

BEFORE THE
BOARD OF EDUCATION
SANTA CLARA UNIFIED SCHOOL DISTRICT

In the Matter of the Accusation Against:

MEGAN BIRDSONG, DREW
ERICKSON, NICOLE LENTZ,
CHRISTINA NATALE and ANNE
SCHWARTZ,

Respondents.

OAH No. 2011031520

PROPOSED DECISION

Administrative Law Judge Nancy L. Rasmussen, Office of Administrative Hearings, State of California, heard this matter on April 29, 2011, in Santa Clara, California.

Richard M. Noack, Attorney at Law, Hopkins & Carley, represented the Santa Clara Unified School District.

Christopher Schumb, Attorney at Law, represented respondents Megan Birdsong, Nicole Lentz, Christina Natale and Anne Schwartz, who were present at the hearing, and respondent Drew Erickson, who was not present.

The matter was submitted on April 29, 2011.

FACTUAL FINDINGS

1. Steve Stavis made and filed the accusation in his official capacity as Superintendent of the Santa Clara Unified School District.
2. Respondents Megan Birdsong, Drew Erickson, Nicole Lentz, Christina Natale and Anne Schwartz are certificated employees of the district.
3. On March 14, 2011, the district's Board of Education adopted Resolution No. 11-04, reducing or discontinuing particular kinds of services for the 2011-2012 school year and directing the superintendent or his designee to give appropriate notices to certificated employees whose positions will be affected by the action.
4. On or before March 15, 2010, Assistant Superintendent of Human Resources Brad Syth gave written notice to respondents and other certificated employees of the

recommendation that their services will not be required for the 2011-2012 school year. The reasons for the recommendation were set forth in these preliminary layoff notices.

5. Respondents filed timely requests for hearing to determine if there is cause for terminating their services for the 2011-2012 school year. An accusation was served on respondents, and all respondents are deemed to have filed timely notices of defense. All prehearing jurisdictional requirements have been met.

6. On March 14, 2011, in order to address a projected budget shortfall, the board took action to reduce or discontinue the following particular kinds of services for the 2011-2012 school year:

<u>SERVICES</u>	<u>FTE</u> ¹
Counselors	6.0
Librarians	6.0
Music Teachers	2.0
Single Subject – English	4.0
Single Subject – Math	2.0

7. Prior to the hearing, the district was able to rescind the layoff notices to all certificated employees except for the five respondents. At the hearing, the district rescinded the layoff notice to respondent Christina Natale.

8. Respondent Megan Birdsong is one of the librarians whose positions will be eliminated next year. Although she holds a clear single subject English credential, Birdsong has informed the district that she would not be interested in an assignment to teach English next year.

9. No certificated employee junior in seniority to any respondent is being retained by the district to perform services that any respondent is certificated and competent to render.

LEGAL CONCLUSIONS

1. Jurisdiction for this proceeding exists pursuant to Education Code sections 44949 and 44955.

2. Cause exists to dismiss the accusation against respondent Christina Natale.

3. Cause exists because of the reduction or elimination of particular kinds of services pursuant to Education Code section 44955 to give notice to respondents Megan Birdsong, Drew Erickson, Nicole Lentz and Anne Schwartz that their services will not be

¹ Full-time equivalent positions.

required for the 2011-2012 school year. The cause relates solely to the welfare of the schools and the pupils thereof within the meaning of Education Code section 44949.

ORDER

1. The accusation against respondent Christina Natale is dismissed.
2. Notice may be given to respondents Megan Birdsong, Drew Erickson, Nicole Lentz and Anne Schwartz that their services will not be required for the 2011-2012 school year because of the reduction or elimination of particular kinds of services.

DATED: May 3, 2011

NANCY L. RASMUSSEN
Administrative Law Judge
Office of Administrative Hearings