

**BEFORE THE GOVERNING BOARD OF THE  
HUNTINGTON BEACH CITY SCHOOL DISTRICT**

IN THE MATTER OF THE ACCUSATIONS     )     OAH NO. 2009030287  
AGAINST:                                     )  
  )  
(Respondents listed on Exhibit “A” Who     )  
Have Returned a Request for Hearing/Notice     )  
of Defense Form)                             )  
  )  
\_\_\_\_\_ )

**PROPOSED DECISION**

Humberto Flores, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on March 30, 2009, at the board room of the Huntington Beach City School District, Huntington Beach, California.

Sharon J. Ormond, Attorney at Law, represented the Huntington Beach City School District.

Carlos Perez, Attorney at Law, represented the Respondents who appeared at the hearing.

Evidence was received and the matter was submitted for decision.

**SUMMARY**

The Governing Board (Board) of the Huntington City School District (District) decided to reduce or discontinue particular kinds of services provided by certificated personnel for the 2009-2010 school year for budgetary reasons. The decision was not related to the competency and dedication of the teachers whose services were proposed to be reduced or eliminated.

District staff carried out the Board’s decision by using a selection process involving review of seniority, credentials, and criteria for breaking ties between employees with the same first dates of paid service. The selection process complied with Education Code requirements.

**FACTUAL FINDINGS**

1. Roberta De Luca, Superintendent of the District, filed the Accusations in her official capacity.

2. Respondents are certificated employees of the District.

3. On or prior to February 17, 2009, Superintendent DeLuca recommended that the Board give notice that certain services performed by certificated employees be reduced or eliminated for the 2009-2010 school year. Ms. DeLuca also recommended that the Board adopt a resolution to reduce or discontinue particular kinds of services for the 2009-2010 school year.

4. On February 17, 2009, the Board adopted Resolution No. HR-52 whereby the Board resolved to discontinue or reduce the particular kinds of services as recommended by Superintendent DeLuca. The Board further determined that based on the discontinuance or reduction of services, it would be necessary to decrease the number of certificated employees at the close of the present school year by a corresponding number of full-time equivalent (FTE) positions. The Board also directed the Superintendent to notify the employees affected by the Board's resolution.

5. On February 17, 2009, the Board adopted Resolution No. HR-53, in which the Board set forth a selection process involving review of credentials and other criteria for breaking ties between employees with the same first dates of paid service. The selection process complied with Education Code requirements.

6. On or prior to March 3, 2009, Superintendent DeLuca issued an Amended Notice to the Governing Board recommending that the Board give notice certain services performed by certificated employees be reduced or eliminated for the 2009-2010 school year. Ms. DeLuca also recommended that the Board adopt a resolution to reduce or discontinue particular kinds of services for the 2009-2010 school year.

7. On March 3, 2009, the Board approved Amended Resolution No. HR-52 wherein the Board increased the number of FTE positions that would be reduced or discontinued. The Board further determined that based on the amended discontinuance or reduction of services, it would be necessary to decrease the number of certificated employees at the close of the present school year by a corresponding number of FTE positions as follows:

Discontinue School Psychologist Services	.5 FTE
Discontinue Middle School Counseling Services	1.0 FTE
Discontinue Middle School Teacher Specialist, Student Support	2.0 FTE
Discontinue Elementary School Teacher Specialist, Student Support	1.0 FTE
Discontinue Teacher Inclusionary Practices/Behavioral Interventions	1.0 FTE

Reduce Middle School Core Teaching Services	3.0 FTE
Reduce Middle School Physical Education Teaching Services	1.0 FTE
Reduce Middle School Math Teaching Services	1.0 FTE
Discontinue Elementary School Physical Education Teaching Services	.5 FTE
Reduce Kindergarten to 5th Grade Teaching Services	32.5 FTE
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TOTAL CERTIFICATED POSITIONS	43.5 FTE

8. Pursuant to Amended Resolution HR-52, the Board directed Superintendent DeLuca to notify the employees affected by the Board's resolution and giving notice to said employees that their services would not be required for the ensuing school year and stating the reasons therefore.

9. The Superintendent DeLuca made and filed Accusations against each Respondent on March 6, 2009. The Respondents were listed in an attachment to the Accusation, which was incorporated by reference and identified as Exhibit A.

10. On March 11 and 12, 2009, Ms. DeLuca notified Respondents, in writing, that it had been recommended their services would not be required for the next school year. The mailing included the reasons for the notification, a copy of the Accusation and other jurisdictional documents as required by the Education Code.

11. Notices of Defense and Requests for Hearing were timely filed by all of the employees who appeared for the hearing. All prehearing jurisdictional requirements were met.

12. The reduction or discontinuation of the particular kinds of services set forth in Factual Finding 7, related to the welfare of the District and its pupils.

13. The Board considered attrition, including resignations, retirements and requests for leave, in determining the necessary layoff notices to be delivered to employees.

14. The District maintains a Seniority List which contains employees' seniority dates, current assignments and locations, advanced degrees, credentials, and authorizations.

15. Respondents are not certificated and competent to render a service being performed by any employee with less seniority who is being retained.

16. At the hearing, the District's counsel informed the undersigned that it decided to retain the services of Respondents Katie Fowler, Kylene Krol, Julie Marble and Tara Holmes.

### **LEGAL CONCLUSIONS**

1. All notices and other requirements of Education Code sections 44949 and 44955 were met. Therefore, jurisdiction was established for this proceeding as to all Respondents.

2. Cause was established as required by Education Code section 44955 to reduce the number of certificated employees due to the reduction or discontinuation of particular kinds of services. The Board's decisions to reduce or eliminate the identified services were neither arbitrary nor capricious. The decisions relate solely to the welfare of the District's schools and the pupils within the meaning of Education Code section 44949.

3. No junior certificated employee is being retained to perform services which a more senior employee subject to layoff is certificated and competent to render.

4. At the hearing the District moved to dismiss the Accusations against Respondents Katie Fowler, Kylene Krol, Julie Marble and Tara Holmes. This motion was granted.

### **ORDER**

1. Notice may be given to the Respondents Tracy Andersen, Melissa Arneson, Ashley Arriola, Michelle Baker, Rachana Bhagat, Stacy Britton, Devon Broussard, Kirsten Casalegno, Lisa Cirac, Jennifer D'Abusco, Cynthia D'Innocente, Michelle Doherty, Melissa Eisenrod, Jennifer Espalin-Castillo, Annie Finnel, Jennifer Greenwald, Brett Hardy, Lori Hiltbrand, Laura Horn, Angela Jacobs, Karen Kroeter, Marisa Linares, Theresa Martella, Alyssa Mauro, Nicolle Monaghan, Amy Rasmussen, Gail Rocha, Jenny Roquemore, Christy Ruppert, Stacy Snow, Shannon Sovern, Danielle Stuken and Danielle Zankich, that their services will not be required for the 2009-2010 school year.

2. The Accusations against Respondents Katie Fowler, Kylene Krol, Julie Marble and Tara Holmes are dismissed.

Dated: April 3, 2009

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HUMBERTO FLORES  
Administrative Law Judge  
Office of Administrative Hearings