

BEFORE THE  
BOARD OF TRUSTEES OF THE  
SANTA ROSA CITY SCHOOLS DISTRICT

In the Matter of the Accusation Against  
Certificated Employees:

LYNN BLACK, IRENA DEWEY, HELEN  
HILL, PATRICIA ROGERS and  
CAROLE SMITH,

Respondents.

OAH No. 2009031130

**PROPOSED DECISION**

Administrative Law Judge Mary-Margaret Anderson, State of California, Office of Administrative Hearings, heard this matter in Santa Rosa, California, on May 27, 2009.

Joseph C. Kinkade, Attorney at Law with the Lozano Smith law firm, represented the Santa Rosa City Schools District.

James D. Allen, Attorney at Law, represented all of the Respondents.

The record closed on May 27, 2009.

**SUMMARY**

The Board of Trustees of the Santa Rosa City Schools District decided to discontinue particular kinds of services provided by teachers in the 2009-2010 school year for budgetary reasons. The decision was not related to the competency and dedication of those whose services were proposed to be eliminated. The process complied with Education Code requirements.

**FACTUAL FINDINGS**

1. Robert Thompson filed the Accusation in his official capacity as Assistant Superintendent for Human Resources of the Santa Rosa City Schools District (District).
2. Lynn Black, Irena Dewey, Helen Hill, Patricia Rogers, and Carole Smith (Respondents) are certificated employees of the District.

3. On March 11, 2009, the Board of Trustees of the Santa Rosa City Schools District adopted Resolution No. H-6127, in which the Board resolved to “Eliminate the equivalent of up to 5 Designated Subjects (Hourly) certificated employees assigned through Lewis Adult School” at the end of the 2008-2009 school year.

4. On March 12, 2009, written notice of the recommendation that their services will not be required for the 2009-2010 school year was served personally on all of the Respondents. Each notice contained the reasons for it.

Each Respondent filed a timely request for hearing. Accordingly, an Accusation was filed and served. Each Respondent filed a timely notice of defense and this hearing followed.

5. Assistant Superintendent Thompson recommended to the Board that the Resolution be adopted. The difficult financial times have affected the District, which will be required to utilize monetary reserve funds to meet its revenue needs in 2009-2010. Thompson noted that adult education services are not mandated by the state and that the state is allowing districts to redistribute funds previously designated solely for adult education. Accordingly, Thompson recommended, and the Board decided, that it was in the best interests of the District and its pupils to eliminate the entire Lewis Adult School Program. By and large, the educational services provided by the Lewis programs are not mandated by the state. Those that are, for example, programs designed to assist students to pass the California High School Exit Examination (Exit Exam), will be placed elsewhere.

6. Respondent Carol Smith teaches English as a second language (ESL). She estimates that she teaches approximately 60 adult students in a given day. The students are allowed to attend based upon a very flexible schedule. Most of the students attend voluntarily. Some may be required to attend classes offered through CalWORKS, a state funded program that pays adult students to train to re-enter the job market. Smith also teaches an “Exit Exam program” to about 30 students. These classes assist adult students to obtain a high school diploma.

7. Respondent Lynn Black teaches adult students who have completed high school but have failed to pass the Exit Exam and students who are attempting to obtain a high school diploma. She also teaches high school students who have babies and business classes to adults.

8. Respondent Patricia Rogers teaches students who are attempting to obtain a high school diploma and students who are working to obtain a GED certificate, among other classes. She also is a part-time administrator for the night school program.

Rogers helped make a DVD to show to the Board that describes the ESL program. She estimates that there are currently approximately 40 to 50 ESL students. Rogers estimated that she works with 20 to 30 students who are working to complete the Exit Exam.

9. No permanent or probationary employee with less seniority is being retained to render a service which any Respondent is certificated and competent to render.

### LEGAL CONCLUSIONS

1. All notices and other requirements of Education Code sections 44949 and 44955 have been provided as required. The District has therefore established jurisdiction for this proceeding as to each Respondent.

2. Cause was established as required by Education Code section 44955 to reduce the number of certificated employees of the District due to the reduction and discontinuation of particular kinds of services. The Board's decision to reduce or discontinue the identified services was made solely on the basis of the needs of the District and its pupils.

3. Respondents contend that the layoff is improper because the proposed reductions would reduce certain services that they provide below mandated levels. They cite Education Code section 37254, which addresses the apportionment of funds to be used to assist students to pass the Exit Exam, and Education Code section 52540, which requires districts to offer ESL if more than 20 adults apply.

The evidence does not support Respondents' contention. Evidence was presented that the District will provide required services, albeit in a different manner and location than has been utilized previously. It is well within the District's discretion to determine where and through what structure it will provide mandated levels of services to District students. (*Campbell Elementary School Teachers Association Inc. v. Abbott* (1987) 76 Cal.App.3d 796.)

4. All contentions made by Respondents not specifically addressed herein are found to be without merit and are rejected.

### ORDER

Notice may be given to Respondents that their services will not be required for the 2009-2010 school year because of the reduction or discontinuation of particular kinds of services.

DATED: \_\_\_\_\_

\_\_\_\_\_  
MARY-MARGARET ANDERSON  
Administrative Law Judge  
Office of Administrative Hearings