

BEFORE THE
BOARD OF EDUCATION OF THE
INGLEWOOD UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusations Against:

Robert Alaniz, Nicole Austin, Nancy Avila,
Jonathan Barbee, William Bock, Wendy
Frandell, Kelly Iwamoto, Heidi Librando,
Tricia Nakanishi, John Schubert, Mayra Tellez,
and Melissa Baranic,

Respondents.

OAH Case No. 2012030593

PROPOSED DECISION

Administrative Law Judge Amy C. Yerkey, State of California, Office of Administrative Hearings, heard this matter on April 30, 2012, in Inglewood, California.

Jabari A. Willis and Sharon J. Ormond, Attorneys at Law, represented the Inglewood Unified School District (District).

Lawrence B. Trygstad, Attorney at Law, represented Robert Alaniz, Nicole Austin, Nancy Avila, Jonathan Barbee, William Bock, Wendy Frandell, Kelly Iwamoto, Heidi Librando, Tricia Nakanishi, John Schubert, Mayra Tellez, and Melissa Baranic (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 2012-2013 school year. Respondents requested a hearing for a determination of whether cause exists for not reemploying them for the 2012-2013 school year.

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

FACTUAL FINDINGS

1. District Superintendent Gary McHenry (McHenry) filed the Accusation in his official capacity.

2. Respondents are certificated employees of the District.

3. On February 22, 2012, District Governing Board adopted Resolution number 19/2011-2012, reducing or discontinuing the following services for the 2012-2013 school year:

<u>Service</u>	<u>Full-Time-Equivalent Positions</u>
K-6 Elementary Teaching Services	10.0
7-8 Language Arts Teaching Services	3.0
7-8 Social Studies Teaching Services	3.0
9-12 Language Arts Teaching Services	3.0
9-12 Social Studies Teaching Services	3.0
TOSA-BTSA/ Induction Support Provider Services	<u>1.0</u>
Total	23.0

4. Superintendent McHenry thereafter notified the Governing Board that he recommended that notice be provided to Respondents that their services will not be required for the 2012-2013 school year due to the reduction or discontinuance of particular kinds of services.

5. By March 15, 2012, Respondents received notice that their services will not be required for the 2012-2013 school year due to the reduction or discontinuance of particular kinds of services.

6. Respondents timely requested hearings and filed notices of defense, or the parties stipulated that they may appear in this matter, to determine if there is cause for not reemploying them for the 2012-2013 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 the District has a large budget shortfall and it faces potential bankruptcy in the future. 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

¹ All further references are to the Education Code.

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. The parties stipulated that the following individuals should be added to the seniority list: Jaye Knehnetski (Knehnetski), at number 345A, with a seniority date of August 1, 2001; and Fabiola Marquez (Marquez), at number 422A. The District agreed to renumber the seniority list accordingly. The parties stipulated that Sheryl Whitfield (Whitfield) is a permanent employee and should remain on the seniority list at number 381. The parties also stipulated that Knehnetski, Marquez, and Whitfield will be re-employed and continued to be employed as permanent employees in the 2012-2013 school year.

12. The parties stipulated that Marquez should have been served with a preliminary notice, and because the District failed to do so, the District agreed to rescind the notice and withdraw the Accusation against Respondent Kelly Iwamoto.

13. 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 10.

4. Cause exists to terminate the services of Respondents Robert Alaniz, Nicole Austin, Nancy Avila, Jonathan Barbee, William Bock, Wendy Frandell, Heidi Librando, Tricia Nakanishi, John Schubert, Mayra Tellez, and Melissa Baranic, by reason of factual finding numbers 1 through 13, and legal conclusion numbers 1 through 3.

ORDER

The Accusation is sustained and the District may notify Respondents Robert Alaniz, Nicole Austin, Nancy Avila, Jonathan Barbee, William Bock, Wendy Frandell, Heidi Librando, Tricia Nakanishi, John Schubert, Mayra Tellez, and Melissa Baranic that their services will not be needed during the 2012-2013 school year due to the reduction of particular kinds of services.

DATED: May 3, 2012

AMY C. YERKEY
Administrative Law Judge
Office of Administrative Hearings