

BEFORE THE GOVERNING BOARD OF THE
OAKLAND UNIFIED SCHOOL DISTRICT
COUNTY OF ALAMEDA, CALIFORNIA

In the Matter of the Non-Reemployment of:

MARIA EINAUDI,

Respondent.¹

OAH No. 2013040005

PROPOSED DECISION

This matter was heard before Diane Schneider, Administrative Law Judge, State of California, Office of Administrative Hearings, on May 1, 2013, in Oakland, California.

Marion McWilliams, Deputy General Counsel, and Seth Eckstein, Attorney at Law, Office of General Counsel, Oakland Unified School District, represented complainant Anthony Smith, Superintendent, Oakland Unified School District.

There was no appearance by or on behalf of respondent Maria Einaudi.²

The record closed and the matter was submitted for decision on May 1, 2013.

FACTUAL FINDINGS

1. Anthony Smith made and filed the Accusation in his official capacity as Superintendent of the Oakland Unified School District (district).

2. On February 27, 2013, the district's governing board adopted Resolution No. 1213-0094, which sets forth the board's determination that it will be necessary for the district

¹ Prior to hearing, additional certificated employees who were noticed for layoff and represented by David Weintraub, Attorney at Law, Beeson, Tayer and Bodine, entered into a "Certificated Layoff Agreement" with the District in which they withdrew their requests for hearing. Maria Einaudi is the sole respondent.

² Respondent was represented by Mr. Weintraub until one day before the hearing, when she terminated his representation.

to reduce or discontinue particular kinds of services (PKS) for the 2013-2014 school year, by a total of 14.7 full-time equivalent (FTE) certificated positions in Adult Education, as follows: 8.5 FTE Adult Education teachers and 6.2 FTE Adult Education Teachers on Special Assignment. The resolution directs the superintendent or his designee to send appropriate notices, in accordance with Education Code sections 44949 and 44955, to all employees whose positions will be eliminated by virtue of the board's action.

3. All jurisdictional requirements contained in Education Code sections 44949 and 44955 have been met.

4. The reduction or discontinuation of services is related to the welfare of the district and of its pupils.

5. No junior employee is being retained to render a service that respondent is certificated and competent to perform.

6. Respondent submitted a letter in which she expresses her heartfelt dismay regarding the loss of Adult Education in Oakland and the negative impact that she believes it will have on the Oakland community. Respondent's concern for the well-being of Adult Education students and the community at large is commendable, but it does not, however, constitute a legal basis upon which to challenge her layoff.

LEGAL CONCLUSION

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

RECOMMENDATION

Notice may be given to respondent Maria Einaudi that her services will not be required for the 2013-2014 school year because of the reduction or elimination of particular kinds of services.

Dated: May 2, 2013

_____/s/_____
DIANE SCHNEIDER
Administrative Law Judge
Office of Administrative Hearings