

BEFORE THE
GOVERNING BOARD
COMPTON UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Statements of Reduction in
Force Against:

OAH Case No. 2014030826

Certificated Employees of the Compton
Unified School District,

Respondent.

PROPOSED DECISION

David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, heard this matter on April 30, 2014, in Compton, California. Kerrie E. Taylor, of Fagan Friedman & Fulfrost, LLP, represented complainant Andrea Credille (Credille), Senior Director, Human Resources, Compton Unified School District (District). Michael R. Feinberg and Stephanie Lynn, of Schwartz, Steinsapir, Dohrmann & Sommers LLP, represented the following respondents: Latonya Balthazar, Kathleen Baucom, Katherine Diggs, Larry Hood, Michelle McCoy, Camille Ochoa, Orlando Perez, Thea-Marie Perkins, Lucy Allene Streets and Lajoni Wilson, all of whom were present except Lucy Allene Streets. Respondent Regina Saffold Sanders is representing herself, but was not present at the hearing despite having been served with proper notice of the hearing.

Evidence was received and argument was made at the hearing, and the matter was submitted for decision on April 30, 2014.

FACTUAL FINDINGS

1. Senior Director Credille filed the Statements of Reduction in Force in her official capacity.
2. Respondents are certificated employees of the District.
- 3A. On March 11, 2014, the Board of Trustees (Board) of the District adopted “Resolution No. 13/14-2038, To Decrease The Number Of Certificated Employees Due To A Reduction Or Elimination Of Particular Kinds Of Services.” (Reduction Resolution;

Exhibit B 1.) The purpose of the Reduction Resolution was to reduce or discontinue particular kinds of certificated services no later than the beginning of the 2014-2015 school year. Specifically, the resolution requires the reduction of 11.10 “FTE” - Full Time Equivalent positions - by reducing various types of services. The FTE’s that the Board determined to reduce are described in the Reduction Resolution, as follows:

<u>PARTICULAR KIND OF SERVICE</u>	<u>NUMBER OF FTE POSITIONS</u>
7 th to 12 th Grade French	2.0
Categorical Specialist	1.0
Curriculum Specialist K-12	2.0
ROP/CTE	
ROP Technician	1.0
Business	2.0
Food & Nutrition	.3
Auto Body	1.0
Clothing	.6
ROP Fashion Clothing Occupation	.4
Office Occupation	.5
Computer Applications	.3
Total FTE Reductions	11.1

3B. Subsequently, the District was able to rescind the preliminary notices (described in more detail in Factual Finding 8A) and withdraw the Statement of Reduction in Force against respondents Lilian Edeh, Daksh Sharma and John Smith.

4. The services which the District seeks to discontinue or reduce are particular kinds of services that may be reduced or discontinued under Education Code¹ section 44955.

5. The decision by the Board to reduce or discontinue services was neither arbitrary nor capricious, but rather was a proper exercise of the District’s discretion.

6. The reduction and discontinuation of services is related to the welfare of the District and its pupils, and it has become necessary to decrease the number of certificated employees as determined by the Board.

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¹ All further statutory references are to the Education Code except where indicated.

7. On March 11, 2014, the Board adopted “Resolution No. 13/14-47, Establishment of Criteria for Order of Layoff and Reemployment Following Layoff for Employees with Equal Seniority.” (Tie-break Resolution; Exhibit B 2.) The Tie-break Resolution established tie-breaking criteria for use in the event that two or more teachers facing layoff had the same seniority date. The District did not abuse its discretion in the adoption of the Tie- break Resolution.

8A. Before March 15, 2014, each respondent was given written notice that pursuant to sections 44949 and 44955, their services would not be required in the 2014-2015 school year (hereafter the preliminary notices), except as noted below. Thereafter, respondents requested a hearing and each was served with a Statement of Reduction in Force. Each respondent filed a Notice of Participation, individually and/or as part of the Joint Notice of Participation filed by respondents’ attorney.

8B. The District was not able to serve the preliminary notice on respondent Kathleen Baucom (Baucom) before the March 15 deadline. Baucom was at a teachers’ conference in San Diego from March 12 to March 16. The District was aware of her presence there. She was not at her school site when the District attempted to serve her personally. The District prepared a certified mailing to Baucom, however it misspelled her street name, using “Franlin” instead of “Franklin.” The testimony by Credille established that the certified mailing was not delivered to Baucom and was not returned to the District. Credille had her secretary send an email to Baucom on March 14 notifying her of the preliminary notice (on Friday, March 14, at 3:45 p.m.; Exhibit E). However, Baucom did not review her emails until she had returned from the conference and saw her emails when she came to school on Monday, March 17. Mr. Feinberg submitted a Joint Notice of Participation for respondents, including Baucom (Exhibit B 8), which specifically notes that it is without prejudice to the right to contend that the District failed to properly serve the notices required by statute. Baucom testified at the hearing.

9. The District created a seniority list. That seniority list took into account a number of factors, including each certificated employee’s first date of paid service, present assignments, credentials, permanency status, and other pertinent information.

10. The District reviewed its records and the seniority list to determine which employees might displace or “bump” other junior employees, because they held credentials in another area and were entitled to displace a more junior employee. Ultimately some senior employees bumped other more junior employees. This information was included in the seniority list, layoff worksheet and bumping chart received in evidence as Exhibits A, J and K.

11. No certificated employee junior to any respondent was retained by the District to render a service for which a respondent was certificated and qualified to render.

12. Respondents raised numerous contentions during the hearing, some of which are summarized as follows: failure to serve the preliminary notice resulting in a lack of jurisdiction; failure to properly identify the particular kind of service described in the Reduction Resolution as “Curriculum Specialist K-12”; failure to properly account for attrition; failure to properly execute the teachers’ bumping rights; failure to properly implement the layoff process as to incremental FTE’s; and failure to apply the Tie-break Resolution correctly. Some additional findings related to these contentions are set forth below.

13A. The Reduction Resolution included 2.0 FTE’s described as “Curriculum Specialist K-12.” The position is advertised as such. To comply with county oversight concerning proper assignments, a Curriculum Specialist in an elementary school or middle school must hold a Multiple Subject credential, and a Curriculum Specialist in a high school must hold a Single Subject credential. The two FTE reductions are due to decisions by two elementary school site councils that they will not spend their categorical funds for the next school year to pay for the Curriculum Specialists. Therefore, the District identified the two Curriculum Specialists with Multiple Subject credentials who were most junior in seniority: Nancy Harris (#843)² and Juan Perez (#828). Curriculum Specialist Emmanuel Ikeokonta (#831) was not considered because he serves at a high school and holds a Single Subject credential. At one point, the District performed a tie-break because Harris, Perez and Ikeokonta all share the same first date of paid service. Harris won. However, after determining that Ikeokonta could not serve in the positions being eliminated because of his credential, the District determined to not use the tie-breaker. In other words, laying off Ikeokonta would not meet the District’s needs, which were to retain a high school Curriculum Specialist and eliminate the positions of two elementary school Curriculum Specialists.

13B. Because Harris and Perez had credentials that entitled them to bump more junior employees the District considered those credentials and identified respondents Latonya Balthazar (#1241) and Lajoni Wilson (#1240) as teachers for layoff.

13C. Respondents contend that the title of the FTE in the Reduction Resolution must control, that the nature of the credentials held and the locations where the positions are actually being eliminated does not control, and that the tie-break should apply. As a result, respondents contend that Wilson should not be laid off.

13D. Respondents’ contentions are not supported by the facts or the law. The description of Curriculum Specialist K-12 in the Reduction Resolution is particular enough to inform teachers and respondents of the service to be reduced. The District’s consideration of school site locations no longer devoting categorical funds to pay for a Curriculum Specialist and, therefore, the type of credential necessary to hold the position and, therefore, satisfy the

² The numbers in parenthesis indicate the seniority number, as found in the seniority list (Exhibit A).

requirements for layoff, was not arbitrary, nor was the manner in which the District identified the affected teachers and ensured the rights of more senior teachers to bump into the positions of junior teachers.

14A. With respect to attrition, John Smith (#25) notified the Board he intended to retire effective June 6, 2014, and the Board accepted his retirement at its meeting on April 22, 2014. (Exhibit 5.) Respondents contend that the District therefore was in error in considering Smith's bumping rights in the bumping chart (Exhibit K). In summary, Smith's bumping rights affect, at least, respondents Katherine Diggs, Regina Sanders and Lucy Streets.

14B. One reason the District considered Smith's bumping rights is its experience that other teachers who have retired have rescinded their retirements and the District has allowed them to continue teaching thereafter.

14C. As noted more specifically in the Legal Conclusions below, the District is required to consider attrition up to the deadline for preliminary notices, March 15, but is not required to consider attrition after that date. As Smith's retirement was presented to, and accepted by the Board after March 15, the District properly considered his bumping rights.

15A. Respondents contend that other retirements, resignations and personnel actions that resulted in attrition, some before and some after March 15, were not properly considered by the District. Respondent's identified several District employees who submitted retirements or resignations and, based on their seniority, arguably would have affected the layoff process. Respondents' contentions are not supported by the facts or the law. As noted above, attrition after March 15 need not be considered by the District.

15B. Attrition prior to March 15 was considered in that the District hired or reassigned teachers to fill positions that opened due to attrition prior to March 15. Respondents did not establish that any particular retirement or resignation was not properly accounted for by the District.

16A. Respondents contend that respondent Thea-Marie Perkins (Perkins) (#1244) should not be laid off due to the reduction of 1.0 FTE in Categorical Specialist, due to attrition. Respondents' contention is not supported by the facts or the law.

16B. The most junior Categorical Specialist was identified as Shari Salinas (Salinas) (#775); however, based on Salinas' seniority and Single Subject credential, she can bump into Perkins' position. Therefore, Perkins was properly identified as subject to layoff.

16C. Respondents identified two retiring teachers who appear to have the same credentials and contend they could satisfy, by attrition, the Board's desire to reduce this service: Roxanna Beltran (Beltran) (#959) and Anesa Hayes (Hayes) (#1231). First, Hayes is listed as

taking a leave of absence, not as resigning (Exhibit 5), and that action was at the Board meeting of April 22, after the March 15 deadline and at a time when the District does not have to consider attrition. Second, as to attrition before March 15, and as noted in Factual Finding 15B, the District hired or reassigned teachers to fill positions that opened due to attrition. Respondents did not establish that any particular retirement or resignation was not properly accounted for by the District.

17A. Respondents contend that, in reducing ROP Food and Nutrition by .3 FTE, the District did not properly consider course prerequisites as well as an agreement with Los Angeles Trade Technical College. Respondents' contentions are not supported by the facts or the law.

17B. Respondents did not establish that it was necessary for the District to consider either course prerequisites or an agreement with Los Angeles Trade Technical College. Therefore, whether the District did or did not consider these factors is irrelevant.

18A. Respondents contend that a layoff of .11 FTE of respondent Lucy Streets (Streets) is impractical and impossible to implement. Respondents' contentions are not supported by the facts or the law.

18B. Streets presently is assigned to the ROP office and works 25 hours per week teaching Office Occupations and Computer Applications. It is not a regular classroom assignment. Her 25 hours per week are the equivalent of .71 FTE. She is being laid off for .03 FTE in Office Occupation and .08 in Computer Applications, for a total of .11 FTE. As noted in the bumping chart (Exhibit K), Streets is bumped by Smith and, consequently bumps Sanders.

18C. The Reduction Resolution identifies ROP Office Occupations as being reduced .5 FTE. Respondent Larry Hood (Hood) is being laid off for 1.0 FTE, including .4 FTE of ROP Office Occupations. Of the remaining .1 FTE of ROP Office Occupations identified for reduction, Streets is laid off for .03 FTE.

18D. The Reduction Resolution identifies ROP Computer Applications as being reduced .3 FTE. Respondent Hood is being laid off for 1.0 FTE, including .2 FTE of ROP Computer Applications. Of the remaining .1 FTE of ROP Computer Applications identified for reduction, Streets is laid off for .08 FTE.

18E. That Street's total layoff of .11 FTE does not amount to a recognizable class period is irrelevant. The service was properly identified for reduction and Streets was properly identified for layoff.

19. Although respondents argued generally that the bumping chart was in error and that there “were too many FTE’s” being eliminated, respondents did not submit sufficient evidence to counter the evidence by the District that the bumping chart was correct.

20. Respondents raised other contentions in their evidence and argument. Except as specifically set forth herein, these contentions were not supported by sufficient evidence or the law.

LEGAL CONCLUSIONS

1. The teacher layoff process, also referred to as a reduction in force, relies largely on sections 44949 and 44955, portions of which will be quoted as they relate to the different issues raised herein. As to the preliminary notices, section 44949, subdivision (a), states in pertinent part:

“No later than March 15 and before an employee is given notice by the governing board that his or her services will not be required for the ensuing year for the reasons specified in Section 44955, the governing board and the employee shall be given written notice by the superintendent of the district or his or her designee . . . that it has been recommended that the notice be given to the employee, and stating the reasons therefor.”

2. The notice to the employee under section 44949, subdivision (a), may be provided, or “served,” under section 44949, subdivision (d), which states: “Any notice or request shall be deemed sufficient when it is delivered in person to the employee to whom it is directed, or when it is deposited in the United States registered mail, postage prepaid and addressed to the last known address of the employee.”

3. Rights to a hearing and treatment of certain errors are covered in section 44949, subdivision (c)(3), which states in pertinent part:

“The hearing shall be conducted by an administrative law judge who shall prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the welfare of the schools and the pupils of the schools. . . . Nonsubstantive procedural errors committed by the school district or governing board of the school district shall not constitute cause for dismissing the charges unless the errors are prejudicial errors.”

4A. It is undisputed that the District failed to timely serve the preliminary notice on Baucom. She was neither at her school site when personal service was attempted, nor was she at her home when the certified mailing was sent. The mailing was to a misspelled address. Nor did she receive the email notification or any actual notice by March 15. Although section

44949, subdivision (d), states that certain types of service (i.e., personal delivery or registered mail to the employee's last known address) are "deemed sufficient," such language does not negate other types of notice, if successful. Therefore, had Baucom actually received the email or other actual notice of her layoff before March 15, it may have been sufficient. As she did not receive the email before the deadline, it is not necessary to determine whether notice by email is sufficient.

4B. Section 44949, subdivision (c), requires that reduction in force proceedings be conducted pursuant to the formal hearing procedures of the Administrative Procedure Act, Government Code section 11500 et seq. Government Code section 11505 requires a respondent to be served with the pertinent documents and provides that "[n]o order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent shall have been served personally or by registered mail as provided herein, or shall have filed a notice of defense or otherwise appeared." Baucom appeared at the hearing and gave testimony. Her testimony did not include any claim that, as a result of the failure to be properly served with the preliminary notice, she was unable to or prevented from providing relevant evidence or otherwise participate in the hearing. She was included as a party represented by Mr. Feinberg when the Joint Notice of Participation was served. Admittedly, that Joint Notice of Participation preserves the right to raise objections for failure to properly serve the preliminary notices. The District can proceed against Baucom because, although she did not get the preliminary notice before the deadline, nevertheless, as listed in Government Code section 11505, (1) Baucom was included in the Joint Notice of Participation, and (2) she appeared at the hearing.

4C. Further, and under all of the circumstances, the failure to serve Baucom is considered a nonsubstantive procedural error that did not result in any prejudice under section 44949, subdivision (c)(3), and is not a basis to dismiss the Statement of Reduction in Force against Baucom.

4D. The District's reliance on *Sullivan v. Centinela Valley Union High School Dist.* (2011) 194 Cal.App.4th 69, is unavailing, for two reasons. First, the court determined teacher Sullivan had actual notice before the deadline. Second, the decision analyzes a scenario that is inapposite both factually (actual notice as well as Sullivan's evading of service) and legally (Sullivan was a probationary teacher with no right to appeal and the applicable statute, section 44929.21, subdivision (b), does not refer to any method of serving notice).

5. As relevant here, section 44955, subdivisions (b) and (c), allow a school district to reduce or discontinue particular kinds of services, establish seniority as a predominant factor, allow for bumping, and provide for tie-breaking. They provide in pertinent part:

"(b) Whenever . . . a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, . . . and when in the opinion of the

governing board of the district 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, permanent as well as probationary, at the close of the school year. Except as otherwise provided by statute, the services of no permanent employee may be terminated under the provisions of this section 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.

“As between employees who first rendered paid service to the district on the same date, the governing board shall determine the order of termination solely on the basis of needs of the district and the students thereof. . . .

“(c) . . . [S]ervices of such employees shall be shall be terminated in the reverse order in which they were employed, as determined by the board in accordance with Sections 44844 and 44845. In the event that a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 44949, he or she shall be deemed reemployed for the ensuing school year.

“The governing board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render. . . .”

6. Section 44955, subdivision (d), provides additional requirements when a district proposes to skip teachers from the layoff process. It states in pertinent part:

“Notwithstanding subdivision (b), a school district may deviate from terminating a certificated employee in order of seniority for either of the following reasons:

“(1) The district demonstrates a specific need for personnel to teach a specific course or course of study . . . , and that the certificated employee has special training and experience necessary to teach that course or course of study . . . , which others with more seniority do not possess.”

7. Sections 44949 and 44955 establish jurisdiction for this proceeding. The notice and jurisdictional requirements set forth in sections 44949 and 44945 were met, as set forth in Factual Findings 1 through 8.

8. A school district may reduce services within the meaning of section 44955, subdivision (b), “either by determining that a certain type of service to students shall not, thereafter, be performed at all by anyone, or it may ‘reduce services’ by determining that proffered services shall be reduced in extent because fewer employees are made available to

deal with the pupils involved.” (*Rutherford v. Board of Trustees* (1976) 64 Cal.App.3d 167, 178-179.)

9. The Board’s decision to reduce services was a proper exercise of the District’s discretion. Respondents did not establish that the proposed reductions in services would violate any statutory or regulatory requirement governing the District.

10. Boards of education hold significant discretion in determining the need to reduce or discontinue particular kinds of services, which is not open to second-guessing in this proceeding. (*Rutherford v. Board of Trustees, supra*, 64 Cal.App.3d 167.) Such policy-making decisions are not subject to arguments as to the wisdom of their enactment, their necessity, or the motivations for the decisions. (*California Teachers Assn. v. Huff* (1992) 5 Cal.App.4th 1513, 1529.) Such decisions and actions must be reasonable under the circumstances, with the understanding that “such a standard may permit a difference of opinion.” (*Santa Clara Federation of Teachers v. Governing Board* (1981) 116 Cal.App.3d 831.) Numerous cases stand for the proposition that the process of implementing layoffs is a very flexible one and that school districts retain great flexibility in carrying out the process. (See, e.g., *Campbell Elementary Teachers Assn., Inc. v. Abbott* (1978) 76 Cal.App.3d 796, and *Zalec v. Governing Bd. of Ferndale Unified School Dist.* (2002) 98 Cal.App.4th 838.)

11. The services to be discontinued are particular kinds of services within the meaning of 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 section 44949. This Conclusion is based on Factual Findings 2 through 6, and the foregoing authorities.

12. In a layoff based on the reduction or elimination of particular kinds of services, it is not necessary for a school district to consider attrition occurring after March 15, the last day on which preliminary notices may be served. (*San Jose Teachers Assn. v. Allen* (1983) 144 Cal.App.3d 627.)

13. Cause exists under sections 44949 and 44955 for the reduction of the particular kinds of service set forth in the Reduction Resolution and Factual Finding 3A, which cause relates solely to the welfare of the District’s schools and pupils, by reason of Factual Findings 2 through 6.

14A. The statutory authority for bumping, section 44955, subdivision (b), is quoted in Legal Conclusion 5 above. A senior teacher whose position is discontinued has the right to transfer to a continuing position which he or she is certificated and competent to fill. In doing so, the senior employee may displace or “bump” a junior employee who is filling that position. (*Lacy v. Richmond Unified School District* (1975) 13 Cal.3d 469.) Bumping relies upon the

more senior teacher using a credential that authorizes him or her to teach in a position that is not being reduced or eliminated. For example, if a physical education teacher has credentials to teach physical education and history, and her physical education position is being eliminated, based on her seniority she may be assigned to teach history classes previously taught by a more junior teacher.

14B. Section 44955, subdivision (b), requires analysis of whether the more senior teacher is being retained “to render a service which said permanent employee is *certificated and competent* to render.” (Emphasis added.) “Certificated” is defined by the provisions of the Education Code pertaining to credentials, but “competent” is not specifically defined. In *Forker v. Board of Trustees* (1994) 160 Cal.App.3d 13, 19, the Court defined the term in a reemployment proceeding under section 44956, in terms of the teachers’ skills and qualifications, specifically as “relating to special qualifications for a vacant position, rather than relating to the on-the-job performance of the laid-off permanent employee.” In doing so, the Court noted that other courts had interpreted the term in a similar manner in reduction in force cases, namely *Brough v. Governing Board* (1981) 118 Cal.App.3d 702, 714-15, and *Moreland Teachers Association v. Kurze* (1980) 109 Cal.App.3d 648, 654-55. Once a teacher is found to be competent, the statutory directive is met, and a school district may not change the focus of the inquiry to determine the *most* competent teacher, nor may teachers force a school district to do so. As stated in *Martin v. Kentfield School Dist.* (1983) 35 Cal.3d. 294, 299: “Among the employees who met this threshold limitation [of being ‘certificated and competent’], there is not room in the statutory scheme for comparative evaluation. Thus, . . . which of the two employees under consideration . . . was ‘better’ qualified for the job is not the question here, nor was it properly the question before the board.”

14C. The process of determining what services will be affected in a layoff proceeding and how bumping is implemented is complicated. To put it in perspective one must consider the various stages of the layoff process and the state of affairs in a school district during those stages. School districts gather information and plan for implementing the layoff well in advance of March 15, the deadline by which the school board must take action and the school district must send out preliminary notices to the potentially affected teachers. The process continues, and some teachers receiving layoff notices may have those notices rescinded and the Statements of Reduction in Force withdrawn. There is an administrative hearing, board action on the Proposed Decision, and the sending of final layoff notices by May 15. Often, due to additional budget determinations or other factors, some positions can be saved and some teachers who were laid off are later rehired by the school district. And the school district will, at some point, make actual determinations of which teacher will be assigned to which position. In many ways, the process of bumping during the early stages of the layoff process is a theoretical construct, determining how a more senior teacher may be retained based upon being certificated and competent to render a service, as required by the statute, and not a blueprint for how the school district will actually make later assignments, when it is better informed of the needs it must address and the assets it has to address them.

14D. Respondents did not establish that the District incorrectly analyzed the certification and competence of the teachers it determined could bump into continuing positions, for the reasons set forth in Factual Findings 9, 10, 11, 13, 14, 16, 18 and 19.

15A. Junior teachers may be given retention priority over senior teachers—may “skip” that senior employee—if the junior teacher possesses the special training and experience that is necessary but is not possessed by their more senior colleagues. (Section 44955, subdivisions (b) and (d)(1), quoted in Legal Conclusions 3 and 5 above; *Poppers v. Tamalpais Union High School District* (1986) 184 Cal.App.3d 399; *Santa Clara Federation of Teachers, Local 2393 v. Governing Bd. of Santa Clara Unified School Dist.* (1981) 116 Cal.App.3d 831.)

15B. The retention of Ikeokonta as a Curriculum Specialist in a high school can, in some ways, be considered skipping, as his credential and the District’s needs were necessary to the analysis of who could serve as a Curriculum Specialist in a high school. However, the situation is just as easily analyzed as driven by the underlying cause for the layoff; that is, two elementary schools would no longer support the position of Curriculum Specialist and, therefore, the most junior employees holding that position can be laid off. Of course, here, those employees were entitled to bump two other employees who were then the recipients of preliminary notices.

16. No respondent established that they had the right to bump a junior employee or that they should have been skipped, based on Legal Conclusions 5 and 14 and the underlying Factual Findings.

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

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18. The District may lay off the respondents, in reverse order of seniority, in order to reduce services, based on all the foregoing. Where the District has rescinded preliminary notices and withdrawn the Statements of Reduction in Force, the affected teachers are no longer respondents.

ORDER

1. The Statement of Reduction in Force is sustained.

2. Notice shall be given to respondents in reverse order of seniority that their services will not be required for the 2014-2015 school year because of the reduction or discontinuance of particular kinds of services. Where necessary, that notice shall indicate if less than a full time equivalent position is affected.

DATED: May 2, 2014

DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings