

BEFORE THE GOVERNING BOARD OF THE
ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusations Against:

The Certificated Employees Identified in
Attachment A,

Respondents.

OAH No. 2013030223

PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, Office of Administrative Hearings, State of California, heard this matter on April 17, 2013, in San Jose, California.

Patricia R. McKernan, Attorney at Law, represented the Alum Rock Union Elementary School District.

Christopher E. Schumb, Attorney at Law, represented all of the Respondents.

The record closed on April 17, 2013.

FACTUAL FINDINGS

1. Stephen Fiss, Superintendent, Alum Rock Union Elementary School District, issued the Accusation in his official capacity.

2. Respondents are listed on Attachment A. Each Respondent is a certificated employee of the District.

3. On March 14, 2013, the Board adopted Resolution No. 43-12/13, reducing or discontinuing particular kinds of services for the 2013-2014 school year and directing the Superintendent or his designee to give appropriate notices to certificated employees whose positions will be affected by the action. The Resolution was based upon Superintendent Fiss's report that the reductions were necessary because of the District's projected budget deficit.

4. On or before March 15, 2013, Superintendent Fiss gave written notice to Respondents of the recommendation that their services will not be required for the

2013-2014 school year. The reasons for the recommendation were set forth in these preliminary layoff notices.

5. Respondents filed timely requests for hearing to determine if there is cause for terminating their services for the 2013-2014 school year. An accusation was served on Respondents, all of whom are deemed to have filed timely notices of defense. All prehearing jurisdictional requirements have been met.

6. On March 14, 2013, the Board took action to reduce or discontinue the following particular kinds of services for the 2013-2014 school year:

<u>Kind of Service</u>	<u>Number of Full-Time Equivalent Positions (FTEs)</u>
BTSA Advisor	1.00
Academic Emphasis Counselor	3.20
Middle School Counselor	5.00
K-5 Classroom Teacher	51.00
Middle School Social Studies Teacher	3.00
Middle School Core Class Teacher	7.00
Music Teacher	1.00
Physical Education Teacher	3.00
QEIA (Categorical) Funded Teachers	13.00
<u>Total FTEs</u>	<u>87.2</u>

7. Before issuing the preliminary layoff notices, the District took into account all positively assured attrition. The District must issue the final layoff notices before May 15, and when it does so the District will take into account any additional attrition that has occurred.

8. The Parties entered into the following stipulations:

a. The proper classification for Alyssa Diaz and Cara Compesi is probationary one.

- b. The correct date of first paid service for Meuy Saeteurn is October 17, 2011.
 - c. Hushi Natividad is a permanent employee.
 - d. Carolyn Husa is a probationary employee.
 - e. Joana Horning is a probationary employee.
 - f. Katherine Grunewald is a probationary employee.
 - g. Alison Beck is a probationary employee.
 - h. Chase Rigby is a probationary employee.
 - i. Barbara Healy can be assigned to a vacant math position and will be skipped.
 - j. Michael Kretsch has an authorization in science and will be skipped.
 - k. Nathan Ben-Yonatan has an authorization in science and will be skipped.
- i. A coin toss was utilized to break the tie between Katherine Grunewald and Mateo Gomez, and Gomez won the toss. He will be skipped for his BCLAD and will teach in a bilingual program.
9. Superintendent Fiss read into the record the 28 names contained in Exhibit 11: “Respondents Whose Layoff Notices Shall Be Rescinded.” In addition, he stated that the notice to Candace Love would be rescinded.
10. No certificated employee junior in seniority to any Respondent is being retained by the District to perform services that any Respondent is certificated and competent to render.

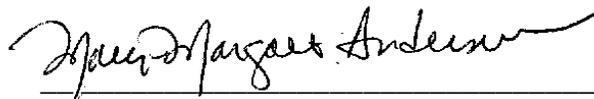
LEGAL CONCLUSIONS

Cause exists because of the reduction or elimination of particular kinds of services pursuant to Education Code section 44955 to give notice to Respondents in 87.2 FTE positions that their services will not be required for the 2013-2014 school year. The cause relates solely to the welfare of the schools and the pupils thereof within the meaning of Education Code section 44949.

ORDER

Notice may be given to Respondents in 87.2 FTE positions that their services will not be required for the 2013-2014 school year because of the reduction or elimination of particular kinds of services.

DATED: April 22, 2013

A handwritten signature in cursive script, reading "Mary-Margaret Anderson".

MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings

ATTACHMENT A: LIST OF RESPONDENTS

Almerido, Abigale
Avila, Javier
Becerra, Lori
Beck, Allison
Ben-Yonatan, Nathan
Bills, Merisenda
Rigby, Chase
Blackstone, Kate
Blake, Maura
Buman, Ashley
Cabello, Erik
Cadenas, Claudia
Casey-Garcia, Kathleen
Clee, Charlene
Compesi, Cara
Coscia, Grant
Dailey, Scott
Diaz, Alyssa
Douglas, Jacob
Flores, Nancy
Galvan, Bertha
Gomez, Mateo
Grunewald, Katherine
Harr, Suzanne
Healy, Barbara
Horning, Joana
Husa, Carolyn
Keele, Patricia
Kerr, Vanessa
Kretsch, Michael
Krimmer, Patricia
Kwiatkowski, John
Lopes, Abby
Loughran, Evelyn
Love, Candace
Manzanedo, Maria
Miller, Michelle
Mota, Janet
Natividad, Hushi
Natividad, Jonathan
Nguyen, Vivianne
Nunez, Lupe
Nishida, Lauren
Nunez, Lupe
Ortega, Maria
Paganelli, Jennifer
Paganelli, Robert
Patel, Tanisha
Quintero, Eduardo
Rigby, Chase