

BEFORE THE
GOVERNING BOARD OF
REDWOOD CITY SCHOOL DISTRICT
COUNTY OF SAN MATEO, STATE OF CALIFORNIA

In the Matter of the Accusation Against
Certificated Employees:

NANCY ALLEN et al.,

Respondents.

OAH No. 2010030618

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Redwood City, California, on April 27, April 29, and May 10, 2010.

Janae H. Novotny, Janet Sommer, and Pascale-Sonia Roy, Attorneys at Law, Burke, Williams & Sorenson, LLP, represented complainant Jan Christensen, Superintendent of the Redwood City School District.

Patricia D. Castorena, Attorney at Law, represented respondents Martha Castro, Vickie Neves, Esther Rodriguez, Ruth Rodriguez, and Maria Del Sol Vasquez-Ares.

There was no appearance by or on behalf of respondent Ryan Harrison.

Christopher E. Schumb, Attorney at Law, represented all other respondents whose names are listed on Attachment A.

The matter was submitted for decision on May 10, 2010.

FACTUAL FINDINGS

1. Jan Christensen made the accusation in her official capacity of Superintendent of the Redwood City School District.
2. Respondents listed on Attachment A are certificated employees of the district.
3. On March 10, 2010, Superintendent Christensen gave written notice to the Governing Board of the Redwood City School District of her recommendation that notice be

given to respondents that his/her services would be reduced or eliminated for the 2010-2011 school year and stated the reasons for her recommendation.

4. On March 10, 2010, the board adopted Resolution No. 13, in which it resolved to reduce or discontinue the particular kinds of services for the 2010-2011 school year, and directed Superintendent Christensen or her designee to give notice to the certificated employees whose positions would be affected.

5. On or about March 11, 2010, Deputy Superintendent John R. Baker, Ed.D., gave written notice to respondents that, pursuant to Education Code sections 44949 and 44955, it was being recommended that their services would be reduced or eliminated for the 2010-2011 school year. Respondents filed requests for hearing. The district served an accusation on each respondent who requested a hearing. Each respondent filed a notice of defense. There are no issues raised with respect to jurisdiction in this matter.

6. In its resolution, the board resolved to reduce or discontinue the following particular kinds of services:

<u>Particular Kind of Service</u>	<u>Full-time Equivalent</u>
Art Specialist	1.0
Assistant Principal	1.0
Counselor	3.8
English Language Development Coach	7.5
GATE Teacher	0.5
Inclusion Specialist	1.0
International Baccalaureate/Multi Years Program Art Teacher	1.0
International Baccalaureate/Multi Years Program Coordinator/ Music Teacher	1.0
International Baccalaureate/Multi Years Program Spanish Teacher	1.0
Language Arts Intervention Teacher	1.0
Literacy Resource Teacher	4.4
Music Teacher	4.0
Newcomer Teacher	1.0
Nurse	2.0
Opportunity School Teacher	0.5
Outreach Specialist	2.2
Professional Development Coach – Houghton-Mifflin	1.0
Professional Development Coach – Science	1.0
Professional Development Coach – Special Education	1.0
Psychologist	2.0
Reading Intervention Specialist	0.7
Reading Intervention Specialist 1-3	1.0
Reading Support Teacher	3.0

Resource Teacher	0.5
Response to Intervention/Student Study Team (RIT/SST)	0.1
Director of Student Services	0.5
K-5 Classroom Teachers	80.0
6-8 Classroom Teachers	2.0
Total:	127.2

7. The services set forth in the board’s PKS resolution are particular kinds of services that may be reduced or discontinued within the meaning of Education Code section 44955. No service is being reduced below a mandated level.

8. The reductions were based on the district’s financial situation. As a result of the state budget crisis, the district is projecting a budget deficit of approximately \$10M. Considering this, the reductions are in the interest of the schools and their pupils.

9. The district will take into account all positively assured attrition prior to issuing the final notices.

Seniority Dates

10. By agreement of the parties, the seniority date of respondent Lisa Rivera is changed to June 26, 2006. The district will make this change on its seniority list.

11. By agreement of the parties, the seniority date of respondent Vicki Neves is changed to August 4, 2008. The district will make this change on its seniority list.

Bumping/Competency/Skipping

12. In its resolution, the board set forth competency criteria pursuant to Education Code section 44955, subdivision (b). A number of senior teachers have positions for the 2009-2010 school year that are being eliminated by the PKS resolution. In order to eliminate competency issues the parties agreed that none of these teachers will be permitted to bump into a position currently held by a respondent.

13. Pursuant to the agreement of the parties, the district will rescind the March 15 notices it issued to respondents Genevieve De L’ao, Victoria Defouw, Perpetual Doyle, Elizabeth Love, Gwendolyn Minor, and Tonya Reed. Each of these teachers holds a single subject credential in Math or English, or a multiple subject credential with a supplementary authorization in Math and/or English. The accusations issued against these respondents will be dismissed.

14. Pursuant to the agreement of the parties, the district will rescind the March 15 notices it issued to respondents Melissa Innes, Ann D. Rapacki, and Yolanda Marie White.

Each of these teachers holds a multiple subject credential as well as a supplementary authorization in Math and/or English. The accusations issued against these respondents will be dismissed.

15. Pursuant to the agreement of the parties, the March 15 notices issued to respondents Vickie Neves and Esther Rodriguez will be rescinded. The accusations against these respondents will be dismissed.

16. By reason of the matters set forth above, there are no issues with respect to competency, bumping or skipping.

K-5 Classroom Teacher Reduction

17. The parties have stipulated that the district may effectuate the PKS resolution reduction of 80 FTE K-5 Classroom Teachers by issuing final notices to teachers holding 52.5 FTE positions. The district will therefore rescind the March 15 notices it issued to the following certificated employees (listed here in reverse seniority order): Christianne Kapelle-Curtis; Kenneth Bone-Rundle; Zoe Wilson; Ruth Rodriguez; Damian Arvizu; Benjamin Simons; Annamaria Rivoli; Jill Bledsoe; Jane Rojas; Josephina Schneider; Martha Castro; Marlene Chantri; Penny Shanks; Carrie Rolla; David Tremblay; Michelle Territo; Arianne Piedrahita; Maria Del Sol Vasquez-Ares; and, Jennifer Brito.¹

Nurse Reduction

18. The district rescinded the March 15 notice it issued to respondent Karen Oslan, a 1 FTE nurse, prior to hearing. The accusation against Oslan will be dismissed.

19. At hearing, the district agreed to rescind the March 15 notice it issued to Nancy Powell, a .4 FTE nurse. The accusation against Powell will be dismissed.

Tie-Breaking

20. In its resolution, the board established criteria for determining the order of termination among certificated employees who have the same seniority date. The criteria were applied to certificated employees who share the same seniority date. By reason of the matters set forth above, there are no issues with respect to the application of the tie-breaking criteria to respondents.

¹ The parties' stipulation also included respondents Innes, Rapacki, and White. The notices to these teachers will be rescinded as set forth in Finding 14.

Other Matters

21. All contentions made by respondents not specifically addressed above are found to be without merit and are rejected.

22. Based on the above, no permanent employee is being terminated while a permanent or probationary employee with less seniority is being retained to render a service which the permanent employee is certificated and competent to render.

23. The cause for the reduction in particular kinds of services relates to the welfare of the schools and the pupils thereof.

LEGAL CONCLUSIONS

1. Jurisdiction for this proceeding exists pursuant to Education Code sections 44949 and 44955, and all notices and other requirements of those sections have been provided as required.

2. By reason of the matters set forth in Finding 13, there is no cause pursuant to Education Code section 44955 to give a final notice to respondents Genevieve De L'ao, Victoria Defouw, Perpetual Doyle, Elizabeth Love, Gwendolyn Minor, and Tonya Reed.

3. By reason of the matters set forth in Finding 14, there is no cause pursuant to Education Code section 44955 to give a final notice to respondents Melissa Innes, Ann D. Rapacki, and Yolanda Marie White.

4. By reason of the matters set forth in Finding 15, there is no cause pursuant to Education Code section 44955 to give a final notice to respondents Vickie Neves and Esther Rodriquez.

5. By reason of the matters set forth in Finding 17, there is no cause pursuant to Education Code section 44955 to give a final notice to respondents Christianne Kapelle-Curtis, Kenneth Bone-Rundle, Zoe Wilson, Ruth Rodriguez, Damian Arvizu, Benjamin Simmons, Annamaria Rivoli, Jill Bledsoe, Jane Rojas, Josephina Schneider, Martha Castro, Marlene Chantri, Penny Shanks, Carrie Rolla, David Tremblay, Michelle Territo, Arianne Piedrahita, Maria Del Sol Vasquez-Ares, and Jennifer Brito.

6. By reason of the matters set forth in Findings 18 and 19, there is no cause pursuant to Education Code section 44955 to give a final notice to respondents Karen Oslan and Nancy Powell.

7. Except as stated above, cause exists because of the reduction of services pursuant to Education Code section 44955 to give notice to respondents that their services will be reduced or eliminated for the 2010-2011 school year. This cause relates solely to

welfare of the schools and the pupils thereof within the meaning of Education Code section 44949.

ORDER

1. The accusations against respondents Damian Arvizu, Jill Bledsoe, Kenneth Bone-Rundle, Jennifer Brito, Martha Castro, Marlene Chantri, Genevieve De L'ao, Victoria Defouw, Perpetual Doyle, Melissa Innes, Christianne Kapelle-Curtis, Elizabeth Love, Gwendolyn Minor, Vickie Neves, Karen Oslan, Arianne Piedrahita, Nancy Powell, Ann Rapacki, Tonya Reed, Annamaria Rivoli, Esther Rodriquez, Ruth Rodriguez; Jane Rojas, Carrie Rolla, Josephina Schneider, Penny Shanks, Benjamin Simons, Michelle Territo, David Tremblay, Maria Del Sol Vasquez-Ares, Yolanda Marie White, and Zoe Wilson are dismissed.

2. Except as set forth above, notice may be given to respondents that their services will be reduced or eliminated for the 2010-2011 school year.

DATED: May 13, 2010

MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings