

BEFORE THE
GOVERNING BOARD OF THE
OCEAN VIEW SCHOOL DISTRICT
COUNTY OF VENTURA
STATE OF CALIFORNIA

In the Matter of the Layoff Of:

Deicy Aguilar and Other Certificated
Employees of the Ocean View
School District,

Respondents.

OAH Case No. L2009030009

PROPOSED DECISION

Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, heard this matter on April 1, 2009, in Oxnard, California.

Sharon J. Ormond, Attorney at Law, represented Dr. Nancy J. Carroll (Carroll), Superintendent of the Ocean View School District (District).

Alexis Ridenour, Attorney at Law, represented Deicy Aguilar, Matthew Bigelow, Sylvia Contreras, Melody Curtis, Tracie Duffy-Hobson, Ian Bradley Foutz, Susana Luna, Clara Guerrero, John Guillen, Melissa Inglis, Michelle Inman Bottoni, Amy La Torre, April Liporada, Jessica Ann Mew, Diane Moland, Katie Moncourtois, Norma Nedilskyj, Elizabeth Ann McCurdy, Maria Pineda, Heather Rehm, Jennifer Reveles, Katrisha Thomas, and Erica Flores Ultreras (Respondents).

The District has decided to reduce or discontinue certain educational services and has given Respondents notice of its intent not to reemploy them for the 2009-2010 school year. Respondents requested a hearing for a determination of whether cause exists for not reemploying them for the 2009-2010 school year.

At the hearing, the District moved to dismiss the Accusation against Matthew Bigelow, Sylvia Contreras, Melody Curtis, Clara Guerrero, Melissa Inglis, Michelle Inman Bottoni, Susana Luna, Norma Nedilskyj, and Heather Rehm, which motion was granted.

Oral and documentary evidence was received at the hearing and the matter was submitted for decision.

FACTUAL FINDINGS

1. Superintendent Carroll filed the Accusation in her official capacity.
2. Respondents are certificated employees of the District.
3. On March 10, 2009, the Governing Board of the District (Governing Board) adopted Resolution number 08-28, reducing or discontinuing the following services for the 2009-2010 school year:

<u>Service</u>	<u>Full-Time-Equivalent Positions</u>
Reduction of K-5 Elementary Teaching Services	10.00
Reduction of 6-8 Counseling Services	.60
Reduction of 6-8 Physical Education Teaching Services	.50
Reduction of 6-8 English Teaching Services	1.25
Reduction of 6-8 Special Education Teaching Services	1.00
Reduction of 4-8 Music Teaching Services	1.00
Reduction of 6-8 Grade Social Studies Teaching Services	1.00
Discontinuance of K-8 Categorical Physical Education Teaching Services	1.00
Discontinuance of K-5 Reading Teaching Services	4.00
Discontinuance of 6-8 Reading Teaching Services	1.00
Discontinuance of K-5 Resource Teaching Services	2.00
Discontinuance of District Resource Teaching Services	2.00
Discontinuance of 6-8 Opportunity Teaching Services	.50
Discontinuance of Technology Teaching Services	<u>1.00</u>
Total	26.85

4. Superintendent Carroll thereafter notified the Governing Board the she recommended that notice be provided to Respondents that their services will not be required for the 2009-20010 school year due to the reduction or discontinuance of particular kinds of services.

5. During the period of March 11 to 13, 2009, District Assistant Superintendent Craig W. Helmstedter, Ed.D., personally provided notice to Respondents that their services will not be required for the 2009-2010 school year due to the reduction or discontinuance of particular kinds of services. In order to simplify the process and to afford Respondents a longer initial period to request a hearing, the District issued the Accusation on March 11, 2009, and served it on Respondents with the notice that their services would not be required.

6. Respondents timely requested hearings and filed notices of defense, to determine if there is cause for not reemploying them for the 2009-2010 school year.

7. All prehearing jurisdictional requirements have been met.

8. The services set forth in factual finding number 3 are particular kinds of services which may be reduced or discontinued within the meaning of Education Code section 44955.¹

9. The Governing Board took action to reduce or discontinue the services set forth in factual finding number 3 primarily because of the uncertainty surrounding future funding. The District estimates a revenue shortfall of approximately \$1,500,000 for the remainder of the 2008-2009 school year and for the 2009-2010 school year. The decision to reduce the particular kinds of services is neither arbitrary nor capricious but is rather a proper exercise of the District's discretion.

10. The reduction of services set forth in factual finding number 3 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 Governing Board.

11. No certificated employee junior to any Respondent was retained to render a service which any Respondent is certificated and competent to render.

LEGAL CONCLUSIONS

1. Jurisdiction for the subject proceeding exists pursuant to sections 44949 and 44955, by reason of factual finding numbers 1 through 7.

2. The services listed in factual finding number 3 are determined to be particular kinds of services within the meaning of section 44955, by reason of factual finding numbers 3 and 8.

3. Cause exists under sections 44949 and 44955 for the District to reduce or discontinue the particular kinds of services set forth in factual finding number 3, which cause relates solely to the welfare of the District's schools and pupils, by reason of factual finding numbers 1 through 11.

¹ All further references are to the Education Code.

4. Cause exists to terminate the services of Respondents Deicy Aguilar, Tracie Duffy-Hobson, Ian Bradley Foutz, John Guillen, Amy La Torre, April Liporada, Jessica Ann Mew, Diane Moland, Katie Moncourtois, Elizabeth Ann McCurdy, Maria Pineda, Jennifer Reveles, Katrisha Thomas, and Erica Flores, by reason of factual finding numbers 1 through 11, and legal conclusion numbers 1 through 3.

ORDER

The Accusation is sustained and the District may notify Respondents Deicy Aguilar, Tracie Duffy-Hobson, Ian Bradley Foutz, John Guillen, Amy La Torre, April Liporada, Jessica Ann Mew, Diane Moland, Katie Moncourtois, Elizabeth Ann McCurdy, Maria Pineda, Jennifer Reveles, Katrisha Thomas, and Erica Flores that their services will not be needed during the 2009-2010 school year due to the reduction of particular kinds of services.

DATED: _____

SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings