules not in conflict with other statutory restrictions. (*Patton v. Governing Board* (1978) 77 Cal.App.3d 495, 501. "The governing board of each school district shall prescribe and enforce rules not inconsistent with law, or with the rules prescribed by the State Board of Education, for its own government." (Section 35010, subd. (b).) Administrative regulations that alter or amend a statute or enlarge or impair its scope are void. (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1389.) These rules apply to dismissal of tenured teachers. "[I]t is the function of the governing board of each district to suspend, demote or dismiss employees" as provided by statute. "To the extent [any rule or regulation] is contrary to these statutory provisions, it is

void, for an administrative agency has no authority to enact rules or regulations which alter or enlarge the terms of legislative enactments.” (*California Sch. Employees Assn. v. Personnel Commission* (1970) 3 Cal.3d 139, 143-144)

11. Administrative practices that circumvent valid expectations of reemployment created by the tenure statutes are not permitted. (*Balen v. Peralta Junior College Dist.* (1974) 11 Cal.3d 821, 830-831; *Santa Barbara Federation of Teachers v. Santa Barbara High School Dist.* (1977) 76 Cal.App.3d 223, 230.)

12. Layoffs must proceed in accordance with the procedures prescribed by statute, which are to be strictly followed. (*Greer v. Board of Education* (1975) 47 Cal.App.3d 98, 105.)

13. Because subdivision (b) of section 44955 mandates that “the services of no permanent employee may be terminated . . . 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,” junior employees may be given retention priority pursuant to section 44955, subdivision (d)(1), only if they possess special training and experience that their more senior counterparts lack. (*Alexander v. Board of Trustees* (1983) 139 Cal.App.3d 567, 571; *Moreland Teachers Assn. v. Kurze* (1980) 109 Cal.App.3d 648, 655.)

14. In interpreting the meaning of a statute, words must be given the meaning they bear in ordinary usage. (*In re Rojas* (1979) 23 Cal.3d 152, 155.) The meaning of an enactment should not be determined from a single word or sentence; the words must be construed in context, and provisions relating to the same subject matter must be harmonized to the extent possible. (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1386-1387; *Title Ins. & Trust Co. v. County of Riverside* (1989) 48 Cal.3d 84, 91.)

15. The “*special training and experience necessary*” language in section 44955, subdivision (d)(1), must be read in context with 44955, subdivision (b). When one does that, it appears that the word “necessary” substantially limits 44955, subdivision (d)(1). A district may require special training and special experience, but a district cannot require more of either than is “necessary” to teach the course. If “necessary” were not read in that limiting way, 44955, subdivision (d)(1), could be used to circumvent the seniority rights secured by 44955, subdivision (b). On the other hand, reading “necessary” in that limiting way harmonizes the language of the two subdivisions.

16. Thus, a district may not use skipping criteria that are not “necessary” to teach a course. Requiring a certain type of experience or a certain length of experience may be appropriate but only if it is shown to be “necessary.” There are a few decisions in which courts have approved of a requirement of prior experience. *Martin v. Kingfield School District* (1983) 35 Cal.3d 294, is an example. The case concerned the section 44956 preferred right of reappointment. An elementary school teacher who had been terminated

asserted her right to be rehired to fill a new position as a middle school science teacher, a position for which she was credentialed. The district established a requirement of prior experience as a middle school teacher and did not rehire Martin for the position. The case stands for the proposition that a district, in requiring prior middle school experience for a middle school science position, did not abuse its discretion.

17. Skipping a junior teacher and terminating a senior teacher instead of terminating the junior teacher is such a fundamental departure from the tenure system that the legislature's limitation of "necessary" should be strictly respected. A district should be allowed to terminate a senior teacher for not having "necessary" experience only if the experience actually is "necessary." Here Ms. Sanchez testified that she prefers teachers who have past experience teaching DI; she did not testify that past experience is necessary.

18. By reason of the matters set forth in Findings 17 through 27, it is determined that Ms. Camarena possesses the special training and experience necessary to teach in the DI program. The most junior DI teacher to whom the district sent a precautionary Preliminary Layoff Notice is Blanca Hernandez-Stingl. It may be that Ms. Hernandez-Stingl is well qualified to teach in the DI program, but because Ms. Camarena possesses the special training and experience necessary for the position, Ms. Hernandez-Stingl's qualifications are not relevant.

19. The district may serve a Notice of Termination on Ms. Hernandez-Stingl. The accusation against Ms. Camarena must be dismissed.

Attrition

20. Must a district consider positively assured attrition in deciding how many employees' services are subject to termination? Subdivision (b) of section 44955 of the Code provides that, when a school district has experienced a decline in its average daily attendance or when a particular kind of service is to be reduced or eliminated, "*and when in the opinion of the governing board . . . 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 . . .*" (Italics added.) In *Burgess v. Board of Education*⁹ the court held that "normal attrition" must be used to offset layoffs justified by a decline in ADA since ignoring such attrition "results in a reduction in force not necessarily required by decline in average daily attendance." Two years later, citing *Burgess*, the court in *Lewin v. Board of Trustees*¹⁰ held that, "because the number of employees may be reduced only when it is 'necessary' to do so, the governing board must consider normal attrition in

⁹ (1974) 41 Cal.App.3d 571, at 579.

¹⁰ (1976) 62 Cal.App.3d 977, at 980-983.

the work force as a part of *any* reduction in employment.”¹¹ (Italics added.) Reasoning that “[b]oard members are not soothsayers,” the court held that a district must consider only “positively assured attrition,” that is, attrition known to the board by the time of its final determination on or before May 15. A district need not consider “potential attrition,” that is, retirements and resignations that are expected to occur before the beginning of the next school year.

21. *Moreland Teachers Association v. Kurze*,¹² concerned notices that cited both ADA and PKS as the grounds for termination. In discussing, the attrition issue, however, the court focused on the ADA ground. In calculating the number of employees to be laid off, the school district had considered attrition occurring before the initial notice date of March 15. The respondents contended that the district was required to consider attrition occurring between March 15 and May 15, also. The district contended that it was not required to do that. In *Moreland*, the court elaborated on the *Lewin* holding.

Acknowledging actual attrition occurring between March 15 and May 15 to reduce the number of employees to be laid off results in no prejudice to the school district, while sparing that number of employees unnecessary termination of employment.

We see no legal or practical impediment to revising downward the number of needed terminations resulting from events occurring in the intervening two months. On the contrary, there is sound reason to do so, as otherwise the reduction in force for the ensuing school year would be greater than that necessitated by the decline in attendance.¹³

22. In *San Jose v. Allen*, the case on which complainant relies, the court held that a school district is not required to consider attrition in a PKS layoff.

A board’s decision as to reduction or discontinuation of a particular kind of service is not tied in with any statistical computation, such as reduction in the number of students. The number of terminations made necessary by PKS reductions depends totally upon the district’s decision as to how many services to reduce. Put another way, the language of section 44955 that the governing board of a school district “may terminate the services of not more than a corresponding

¹¹ *Id.* at p. 980.

¹² (1980) 109 Cal.App.3d 648.

¹³ *Id.* at p. 654.

percentage of the certificated employees of said district” is only applicable to ADA terminations based upon an actual reduction in attendance. Where the governing board determines to discontinue or reduce a particular kind of service, there is no way to calculate a “corresponding percentage,” hence it is within the discretion of the board to determine the amount by which it will reduce a particular service.

[¶] . . . [¶]

In PKS cases the determination of the amount by which a service is to be reduced is the determination of the number of positions to be eliminated.

... In making a final decision on PKS reductions, the extent to which the services are reduced inherently determines the number of positions to remain. If a service is to be eliminated, for example, it is obvious that it is unnecessary to consider attrition in any way.¹⁴

23. In deciding that a school district is not required to consider attrition in a PKS layoff, the *San Jose* court focused on only part of the language of subdivision (b) of section 44955. The court focused on the provision that “[T]he governing board may terminate the services of not more than a corresponding percentage of the certificated employees in the district.” And, as the court said, that language can apply only to ADA terminations. When a governing board decides to discontinue or reduce a particular kind of service, there is no way to calculate a “corresponding percentage.” But the court was mistaken in concluding that it follows that it is unnecessary to consider attrition in PKS cases. The court was mistaken, because other language in subdivision (b) should be considered. In both ADA and PKS cases, employees’ services may be terminated only when termination has “become necessary” and only when that necessity is “by reason of” the ADA or PKS condition. In an ADA termination, employees’ services may be terminated only when, in the opinion of the governing board, decreasing the number of permanent employees has “become necessary by reason of” the ADA condition. Similarly, in a PKS termination, employees’ services may be terminated only when, in the opinion of the governing board, decreasing the number of permanent employees has “become necessary by reason of” the PKS condition. In the *San Jose* case, the court focused solely on the number of positions to be reduced and on the “corresponding percentage” language. The court did not consider whether the loss of a certain number of positions would, in all cases, cause it to “become necessary” to terminate the services of an equal number of employees.

¹⁴ *San Jose Teachers Association v. Allen*, 144 Cal.App.3d at pp. 635-636.

24. Consider the following illustration. Assume that a district with six full-time music teachers decides to reduce music for the following school year from six to three FTE. Because of that reduction, the three most junior music teachers would be laid off. It is true, as the *San Jose* court held, that the reduction from six to three positions would not be affected in any way by, for example, the May 10 retirement of a music teacher. For the following school year the district would still be offering only half as many music courses as it does in the current school year. But that retirement would mean that the PKS condition no longer made it necessary to decrease the number of employees by three. After the retirement, it would be necessary to decrease the number of employees only by two. The decrease regarding the third position would be accounted for by attrition.

25. In both ADA and PKS layoffs, the words of the *Moreland* court hold true. A consideration of attrition results in no prejudice to the district and spares some employees from *unnecessary* termination. And not to consider attrition would result in a greater decrease in the number of employees than the condition necessitates.

26. The only attrition that must be considered is attrition that creates a vacancy in a position in which a permanent employee would be qualified to serve.

27. In the *San Jose* case, the court said that whether a school district is required to consider attrition in a PKS layoff was “an issue of first impression.”¹⁵ The court noted that courts in other cases had held that a school district is required to consider attrition in an ADA layoff. One of the cases the *San Jose* court cited as being limited to ADA layoffs was *Lewin*. But in fact, *Lewin* concerned both ADA and PKS. The *Lewin* court said, “In March 1974, following a two-year decline in attendance *and in light of planned reductions in services*, the board decided not to re-employ 171 certificated employees.” (Italics added.)

28. As noted above, the *Lewin* court held:

Because the number of employees may be reduced only when it is “necessary” to do so, the governing board must consider normal attrition in the work force as a part of *any* reduction in employment.¹⁶ (Italics added.)

29. Thus, the *Lewin* court, in a case that concerned both ADA and PKS layoffs, held that a school district is required to consider attrition.

30. The *San Jose* court mistakenly read *Lewin* as not being a PKS case. *Lewin* was decided by Division Two of the Second Appellate District of the court. *San Jose* was decided by Division Five of the First Appellate District of the court. Thus, it appears there is a disagreement between those districts as to whether a school district is required to consider

¹⁵ *Id.* at p. 635.

¹⁶ 62 Cal.App.3d at p. 980.

attrition in a PKS layoff. And it is determined that the *Lewin* decision is more faithful to the language of section 44955 and should be followed.

31. In the present case, the board resolution calls for a reduction of 357 FTE positions. That figure, however, is substantially higher than the reduction the district actually is seeking. From Ms. Villegas-Zúñiga's testimony, it was clear that a reduction of that size would far exceed what is needed to account for the worst case anticipated budget shortfall. Governing boards have great discretion in deciding what services to eliminate or reduce and great discretion in deciding the extent of a reduction. But substantially overstating the reduction being sought should not be used as a reason to ignore positively assured attrition. Also, the board's figure includes 31.97 FTE of DI teachers whom the board actually is seeking to skip rather than terminate. The figure also includes six psychologists whom the board included only as a precaution. In the present case, the number of FTE positions the district is seeking to reduce is more accurately reflected in the Preliminary Layoff Notices Ms. Villegas-Zúñiga served than it is in the resolution. As noted above, regarding general education teachers who do not teach in the DI program, she served Preliminary Layoff Notices regarding 245.74 FTE and an additional 10.65 because of bumping. She also served 2.41 FTE site resource teachers who teach in the general education program and 1.2 FTE part-time program support teachers who teach in the general education program.

32. By reason of the matters set forth in Findings 39 through 46, it is determined that, within the terms of sections 44949 and 44955 of the Code, the district has cause to reduce or discontinue 224.39 FTE of K-6 general education teachers – except that the district must reduce that number to the extent there is additional positively assured attrition that creates vacancies in positions in which permanent employees would be qualified to serve.

Cause Exists to Terminate Certain Respondents

33. Within the terms of sections 44949 and 44955 of the Code, the district has cause to reduce or discontinue the following services:

224.39 FTE of K-6 general education teachers.

One FTE associate principal.

1.2 FTE part-time program support teachers.

2.41 FTE site resource teachers.

Two FTE special education teachers.

34. With regard to each of the above, the district must reduce the number to the extent there is additional positively assured attrition that creates vacancies in positions in which permanent employees would be qualified to serve.

ORDER

1. Pursuant to stipulation, the district shall rescind the Preliminary Layoff Notice served on Noemi Talamante, and as to Ms. Talamante, the accusation is dismissed.
2. The district may serve a Termination Notice on Ms. Hernandez-Stingl.
3. As to the remaining DI teachers, the accusation is dismissed.
4. The accusation against Ms. Camarena is dismissed.
5. The district may serve Termination Notices, in the reverse order of seniority, on the following:

224.39 FTE of K-6 general education teachers.

One FTE associate principal.

1.2 FTE part-time program support teachers.

2.41 FTE site resource teachers.

Two FTE special education teachers.

With regard to each of these, the district must reduce the number to the extent there is additional positively assured attrition that creates vacancies in positions in which permanent employees would be qualified to serve.

6. As to all other respondents, the accusation is dismissed.

Dated: May 2, 2011

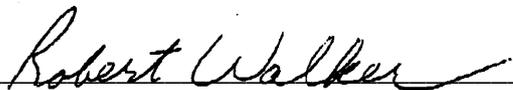

ROBERT WALKER
Administrative Law Judge
Office of Administrative Hearings

Exhibit A
RESPONDENTS
CHULA VISTA
2011

Seniority Date	Last Name	First Name	School / Department	Timely Req Hrg	Notice of Defense
07/18/2005	Abalos	Emily Angud	Veterans	X	X
07/19/2004	Abraham	Glenna Orpilla	Hedenkamp	X	X
11/13/2006	Acuna	Alvaro	Rice	X	X
07/18/2005	Adamos	Joanne Paragas	McMillin	X	X
07/19/2004	Aguilar	Jaquelina	Silver Wing	X	X
07/26/2007	Aguilar	Rosa Irene	Veterans	X	X
07/23/2009	Ain-Gonzalez	Natasha	Lauderbach	X	X
08/28/2007	Alamo	Erika	Cook	X	X
08/31/2004	Alcos	Elvene C.	Hilltop	X	X
08/09/2007	Angelo	Nicole M.	Wolf Canyon	X	X
07/25/2007	Arechiga	Christina	Silver Wing	X	X
10/27/2004	Arreaga	Geraldine Alcantara	Lauderbach	X	X
07/23/2009	Arredondo	Vanessa L.	Harborside	X	X
08/28/2007	Avila	Sherri N.	Otay	X	X
08/29/2006	Bahadur	Neeru	Otay	X	X
09/16/2005	Baker	Marisa Isabel	Rice	X	X
09/17/2007	Ball	Katherine Jean	Valle Lindo	X	X
08/19/2005	Basto	Cheryl Padua	Salt Creek	X	X
08/31/2004	Beltran	Marcella	Unassigned	X	X
08/31/2004	Bielawski	Brad A.	Allen	X	X
07/19/2004	Biocarles-Rydeen	Rosemarie Patron	Vista Square	X	X
07/19/2004	Blackford	Jenna Marie	Rosebank	X	X
08/30/2005	Blakely	Ianne Gypsy	Chula Vista Hills	X	X
07/18/2005	Boco	Isabel Souther	Kellogg	X	X
09/25/2007	Bonenfant	Rebecca M.	Cook	X	X
08/08/2005	Brambila	Vanessa Groom	Los Altos	X	X
03/28/2005	Brauer	Keri L.	Tiffany	X	X
07/16/2007	Brinks	Elisabeth L.	Veterans	X	X
08/29/2006	Brown-Key	Linda Ann	Harborside	X	X
08/03/2007	Bruder	Jessica Amber	Wolf Canyon	X	X
08/29/2006	Bruder	Michael Rae	Hilltop	X	X

08/29/2006	Buck	Sarah E.	Parkview	X	X
08/28/2007	Buelna	Abigail	Castle Park	X	X
08/28/2007	Burgos	Lydia	Harborside	X	X
07/23/2009	Butler	Kelly A.	Otay	X	X
10/08/2007	Camarena	Sandra L.	Wolf Canyon	X	X
10/25/2004	Cannavino-Nanetti	Kristin Lyn	Hedenkamp	X	X
09/29/2008	Canonigo	Joan M.	Harborside	X	X
11/06/2006	Castillo	Celina Baclig	McMillin	X	X
07/18/2005	Castruita	Julieta	Lauderbach	X	X
09/24/2007	Cerda	Myrna Melissa	Valle Lindo	X	X
08/28/2007	Cesena	Molly Marie	Sunnyside	X	X
07/18/2005	Ceven	Araceli Ortiz	Lauderbach	X	X
08/16/2004	Ceven	William V.	Los Altos	X	X
08/31/2005	Chandoo	Sharon	Wolf Canyon	X	X
08/31/2004	Chico	Ada	Rohr	X	X
12/12/2005	Cole	Kathy Diane	Heritage	X	X
07/16/2007	Collins	Bradley Emerson	Wolf Canyon	X	X
08/28/2007	Collins	Jessica Lynn	Otay	X	X
07/27/2007	Contreras	Evette	Olympic View	X	X
11/14/2007	Contreras	Karla	Liberty	X	X
07/16/2007	Coss	Maria	Silver Wing	X	X
09/02/2004	Crellin	Scott Raymond	Liberty	X	X
07/14/2008	Crowley	Megan	Marshall	X	X
08/26/2008	Cunningham	Janel R.	Hilltop	X	X
10/28/2005	De Baca	Esther	Lauderbach	X	X
07/19/2004	De Gomez	Lisandra Cazares	Vista Square	X	X
08/28/2007	De La Vega	Kriscinda L.	Harborside	X	X
08/28/2007	Dedrick	Joan Eileen	Otay	X	X
07/18/2005	Delgado	Veronica	Salt Creek	X	X
08/30/2005	Diaz	Elizabeth Robles	Montgomery	X	X
07/18/2005	Diaz	Mario	Rogers	X	X
08/28/2007	Downs	Carolyn Rose	Wolf Canyon	X	X
12/03/2007	Dugan	Erin Terese	Rice	X	X
07/19/2004	Duran	Allison Gail	Eastlake	X	X
09/01/2006	Elder	Jennifer Marian	Palomar	X	X
07/19/2004	Ellison	Brigid	Hedenkamp	X	X
02/06/2006	Escarcega	Vanessa	Veterans	X	X
07/24/2007	Escobedo Santos	Maria Teresa	Silver Wing	X	X
07/27/2006	Espino	Raul	Lauderbach	X	X
08/31/2004	Evans	Jholei Monton	Salt Creek	X	X
08/13/2004	Farrar	Elizabeth Sandra	Salt Creek	X	X

09/24/2004	Fee	Lori Ann	Valle Lindo	X	X
07/17/2006	Felix	Suzanne Schaaf	Vista Square	X	X
08/29/2006	Ferhart	Amy Ferriot	Allen	X	X
07/17/2006	Ferhart	Jenelle Hertz	Salt Creek	X	X
08/08/2005	Fernandes	Aaron Joseph	Salt Creek	X	X
09/06/2005	Fimpel	Claudia Yvonne	Los Altos	X	X
07/19/2004	French	Jennifer Nicole	Juarez-Lincoln	X	X
07/17/2006	Fuentes	Mina M.	Marshall	X	X
09/30/2004	Galindo	Dalila	Vista Square	X	X
11/01/2005	Garcia	Jessica A.	McMillin	X	X
08/20/2007	George (Martin)	Kirsten Marie	Olympic View	X	X
07/16/2007	Gerena	Reina	Loma Verde	X	X
07/19/2004	Gil	Francisco	Hedenkamp	X	X
08/31/2004	Given	Sheri L.	Salt Creek	X	X
08/28/2007	Glover	Lisa Ann	Harborside	X	X
08/30/2005	Goodwin	Rosanne Donnell	Hilltop	X	X
08/30/2005	Greenstein	Elana Esther	Rosebank	X	X
08/23/2004	Gregoire	Georgina	Hedenkamp	X	X
07/17/2006	Gunter	Denise Michelle	Hedenkamp	X	X
07/18/2005	Guzman	Louann Catalina	Sunnyside	X	X
10/08/2007	Hansen	Kristin J.	Salt Creek	X	X
07/17/2006	Hernandez	Christina Elena	McMillin	X	X
07/23/2009	Hernandez	Ziphorah	Silver Wing	X	X
07/20/2010	Hernandez-Stingl	Blanca	Liberty	X	X
08/08/2005	Herrera	Jonathan	Salt Creek	X	X
11/09/2005	Huffman	Christine Marie	Casillas	X	X
08/30/2005	Hughes	Erika Elizabeth	Tiffany	X	X
07/17/2006	Hunt	Anna M.	Cook	X	X
07/18/2005	Hutchinson	Christine Magpoc	Marshall	X	X
07/19/2004	Hutchinson	J. Wade	Hedenkamp	X	X
07/19/2006	Huynh	Amy Kristine	Rosebank	X	X
07/23/2009	Jackman Jr.	Michael John	Harborside	X	
07/17/2006	Jackson	Connie Sue	Wolf Canyon	X	X
08/31/2004	Jenkins	Masami E.	Salt Creek	X	X
02/07/2005	Johnson	Stibaly	Rohr	X	X
07/23/2009	Johnston	Carlyn L.	Lauderbach	X	X
07/16/2007	Jones	Robin Marie	Salt Creek	X	X
09/07/2004	Kelly	Gavin Dennis	Salt Creek	X	X
07/16/2007	Keyes-Hernandez	Regina Kathleen	Salt Creek	X	X
08/12/2004	Kleiger	Betsy Lynn	Hilltop	X	X
10/18/2005	Klein	Laurie Lynne	Veterans	X	X

08/09/2004	Ko	Jasmine Marie	McMillin	X	X
07/18/2005	Kriss	Timothy Michael	Salt Creek	X	X
07/19/2004	Lake	John Oliver	Vista Square	X	X
07/17/2006	Lamb	Michael A.	Veterans	X	X
07/23/2009	Land-Demro	Kelly Brooke	Harborside	X	X
07/19/2004	Lane	Veronica Ray	Hedenkamp	X	X
07/31/2006	Larsen	Keri A.	Veterans	X	X
07/19/2004	Larson	Katherine Margaret	Marshall	X	X
10/01/2004	Laws	Kimberly Ann	Salt Creek	X	X
07/17/2006	Leardmann	Lucas Selwyn	Salt Creek	X	X
07/23/2009	Lee	Jennifer Perrin	Silver Wing	X	X
07/19/2004	Lerma	Bernardo R.	Juarez-Lincoln	X	X
07/18/2005	Lerma	Vanessa Arenas	Loma Verde	X	X
09/26/2007	Lindsay	Kelly	Rice	X	X
08/31/2004	Little	Geri L.	Chula Vista Hills	X	X
08/12/2004	Loera	Lilian Angelica	Liberty	X	X
08/30/2005	Lopez	Krista Suzanne	Unassigned	X	
07/25/2005	Lopez	Mariel Freires	Wolf Canyon	X	X
07/27/2005	Lopez	Melissa Perez	Heritage	X	X
08/29/2006	Loya	Myriam Rocio	Otay	X	X
10/25/2004	Lozano	Sergio M.	Juarez-Lincoln	X	X
08/31/2004	Lucero	Rosario C.	Harborside	X	X
07/17/2006	Ly	Dan Thanh	Wolf Canyon	X	X
07/18/2005	Macias	Patricia Pedraza	Salt Creek	X	X
10/09/2007	Maciejewski	Michael S.	Rohr	X	X
07/18/2005	Maes	Jon Richard	Salt Creek	X	X
08/31/2004	Manaig	Paul Edward Penetrante	Allen	X	X
07/18/2005	Marmion	Erin Christine	Harborside	X	X
08/08/2005	Marquez	Connie Malena	Silver Wing	X	X
07/18/2005	Martin	Jennifer Ann	Marshall	X	X
07/19/2004	Martis	Brooke Michelle	Sunnyside	X	X
08/31/2007	Maynard	Lori Courtney	Chula Vista Hills	X	X
08/22/2005	Mc Kibben (Kear)	Kimberly Jean	Wolf Canyon	X	X
07/17/2006	Mendoza	Carla Angela	McMillin	X	X
08/31/2004	Mendoza	Jeff Kristofferson	Rice	X	X
08/18/2010	Mendoza	Lisa Shyu	Vista Square	X	X
08/31/2004	Mielke	Jennifer Lynn	Salt Creek	X	X
08/28/2007	Miller	Kalen Anne	Harborside	X	X
11/08/2004	Molina	Beatriz	Castle Park	X	X
07/17/2006	Moller	Maria Victoria	Salt Creek	X	X
07/17/2006	Montes De Oca-Simmons	Ana Paula	Hedenkamp	X	X

10/22/2007	Moreno	Amber	Wolf Canyon	X	X
07/17/2006	Muhlbach	Madeline Enid	Salt Creek	X	X
10/31/2005	Mummert	Julie Elaine	Veterans	X	X
09/07/2004	Nagai-Dube	Michele Ann	Salt Creek	X	X
07/19/2004	Niemela	Lisa A.	Vista Square	X	X
08/17/2004	Noble	Melissa Dawn	Clear View	X	X
08/28/2007	Oliveri	Stephanie	Harborside	X	X
07/16/2007	Oropeza	Josefina Perez	Silver Wing	X	X
07/30/2007	Orpilla	Honee L.	Vista Square	X	X
07/18/2005	Pachon-Brater	Anna	Marshall	X	X
07/19/2004	Padilla	Graciela	Heritage	X	X
09/04/2007	Pahio-Gonzalez	Lynnette Claire	Wolf Canyon	X	X
07/18/2005	Parra	Julia Martinez	Liberty	X	X
07/18/2005	Pembleton	Sandra Nohemi	Salt Creek	X	X
07/19/2004	Pena Herrera	Guillermo Eduardo	Heritage	X	X
07/01/2006	Perez	Michael A.	Sunnyside	X	X
11/21/2005	Perez	Patricia Carmel	Rogers	X	X
07/18/2005	Perry	Kristi Lynn	Wolf Canyon	X	X
07/17/2006	Pollack III	Robert Edward	Los Altos	X	X
07/16/2007	Pretzer	Julie Ann	Wolf Canyon	X	X
08/30/2005	Ramirez-Santamaria	Mirna Lorena	Liberty	X	X
07/16/2007	Rayle-Escalante	Sandra	Heritage	X	X
10/09/2006	Rayray	Felicitas Cielito Lindo	Juarez-Lincoln	X	X
07/16/2007	Rehnborg	Allyson Marie	McMillin	X	X
07/18/2005	Reiff	Sarah Christine	Hedenkamp	X	X
07/17/2006	Ricketts Jr.	William D.	Salt Creek	X	X
07/16/2007	Riggs	Zachary	Wolf Canyon	X	X
07/19/2004	Ritchey	Jena Nicole	Juarez-Lincoln	X	X
08/29/2006	Rivera	Eloisa	Harborside	X	X
07/18/2005	Robinson	Delia Elena	Liberty	X	X
08/09/2004	Rodgers	Jayne Lee	Liberty	X	X
04/04/2005	Rodriguez-McBride	Marisol Veronica	Veterans	X	X
09/16/2005	Roehrs	Laura Marie	Otay	X	X
07/28/2005	Roque	Erika Janet	Liberty	X	X
07/19/2004	Rosales	Andrew James	Vista Square	X	X
07/19/2004	Rubi	Yannet	Hedenkamp	X	X
09/03/2004	Rubio	Katie Abbott	Castle Park	X	X
07/16/2007	Russ	Virginia G.	Olympic View	X	X
07/18/2005	Russell	Laurie Louise	Marshall	X	X
07/17/2006	Sanchez	Gloria Raquel	Otay	X	X
08/31/2004	Sanchez-Lovett	Brizeida	Liberty	X	X

07/18/2005	Sandoval	Maria Angelica	Salt Creek	X	X
07/18/2005	Santamaria	Emmarosa	Lauderbach	X	X
10/15/2007	Santos	Ryan J.	Parkview	X	X
07/19/2004	Scarborough	Kelly	Heritage	X	X
08/30/2005	Schengel	Robert E.	Tiffany	X	X
08/31/2004	Scigliano	Frank J. Jr.	Castle Park	X	X
08/19/2005	Scott	Tiffany Lee	Clear View	X	X
08/29/2006	Senneseth	Annabel Marie	Rogers	X	X
07/18/2005	Serros	Stephanie Anne	Veterans	X	X
08/14/2006	Shenk	Keri Lynn	Veterans	X	X
07/19/2004	Siangco	Christina Dorothy	Marshall	X	X
07/23/2009	Simpson	Rachel A.	Silver Wing	X	X
08/28/2007	Smith	Tawny A.	Harborside	X	X
07/17/2006	Stone	Jason A.	Salt Creek	X	X
09/17/2007	Stump	David A.	Castle Park	X	X
07/18/2005	Sullens	Kristin Ann	McMillin	X	X
08/29/2006	Sun	Patricia	Parkview	X	X
08/29/2006	Sutton	Crystal Marie	Chula Vista Hills	X	X
09/14/2007	Takaki	John	Otay	X	X
08/10/2010	Talamante	Noemi	Wolf Canyon	X	X
08/28/2007	Tinsay	Queenie Bravo	Allen	X	X
08/30/2005	Townsend	Richard R.	Palomar	X	X
08/17/2004	Triana-Baltzer	Lisa Marie	Clear View	X	X
07/16/2007	Valentine	Karen Anne	Wolf Canyon	X	X
10/10/2005	Valladolid	Julieta	Parkview	X	X
08/17/2005	Van Nostrand	Norlynn M.	Olympic View	X	X
10/10/2005	Velazquez	Sobeida Fuentes	Rohr	X	X
07/18/2005	Villa	Kristine	Veterans	X	X
07/27/2007	Villar	Noelle Christine	Olympic View	X	X
07/19/2004	Viora	Jennifer Mc Cullough	Olympic View	X	X
09/01/2005	Walker	Tiffany R.	Harborside	X	X
01/18/2005	Watkins	Julia Lee	Marshall	X	X
08/29/2006	Weber II	Michael C.	Palomar	X	X
01/07/2008	Webster	Jessica R.	Cook	X	X
07/17/2006	Webster	Teagan Coyne	Allen	X	X
12/12/2006	Weeding	Juliana	Halecrest	X	X
08/31/2004	Welters (Hale)	Kimberly D.	Salt Creek	X	X
08/16/2004	Whitaker	Michelle Renee	Liberty	X	X
07/16/2007	Williamson	Marlys Alicia	Wolf Canyon	X	X
07/17/2006	Wood	Patricia Callveng	Heritage	X	X
08/29/2006	Wooden	Desiree	Otay	X	X

08/30/2005	Wright	Lynda Ann	Tiffany	X	X
09/18/2006	Yescas	Denise Melissa	Clear View	X	X
07/23/2009	Zamora	Ruby Briceno	Silver Wing	X	X
08/14/2007	Zamudio	Ricardo	Clear View	X	X
08/31/2004	Zumstein Stump	Lindsay Lesina	Chula Vista Hills	X	X
07/20/2010	Zupic	Alicia M.	Silver Wing	X	X

Exhibit B

RESPONDENTS MS. STEINER REPRESENTED

CHULA VISTA

2011

Seniority Date	Last Name	First Name	School / Department	Timely Req Hrg	Notice of Defense
07/18/2005	Abalos	Emily Angud	Veterans	X	X
07/19/2004	Abraham	Glenna Orpilla	Hedenkamp	X	X
11/13/2006	Acuna	Alvaro	Rice	X	X
07/18/2005	Adamos	Joanne Paragas	McMillin	X	X
07/19/2004	Aguilar	Jaquelina	Silver Wing	X	X
08/28/2007	Alamo	Erika	Cook	X	X
08/31/2004	Alcos	Elvene C.	Hilltop	X	X
08/09/2007	Angelo	Nicole M.	Wolf Canyon	X	X
07/25/2007	Arechiga	Christina	Silver Wing	X	X
10/27/2004	Arreaga	Geraldine Alcantara	Lauderbach	X	X
07/23/2009	Arredondo	Vanesa L.	Harborside	X	X
09/16/2005	Baker	Marisa Isabel	Rice	X	X
09/17/2007	Ball	Katherine Jean	Valle Lindo	X	X
08/19/2005	Basto	Cheryl Padua	Salt Creek	X	X
08/31/2004	Beltran	Marcella	Unassigned	X	X
08/31/2004	Bielawski	Brad A.	Allen	X	X
07/19/2004	Biocarles-Rydeen	Rosemarie Patron	Vista Square	X	X
07/19/2004	Blackford	Jenna Marie	Rosebank	X	X
08/30/2005	Blakely	Ianne Gypsy	Chula Vista Hills	X	X
07/18/2005	Boco	Isabel Souther	Kellogg	X	X
09/25/2007	Bonenfant	Rebecca M.	Cook	X	X
08/08/2005	Brambila	Vanessa Groom	Los Altos	X	X
03/28/2005	Brauer	Keri L.	Tiffany	X	X
07/16/2007	Brinks	Elisabeth L.	Veterans	X	X
08/29/2006	Brown-Key	Linda Ann	Harborside	X	X
08/03/2007	Bruder	Jessica Amber	Wolf Canyon	X	X
08/29/2006	Bruder	Michael Rae	Hilltop	X	X

08/29/2006	Buck	Sarah E.	Parkview	X	X
08/28/2007	Buelna	Abigail	Castle Park	X	X
08/28/2007	Burgos	Lydia	Harborside	X	X
07/23/2009	Butler	Kelly A.	Otay	X	X
10/08/2007	Camarena	Sandra L.	Wolf Canyon	X	X
10/25/2004	Cannavino-Nanetti	Kristin Lyn	Hedenkamp	X	X
09/29/2008	Canonigo	Joan M.	Harborside	X	X
11/06/2006	Castillo	Celina Baclig	McMillin	X	X
07/18/2005	Castruita	Julieta	Lauderbach	X	X
09/24/2007	Cerda	Myrna Melissa	Valle Lindo	X	X
08/28/2007	Cesena	Molly Marie	Sunnyside	X	X
07/18/2005	Ceven	Araceli Ortiz	Lauderbach	X	X
08/16/2004	Ceven	William V.	Los Altos	X	X
08/31/2005	Chandoo	Sharon	Wolf Canyon	X	X
08/31/2004	Chico	Ada	Rohr	X	X
12/12/2005	Cole	Kathy Diane	Heritage	X	X
07/16/2007	Collins	Bradley Emerson	Wolf Canyon	X	X
08/28/2007	Collins	Jessica Lynn	Otay	X	X
07/27/2007	Contreras	Evette	Olympic View	X	X
07/16/2007	Coss	Maria	Silver Wing	X	X
09/02/2004	Crellin	Scott Raymond	Liberty	X	X
07/14/2008	Crowley	Megan	Marshall	X	X
08/26/2008	Cunningham	Janel R.	Hilltop	X	X
10/28/2005	De Baca	Esther	Lauderbach	X	X
07/19/2004	De Gomez	Lisandra Cazares	Vista Square	X	X
08/28/2007	De La Vega	Kriscinda L.	Harborside	X	X
08/30/2005	Diaz	Elizabeth Robles	Montgomery	X	X
07/18/2005	Diaz	Mario	Rogers	X	X
08/28/2007	Downs	Carolyn Rose	Wolf Canyon	X	X
12/03/2007	Dugan	Erin Terese	Rice	X	X
07/19/2004	Duran	Allison Gail	Eastlake	X	X
09/01/2006	Elder	Jennifer Marian	Palomar	X	X
02/06/2006	Escarcega	Vanessa	Veterans	X	X
07/24/2007	Escobedo Santos	Maria Teresa	Silver Wing	X	X
08/31/2004	Evans	Jholei Monton	Salt Creek	X	X
08/13/2004	Farrar	Elizabeth Sandra	Salt Creek	X	X

09/24/2004	Fee	Lori Ann	Valle Lindo	X	X
07/17/2006	Felix	Suzanne Schaaf	Vista Square	X	X
08/29/2006	Ferhart	Amy Ferriot	Allen	X	X
09/06/2005	Fimpel	Claudia Yvonne	Los Altos	X	X
07/19/2004	French	Jennifer Nicole	Juarez-Lincoln	X	X
07/17/2006	Fuentes	Mina M.	Marshall	X	X
09/30/2004	Galindo	Dalila	Vista Square	X	X
11/01/2005	Garcia	Jessica A.	McMillin	X	X
08/20/2007	George (Martin)	Kirsten Marie	Olympic View	X	X
07/16/2007	Gerena	Reina	Loma Verde	X	X
08/28/2007	Glover	Lisa Ann	Harborside	X	X
08/30/2005	Greenstein	Elana Esther	Rosebank	X	X
08/23/2004	Gregoire	Georgina	Hedenkamp	X	X
07/17/2006	Gunter	Denise Michelle	Hedenkamp	X	X
07/18/2005	Guzman	Louann Catalina	Sunnyside	X	X
10/08/2007	Hansen	Kristin J.	Salt Creek	X	X
07/17/2006	Hernandez	Christina Elena	McMillin	X	X
07/23/2009	Hernandez	Ziphorah	Silver Wing	X	X
11/09/2005	Huffman	Christine Marie	Casillas	X	X
08/30/2005	Hughes	Erika Elizabeth	Tiffany	X	X
07/18/2005	Hutchinson	Christine Magpoc	Marshall	X	X
07/19/2004	Hutchinson	J. Wade	Hedenkamp	X	X
07/19/2006	Huynh	Amy Kristine	Rosebank	X	X
07/23/2009	Jackman Jr.	Michael John	Harborside	X	
07/17/2006	Jackson	Connie Sue	Wolf Canyon	X	X
08/31/2004	Jenkins	Masami E.	Salt Creek	X	X
02/07/2005	Johnson	Stibaly	Rohr	X	X
07/23/2009	Johnston	Carlyn L.	Lauderbach	X	X
07/16/2007	Jones	Robin Marie	Salt Creek	X	X
09/07/2004	Kelly	Gavin Dennis	Salt Creek	X	X
08/12/2004	Kleiger	Betsy Lynn	Hilltop	X	X
10/18/2005	Klein	Laurie Lynne	Veterans	X	X

08/09/2004	Ko	Jasmine Marie	McMillin	X	X
07/18/2005	Kriss	Timothy Michael	Salt Creek	X	X
07/19/2004	Lake	John Oliver	Vista Square	X	X
07/17/2006	Lamb	Michael A.	Veterans	X	X
07/23/2009	Land-Demro	Kelly Brooke	Harborside	X	X
07/19/2004	Lane	Veronica Ray	Hedenkamp	X	X
07/31/2006	Larsen	Keri A.	Veterans	X	X
10/01/2004	Laws	Kimberly Ann	Salt Creek	X	X
07/23/2009	Lee	Jennifer Perrin	Silver Wing	X	X
07/19/2004	Lerma	Bernardo R.	Juarez-Lincoln	X	X
07/18/2005	Lerma	Vanessa Arenas	Loma Verde	X	X
09/26/2007	Lindsay	Kelly	Rice	X	X
08/31/2004	Little	Geri L.	Chula Vista Hills	X	X
07/25/2005	Lopez	Mariel Freires	Wolf Canyon	X	X
07/27/2005	Lopez	Melissa Perez	Heritage	X	X
08/29/2006	Loya	Myriam Rocio	Otay	X	X
10/25/2004	Lozano	Sergio M.	Juarez-Lincoln	X	X
08/31/2004	Lucero	Rosario C.	Harborside	X	X
07/17/2006	Ly	Dan Thanh	Wolf Canyon	X	X
10/09/2007	Maciejewski	Michael S.	Rohr	X	X
07/18/2005	Maes	Jon Richard	Salt Creek	X	X
08/31/2004	Manaig	Paul Edward Penetrante	Allen	X	X
07/18/2005	Marmion	Erin Christine	Harborside	X	X
08/08/2005	Marquez	Connie Malena	Silver Wing	X	X
07/18/2005	Martin	Jennifer Ann	Marshall	X	X
07/19/2004	Martis	Brooke Michelle	Sunnyside	X	X
08/31/2007	Maynard	Lori Courtney	Chula Vista Hills	X	X
08/22/2005	Mc Kibben (Kear)	Kimberly Jean	Wolf Canyon	X	X
07/17/2006	Mendoza	Carla Angela	McMillin	X	X
08/31/2004	Mendoza	Jeff Kristofferson	Rice	X	X
08/18/2010	Mendoza	Lisa Shyu	Vista Square	X	X
08/31/2004	Mielke	Jennifer Lynn	Salt Creek	X	X
11/08/2004	Molina	Beatriz	Castle Park	X	X
07/17/2006	Moller	Maria Victoria	Salt Creek	X	X

10/22/2007	Moreno	Amber	Wolf Canyon	X	X
07/17/2006	Muhlbach	Madeline Enid	Salt Creek	X	X
10/31/2005	Mummert	Julie Elaine	Veterans	X	X
09/07/2004	Nagai-Dube	Michele Ann	Salt Creek	X	X
07/19/2004	Niemela	Lisa A.	Vista Square	X	X
08/17/2004	Noble	Melissa Dawn	Clear View	X	X
08/28/2007	Oliveri	Stephanie	Harborside	X	X
07/16/2007	Oropeza	Josefina Perez	Silver Wing	X	X
07/30/2007	Orpilla	Honee L.	Vista Square	X	X
07/18/2005	Pachon-Brater	Anna	Marshall	X	X
09/04/2007	Pahio-Gonzalez	Lynnette Claire	Wolf Canyon	X	X
07/18/2005	Pembleton	Sandra Nohemi	Salt Creek	X	X
07/01/2006	Perez	Michael A.	Sunnyside	X	X
11/21/2005	Perez	Patricia Carmel	Rogers	X	X
07/18/2005	Perry	Kristi Lynn	Wolf Canyon	X	X
07/17/2006	Pollack III	Robert Edward	Los Altos	X	X
07/16/2007	Pretzer	Julie Ann	Wolf Canyon	X	X
10/09/2006	Rayray	Felicitas Cielito Lindo	Juarez-Lincoln	X	X
07/16/2007	Rehnborg	Allyson Marie	McMillin	X	X
07/17/2006	Ricketts Jr.	William D.	Salt Creek	X	X
07/16/2007	Riggs	Zachary	Wolf Canyon	X	X
07/19/2004	Ritchey	Jena Nicole	Juarez-Lincoln	X	X
08/29/2006	Rivera	Eloisa	Harborside	X	X
08/09/2004	Rodgers	Jayne Lee	Liberty	X	X
07/19/2004	Rosales	Andrew James	Vista Square	X	X
09/03/2004	Rubio	Katie Abbott	Castle Park	X	X
07/16/2007	Russ	Virginia G.	Olympic View	X	X
07/18/2005	Russell	Laurie Louise	Marshall	X	X
07/17/2006	Sanchez	Gloria Raquel	Otay	X	X

07/18/2005	Santamaria	Emmarosa	Lauderbach	X	X
10/15/2007	Santos	Ryan J.	Parkview	X	X
07/19/2004	Scarborough	Kelly	Heritage	X	X
08/30/2005	Schengel	Robert E.	Tiffany	X	X
08/31/2004	Scigliano	Frank J. Jr.	Castle Park	X	X
08/19/2005	Scott	Tiffany Lee	Clear View	X	X
08/29/2006	Senneseth	Annabel Marie	Rogers	X	X
07/18/2005	Serros	Stephanie Anne	Veterans	X	X
08/14/2006	Shenk	Keri Lynn	Veterans	X	X
07/19/2004	Siangco	Christina Dorothy	Marshall	X	X
07/23/2009	Simpson	Rachel A.	Silver Wing	X	X
08/28/2007	Smith	Tawny A.	Harborside	X	X
07/17/2006	Stone	Jason A.	Salt Creek	X	X
09/17/2007	Stump	David A.	Castle Park	X	X
07/18/2005	Sullens	Kristin Ann	McMillin	X	X
08/29/2006	Sun	Patricia	Parkview	X	X
08/29/2006	Sutton	Crystal Marie	Chula Vista Hills	X	X
09/14/2007	Takaki	John	Otay	X	X
08/10/2010	Talamante	Noemi	Wolf Canyon	X	X
08/28/2007	Tinsay	Queenie Bravo	Allen	X	X
08/30/2005	Townsend	Richard R.	Palomar	X	X
08/17/2004	Triana-Baltzer	Lisa Marie	Clear View	X	X
07/16/2007	Valentine	Karen Anne	Wolf Canyon	X	X
10/10/2005	Valladolid	Julieta	Parkview	X	X
08/17/2005	Van Nostrand	Norlynn M.	Olympic View	X	X
07/18/2005	Villa	Kristine	Veterans	X	X
07/27/2007	Villar	Noelle Christine	Olympic View	X	X
07/19/2004	Viora	Jennifer Mc Cullough	Olympic View	X	X
01/18/2005	Watkins	Julia Lee	Marshall	X	X
08/29/2006	Weber II	Michael C.	Palomar	X	X
01/07/2008	Webster	Jessica R.	Cook	X	X
07/17/2006	Webster	Teagan Coyne	Allen	X	X
12/12/2006	Weeding	Juliana	Halecrest	X	X
08/31/2004	Welters (Hale)	Kimberly D.	Salt Creek	X	X
08/16/2004	Whitaker	Michelle Renee	Liberty	X	X
07/16/2007	Williamson	Marlys Alicia	Wolf Canyon	X	X
07/17/2006	Wood	Patricia Callveng	Heritage	X	X
08/29/2006	Wooden	Desiree	Otay	X	X

08/30/2005	Wright	Lynda Ann	Tiffany	X	X
09/18/2006	Yescas	Denise Melissa	Clear View	X	X
07/23/2009	Zamora	Ruby Briceno	Silver Wing	X	X
08/14/2007	Zamudio	Ricardo	Clear View	X	X
08/31/2004	Zumstein Stump	Lindsay Lesina	Chula Vista Hills	X	X
07/20/2010	Zupic	Alicia M.	Silver Wing	X	X

07/19/2004	Padilla	Graciela	Heritage	X	X
07/18/2005	Parra	Julia Martinez	Liberty	X	X
07/19/2004	Pena Herrera	Guillermo Eduardo	Heritage	X	X
08/30/2005	Ramirez-Santamaria	Mirna Lorena	Liberty	X	X
07/16/2007	Rayle-Escalante	Sandra	Heritage	X	X
07/18/2005	Robinson	Delia Elena	Liberty	X	X
04/04/2005	Rodriguez-McBride	Marisol Veronica	Veterans	X	X
07/28/2005	Roque	Erika Janet	Liberty	X	X
07/19/2004	Rubi	Yannet	Hedenkamp	X	X
08/31/2004	Sanchez-Lovett	Brizeida	Liberty	X	X
07/18/2005	Sandoval	Maria Angelica	Salt Creek	X	X

