

BEFORE THE GOVERNING BOARD OF THE
LENNOX SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusations Against:

CERTAIN CERTIFICATED EMPLOYEES,

Respondents.

OAH No. 2012030919

PROPOSED DECISION

Daniel Juárez, Administrative Law Judge (ALJ), Office of Administrative Hearings, heard this matter on April 17 and 30, 2012, in Lennox, California.

Atkinson, Andelson, Loya, Ruud & Romo, and Salvador O. Holguin, Jr., Esq., represented the Lennox School District (District).

Trygstad, Schwab & Trygstad, and Lillian Kae, Esq., represented Respondents listed in Appendix A.

Respondent Christy O'Donnell represented herself, but did not appear on either day of hearing.

This matter was scheduled for one day, April 17, 2012. On that same day, after the presentation of a portion of each party's case-in-chief, the parties jointly moved for a continuance to give each side an opportunity to further investigate the facts upon which a portion of the parties' cases rested, and allow the parties to meet and confer as to those facts. The ALJ granted the parties' motion and set a second day of hearing for April 30, 2012. Accordingly, and pursuant to Education Code section 44949, subdivision (e), the dates mandated by the Legislature, and set forth in Education Code section 44949, subdivision (c)(3), were extended by a period of time equal to the continuance.

The parties submitted the matter for decision on April 30, 2012.

FACTUAL FINDINGS

Jurisdiction

1. Fred Navarro, District Superintendent, filed the Accusations in his official capacity.
2. Respondents are presently certificated employees of the District.

3. On March 13, 2012, the District Governing Board (Governing Board) adopted Amended Resolution 11-17 to reduce and discontinue particular kinds of certificated services no later than the beginning of the 2012-2013 school year. The particular kinds of certificated services total 71.096 full time equivalent (FTE) positions. The Governing Board further determined that it was necessary because of those reductions or discontinuances to, among other things, decrease the number of certificated employees at the close of the present school year by a corresponding number of FTE positions and directed the Superintendent to notify the appropriate employees to implement the Governing Board's determination.

4. By March 15, 2012, and pursuant to Education Code sections 44949 and 44955, the Superintendent recommended to the Governing Board that it notify Respondents that Respondents' services will not be required for the ensuing school year, and inform Respondents of the underlying reasons for such notification.

5. By March 15, 2012, the Governing Board notified Respondents of its determination to terminate Respondents' services for the ensuing school year and the underlying reasons for termination, in accordance with Education Code sections 44949 and 44955.

6. In response to the written notice, each Respondent timely requested a hearing to determine if there is cause to not reemploy him or her for the 2012-2013 school year.

7(a). Respondent Santa Acuña argued that the District did not properly serve her with the layoff notice. On March 13, 2012, the District mailed the layoff notice, Amended Resolution 11-17, a request for hearing form, and pertinent sections of the Education Code to Respondent Acuña's address of record with the District, in Lawndale, California. The District mailed those documents by certified and registered mail. Respondent Acuña asserted that she has not lived at the Lawndale address for the past three years. Her current home address is in El Segundo, California. Respondent Acuña explained that she moved to El Segundo following her divorce and did not inform the District about her change in address. Respondent Acuña was told about the layoff notice on March 16, 2012, when she arrived at work. She received copies of the mailed documents thereafter.

7(b). Respondent Acuña's argument was not well taken. The District's service was to Respondent Acuña's last known address of record. The District could not have known and did not know of her change of address. As she failed to inform the District of the change, the District's service was sufficient. (Educ. Code, § 44949, subd. (d) ["Any notice . . . shall be deemed sufficient . . . when it is deposited in the United States registered mail, postage prepaid and addressed to the last known address of the employee."].) Respondent Acuña offered no evidence or argument to establish that receiving the mailed documents after March 15, 2012, prejudiced her in any manner. She participated in the hearing, testifying twice (once on each day), and was represented by counsel. The District's service of Respondent Acuña was not an error on the District's part; however, even if seen in such a light, the Legislature mandates that, absent evidence of prejudice, such an error is not cause for dismissing the Accusation against her. (Educ. Code, § 44949, subd. (c)(3))

[“Nonsubstantive procedural errors committed by the school district or governing board of the school district shall not constitute cause for dismissing the charges unless the errors are prejudicial errors.”].)

8. The District served the Accusation and other required documents timely on each Respondent.

9. All jurisdictional requirements were met.

The Governing Board’s Resolution

10. Amended Resolution 11-17 reduces or discontinues 71.096 FTE positions for the 2012-2013 school year.

11. The 71.096 FTE positions are as follows:

Reduce K-5 instructional services	57.0 FTE
Reduce middle school reading services	0.888 FTE
Reduce middle school English language arts reading services	1.718 FTE
Reduce middle school physical education services	2.888 FTE
Discontinue middle school digital story instructional services	0.111 FTE
Reduce middle school English language development services	1.167 FTE
Reduce middle school art instructional services	0.889 FTE
Reduce MS cored social studies instructional services	2.276 FTE
Reduce middle school social studies instructional services	0.66 FTE
Discontinue Weingart E.L.D. intervention specialist services	1.0 FTE
Discontinue alternative ed. instructional services/outreach coordinator	1.0 FTE
Discontinue exploratory comic force	0.111 FTE
Reduce middle school cored science instructional services	1.388 FTE

12. The 71.096 FTE positions at issue in this matter are particular kinds of services that may be reduced or discontinued within the meaning of Education Code section 44955.

13. The Governing Board’s decision to reduce or discontinue the particular kinds of services at issue in this matter was due to the anticipated decline in State funding; the Governing Board’s decision was not arbitrary or capricious, but constituted a proper exercise of its discretion.

14. The reduction or discontinuation of particular kinds of services related to the welfare of the District and its pupils. The reduction or discontinuation of particular kinds of services was necessary to decrease the number of certificated employees of the District, as determined by the Governing Board.

15. The District identified the certificated employees providing the particular kinds of services that the Governing Board directed to be reduced or discontinued.

16. The recommendation that Respondents be terminated from employment was not related to their performance as teachers.

The District's Proposed "Skips"

17. Pursuant to Amended Resolution 11-17, the District determined that it had a special need for personnel to teach specific courses or courses of study. Those courses or courses of study included 1) Education Technology Coordinator, 2) Counseling and Academic Counseling, 3) Dual Language Instruction (DL program), 4) Newcomer Program Instruction (Newcomer program), and 5) Teacher on Special Assignment (TOSA) services. The District determined that more senior employees must have special training and experience to displace any more junior employee performing these services. The District argued that there is a specific need for personnel to teach these courses of study and provide these services and that no senior employee has the special training and experience necessary to displace any more junior employee who teaches that course or course of study. The District intends to "skip" from layoff those employees specially trained and with experience in these five areas. By "skipping," the District means to exempt from layoff the employees teaching these courses of study.

18. The District has a significant number of Spanish-speaking students. The DL program has a goal of achieving full bilingualism and biliteracy in English and Spanish. The DL program accepts English learners at all levels of English proficiency and native English speakers. The DL program is housed solely within one elementary school. Parents are asked to commit to keeping their child in the program throughout the child's elementary school years.

19. The DL program uses two teachers to teach one class; one teacher teaches in English and the other, in Spanish. Instruction is 50 percent in English and 50 percent in Spanish, with the teachers alternating each day. That is, one day is in English, and the next day is in Spanish. The teachers must learn a specific pedagogy to teach in this manner because the program must move the curriculum on the same pace as the English-only course. Where one teacher leaves off the instruction in one language, the other teacher must continue the instruction the next day in the other language. The DL program is currently available to grades kindergarten through fourth. The District intends to expand the program to the fifth grade next year.

20. Training for the DL program includes learning the research base for implementing such a program and specific instructional strategies to change from English to Spanish and vice versa, while continuing a particular lesson plan. DL teachers must be trained before beginning classroom instruction and then receive on-going professional development courses during the school year.

21. According to a District DL program job announcement, the qualifications required of a DL program teacher include: 1) possession of a valid teaching credential, 2) possession of a bilingual, cross-cultural, language, and academic development (BCLAD) certificate, 3) at least three years prior successful bilingual teaching experience, 4) academic proficiency in Spanish literacy, and 5) being flexible, creative, innovative, and willing to grow with the program.

22. The District has a significant number of middle school students that speak almost no English. The Newcomer program, also known as the “language academy,” is meant for middle school students (grades six through eight) who are learning English. That is, for English learners who are less reasonably fluent in English and have been in U.S. schools for two or fewer years. These students are supported in learning content with instruction in Spanish or with SDAIE (specially designed academic instruction in English) strategies for students with other primary languages. The Newcomer program focuses on the rapid acquisition of English. Skipping the Newcomer program teachers impacts only two teachers: Minerva Rios, and Claudia Sachs; they are not respondents in this matter. The training for this program is individualized and executed distinctly from that of the DL program. No other teachers have received the Newcomer program training. There was no evidence to establish that any Respondent was capable of teaching within the Newcomer program.

23. Within the last five years, the District has redesigned the particular courses of study taught by the teachers on special assignments (TOSA). The District has a specific need for the services offered by the current TOSA teachers. The assignments are individualized to the District’s needs, including professional development, particularly because the District continues to be designated as a low performing school in California. The District asserted that no Respondents could perform the current TOSA duties. Respondents provided no evidence to contest that assertion, with the exception of Respondent Alejandra Cordova. (See Factual Finding 36.)

Respondent’s Generalized Arguments Regarding the Proposed DL Program Skip

24. Respondents submitted a compilation of written arguments focused solely on the DL program. Some Respondents believe the District should not be able to skip any employees, and thus the District should not deviate from the order of seniority in laying off employees. Other Respondents argued that the District should be able to deviate from the order of seniority and skip the DL teachers.

25. The arguments against deviating from seniority included that the DL program is not a service requiring specialized training or experience; any senior Respondent with a multiple subject credential should be allowed to bump into a DL service assignment. Second, Respondents argued that the current DL teachers did not possess all of the DL training before they were hired, and since the District’s DL training is not State certified, the District has not and cannot establish that its training for DL teachers is specialized or that the DL’s experience is unique from other K-5 instructional assignments in the District.

Respondents alternatively argued that even if the DL program is a service requiring specialized training and experience, the District should not deviate from implementing the layoff in order of seniority. These arguments were unpersuasive. Respondents thirdly argued that in order to be credentialed for the DL program, a more senior Respondent must be one who not only possesses a multiple subject credential but also a BCLAD certificate. This argument was persuasive. Pursuant to its own requirements, the District requires all DL program teachers to have a BCLAD certificate. (See Factual Finding 21.) Those Respondents currently in the DL program who do not possess a BCLAD certificate are not, by the District's own requirements, qualified to participate in the DL program and may not be skipped (exempt from layoff). (See Factual Findings 21, 35, and Legal Conclusion 7.)

26. The arguments in favor of deviating from seniority included that the DL program is a service requiring specialized training and experience. Respondents further argued that the DL teachers competitively applied for the job and were willing to accept the strict requirements of the position, including coordinating lessons for one group of students with another teacher, completing new DL teacher training before providing instruction, continuing mandatory professional development in DL transference strategies for both English and Spanish languages, and attending all DL transference and professional development training. Respondents also argued that the fact that some transitional bilingual education (TBE) teachers attended some or portions of the transference training with DL teachers did not make those teachers fully trained to provide DL instructional services. They asserted that the proposed skipping of DL teachers is not arbitrary.

27. Respondents made no specific argument or evidence to contest the District's skipping of the Newcomer program, or the TOSA services (with the exception of one unsuccessful, generalized argument against the TOSA skip by Respondent Alejandra Cordova. (See Factual Finding 36.)

Respondents' Testimony

28. Elisa Lopez and Maria Rodriguez testified. The District served Lopez and Rodriguez with notices of layoff as precautionary respondents in this proceeding. Lopez and Rodriguez are District teachers who teach within the DL program. They each applied to teach within the DL program and attended all of the required DL trainings. Both Lopez and Rodriguez asserted that the DL program has a distinct teaching design from a general bilingual teaching program, particularly because each DL teacher must maintain constant communication with his or her teaching partner to ensure curriculum progress. They each believe it is appropriate to skip the DL program teachers.

29. Respondent Leticia Corona has a seniority date of September 1, 1999 (no. 202 on the seniority list), and teaches kindergarten, structured English immersion (SEI). She has a BCLAD certificate. The District originally hired Respondent Corona within the DL program, but she opted out of the program to remain a kindergarten teacher. She has not attended all of the DL trainings. Had she known that the District intended to skip the DL teachers for the ensuing school year, Respondent Corona would have stayed within the DL

program. Respondent Corona believes she is as qualified as the District's DL teachers and should not be laid off.

30. Respondent Shannon Alvarado has a seniority date of July 1, 1997 (no. 154 on the seniority list), and teaches first and second grade, SEI. Respondent Alvarado asserted that she worked as a TOSA previously. She asserted that she has experience as a literacy parent coordinator/literacy coach and English language development coach, and is qualified to teach English learners. She has a BCLAD certificate. She believes she is a highly qualified teacher that should not be laid off.

31. Respondent Efrain Pinedo has a seniority date of July 1, 1997 (no. 159 on the seniority list), and teaches a seventh grade honors class. He strongly opposes his layoff. He asserted that he could teach in the DL and Newcomer programs because he believes he currently does what the DL teachers do. Respondent Pinedo has a BCLAD certificate that allows him to teach academic Spanish and English. He has not taken the DL program trainings. Respondent Pinedo asserted that he is an outstanding teacher and should not be laid off.

32. Respondent Dyana Martin has a seniority date of July 1, 1998 (no. 172 on the seniority list), and teaches fourth grade. She has a BCLAD certificate and a supplemental authorization Spanish credential. She teaches bilingually and believes she could teach within the DL program. She has not taken the DL program trainings. Respondent Martin argued that she should not be laid off.

33. Respondent Ann Chaffey has a seniority date of July 1, 1998 (no. 173 on the seniority list), and teaches fourth grade. She does not have a BCLAD certificate, but she does have a bilingual certificate of competence (BCC). Respondent Chaffey asserted that she is certified to teach at-risk first graders in English and Spanish. In 2001, she was a literacy coach. She conceded that she opted not to teach within the DL program and has not taken all of the DL program trainings. Respondent Chaffey argued that she should not be laid off.

34. Respondent Santa Acuña is number 189 on the seniority list and teaches fifth grade. The seniority list notes Respondent Acuña's seniority date as July 1, 1999, but she asserted at hearing that her seniority date should be June 1, 1998. Pursuant to the arguments of both counsel at hearing, neither seniority date would effect Respondent Acuña's layoff. The ALJ made no finding regarding Respondent Acuña's seniority date. Respondent Acuña does not believe the DL program is a "strong enough" program for the District to skip. She concedes that when the District sought DL teachers, she chose not to participate in it. Respondent Acuña also asserted that there are three DL teachers without BCLAD certificates: Anell Montano, Melissa Arias, and Lisa Barba. None of these three individuals are respondents in this matter. Respondent Acuña has a BCLAD certificate and asserted that she is not currently interested in participating in the DL program. She nonetheless contested her layoff.

35. According to the District's seniority list, there are five teachers currently with a DL teaching assignment who do not possess BCLAD certificates. Those five teachers, with their seniority numbers in parentheses, are: Vivian Poe (no. 30), Melissa Arias (no. 197), Luisa Barba (no. 206), Anell Montano (no. 286), and Alejandra Betancourt (no. 332). The District provided reasoning as to why one unidentified District employee did not possess a BCLAD certificate but was within the DL program. That reasoning was unpersuasive. The District provided no argument or evidence establishing why the other four teachers were within the DL program but did not possess BCLAD certificates. Of these five teachers, only Alejandra Betancourt is a respondent in this matter. The evidence did not establish why the District identified Respondent Betancourt as a respondent in this action while she serves within the DL program. Nonetheless, as she does not possess a BCLAD certificate, she, like the other four teachers noted in this Factual Finding, is not eligible for the DL program on that basis.

36. Respondent Alejandra Cordova has a seniority date of July 1, 1999 (no. 190 on the seniority list), and teaches kindergarten, TBE. Respondent Cordova contests the TOSA skipping criteria. She believes there are TOSAs with seniority dates that are junior to her. Respondent Cordova asserted that she was a TOSA in the 2006-2007 school year. She believes she is still competent to be a TOSA currently and that she should be kept over any TOSA who is junior to her. Regarding the DL skipping, she also believes it is unfair that, in her case, her principal had originally asked her to attend the DL program training, but halfway through the training, she was told she could no longer attend, due to budget cuts. She has a BCLAD certificate. Respondent Cordova contests her layoff. There was insufficient evidence establishing that Respondent Cordova is currently qualified to be a TOSA.

37. Respondent Gloria Medrano has a seniority date of July 1, 1998 (no. 175 on the seniority list), and teaches kindergarten, TBE. She has a BCLAD certificate and clarified that she is a kindergarten "ELD" interventionist. She teaches reading and writing in English and Spanish. Respondent Medrano argued that the District should not only skip the DL program, but also skip other similar programs. She described the DL program skip as "favoritism" on the part of the District. Respondent Medrano asserted that she attended the DL trainings and should not be laid off. The evidence established that Respondent Medrano did not attend all of the required DL trainings.

38. Respondent Alberto Paredes has a seniority date of July 5, 2000 (no. 212 on the seniority list), and teaches as a TOSA, as the alternative school teacher outreach coordinator. The District resolved to terminate this particular position. (See Factual Finding 11.) Respondent Paredes asserted that his current assignment is similar to the DL program, although he conceded that it does not contain a continuous lesson plan, like the DL program. Respondent Paredes believes that with the DL trainings, he would be competent to be a DL teacher. He has a BCLAD certificate. He seeks "fairness" within the layoff process and contests his layoff.

39. Respondent Christian Mendoza has a seniority date of June 28, 2000 (no. 223 on the seniority date), and teaches fifth grade. He believes skipping the DL program is arbitrary and in doing so, the District is violating his rights under the 14th Amendment of the United States Constitution. Respondent Mendoza explained that there are five District teachers who are within the DL program (slated to be skipped) but those five teachers have only cross cultural language and academic development certificates (CLADs), not BCLAD certificates, as the DL program requires. (See Factual Finding 35.) Therefore, reasoned Respondent Mendoza, if the District skips these CLAD teachers, the District treats other CLAD teachers inequitably. Respondent Mendoza has a CLAD certificate and would apply for the DL program if allowed. He believes he should not be laid off.

40. Respondent Susana Martin has a seniority date of August 12, 2004 (no. 277 on the seniority list), and teaches fifth grade. She team teaches with Respondent Christian Mendoza. Respondent Martin has a BCLAD certificate and asserted that the District did not offer her the opportunity to participate in the DL program. There was insufficient evidence to establish her assertion. She contests her layoff.

41. Respondent Ruben Garcia is number 264 on the seniority list and contested his seniority date of August 11, 2003. He teaches first grade within the DL program. Respondent Garcia's asserted seniority date would not affect the order of layoff and would only affect his rehire rights. This proceeding has no jurisdiction to rule as to Respondents' rehire rights, and thus, the ALJ did not allow Respondent Garcia to testify as to this issue.

42. Respondent Rosa Hernandez is number 261 on the seniority list and teaches first grade. The District's seniority list identifies Respondent Hernandez's seniority date as July 5, 2003, but she asserted that her seniority date should be June 30, 2000. For the same reasons, as set forth in Factual Finding 41, regarding Respondent Garcia, the ALJ did not allow Respondent Hernandez to testify as to her disputed seniority date. Separately, Respondent Hernandez asserted that, while she believes the District's intention to skip the DL teachers is unfair, she also believes she is qualified to teach within the DL program. She admits that she has not taken the DL program trainings. She nonetheless contests her layoff.

43. With the exception of the BCLAD issue noted within Factual Finding 25, Respondents' arguments, as laid out in Factual Findings 24-26 and 28-42, were inadequate to establish the assertions therein. None of the Respondents who asserted that they were qualified to teach within the DL program had completed the required training. The evidence established that the training was necessary to teach within that program and that it is appropriate for, and within the discretion of, the District to skip the DL program teachers.

44. The evidence offered by the District, and the lack of evidence and argument by Respondents as to the Newcomer program and TOSA services, was adequate to allow the District to skip the employees within those courses of study.

The District's Proposed Skip of the Education Technology Coordinator and the Counseling and Academic Counseling Services

45. The District offered no evidence to establish any specific need to provide the service or course of study taught by the employee(s) within the designations of education technology coordinator and the counseling and academic counseling services. Notably, Respondents made no specific argument as to these two categories; nor did Respondents highlight the absence of evidence. It is the District, however, that bears the burden of proof in this proceeding, and it failed to set forth any reasoning to support its skipping of these two services or courses of study. The District did not meet its burden as to the proposed skipping of these two designations (education technology coordinator and the counseling and academic counseling services).

The District's Rescinding of Particular Respondents' Notices of Layoff

46. At hearing, the District rescinded the layoff notices of Respondents Louis Arevalo, Maria Carrillo, Lisa Celaya, Rebecca Lee, Richard Lopez, and Yvonne Rodriguez.

Other Findings

47. Implementing the Order *post*, no certificated employee junior to any Respondent was retained to render a service that any Respondent is certificated and competent to render.

LEGAL CONCLUSIONS

1. The District bears the burden of proof by a preponderance of the evidence.
2. The parties met all notice and jurisdictional requirements set forth in Education Code sections 44949 and 44955.
3. A school district may reduce services within the meaning of Education Code section 44955, subdivision (b), "either by determining that a certain type of service to students shall not, thereafter, be performed at all by anyone, or it may 'reduce services' by determining that proffered services shall be reduced in extent because fewer employees are made available to deal with the pupils involved." (*Rutherford v. Board of Trustees* (1976) 64 Cal.App.3d 167, 178-179.)
4. The services identified in Amended Resolution 11-17 are particular kinds of services that the Governing Board can reduce or discontinue under Education Code section 44955. The Governing Board's decision to reduce or discontinue the identified services was not arbitrary or capricious; it was a proper exercise of its discretion. Cause for the reduction or discontinuation of services relates solely to the welfare of the District's schools and pupils within the meaning of Education Code section 44949.

5. Education Code section 44955, subdivision (d)(1) provides that a school district “may deviate from terminating a certificated employee in order of seniority” when the school district “demonstrates a specific need for personnel to teach a specific course or course of study . . . and that the certificated employee has special training and experience necessary to teach that course.”

6. The District provided sufficient evidence of the need for personnel to teach the DL program, the Newcomer program, and TOSA services. There was sufficient evidence that the teachers currently teaching those courses of study have the special training and experience necessary to teach within these courses of study. There was no evidence that any Respondent has the specific training or experience to teach in the DL program, Newcomer program, or TOSA services.

7. As the District requires its DL program teachers to possess a BCLAD certificate to teach within the DL program, and the five teachers identified in Factual Finding 35 do not possess a BCLAD certificate, those five teachers are not properly qualified to teach within the DL program. However, four of the five teachers did not receive layoff notices (Respondent Betancourt did receive a notice). The District must consider these five teachers’ lack of proper qualifications. To remedy this, the District should dismiss a corresponding number of Accusations against Respondents, corresponding to the four individuals (excepting Respondent Betancourt as the fifth teacher) that do not meet the DL requirements and whom the District failed to serve with layoff notices. Such an act would be an appropriate cure, and such a cure has been recognized by the courts. (See *Alexander v. Board of Trustees* (1983) 139 Cal.App.3d 567, 576-577.)

8. The District provided no evidence of the need for personnel to serve or teach within the designations of education technology coordinator and counseling and academic counseling services. Despite Respondents’ lack of argument or evidence as to these two services or courses of study, with no evidence to support the proposed exemption from layoff, the District failed to establish a need to skip the employee(s) who serve within the categories of education technology coordinator and counseling and academic counseling services. Those two proposed skips are invalid.

9. The District’s rescinding of the notices of layoff for the employees noted in Factual Finding 46 is appropriate.

10. All remaining arguments by Respondents not already discussed were unpersuasive.

11. Implementing the Order *post*, the District properly identified the certificated employees providing the particular kinds of services that the Governing Board directed to be reduced or discontinued.

12. The District established cause to not reemploy Respondents for the 2012-2013 school year; it further established cause to skip the layoff of those employees serving within the DL program, the Newcomer program, and TOSA services.

13. Implementing the Order *post*, no junior certificated employee is scheduled to be retained to perform services that a more senior employee is certificated and competent to render.

14. Cause exists to sustain the District's action to reduce or discontinue the full-time equivalent positions set forth in Amended Resolution 11-17 for the 2012-2013 school year, pursuant to Education Code sections 44949 and 44955, as set forth in Factual Findings 1-47, and Legal Conclusions 1-13.

15. Cause exists to skip the layoff of those employees serving within the DL program, the Newcomer program, and TOSA services, for the 2012-2013 school year, pursuant to Education Code section 44955, subdivision (d)(1), as set forth in Factual Findings 17-27, 35, 43, 44, 47, and Legal Conclusions 1-7, and 11-13.

16. Cause does not exist to skip the layoff of those employees serving within the designations of education technology coordinator and counseling and academic counseling services, pursuant to Education Code section 44955, subdivision (d)(1), as set forth in Factual Findings 1-17, 45, 47, and Legal Conclusions 1-5, 8, and 11-13.

ORDER

1. The particular kinds of services that the Governing Board of the Lennox School District directed to be reduced or discontinue are sustained.

2. With the exception of Respondents Louis Arevalo, Maria Carrillo, Lisa Celaya, Rebecca Lee, Richard Lopez, and Yvonne Rodriguez, notice shall be given to Respondents in Appendix A that their services will be terminated at the close of the 2011-2012 school year.

3. The Lennox School District shall "skip," that is, exempt from layoff, those employees who serve within the DL program, Newcomer program, and TOSA services. This Order and Order 2 notwithstanding, the Lennox School District shall identify the four most senior Respondents who are competent and qualified to teach within the DL program and shall not issue a final layoff notice to those four most senior Respondents.

4. The Lennox School District's proposed "skip," that is, exemption from layoff of those employees who serve within the designations of education technology coordinator and counseling and academic counseling services is denied.

Dated: May 16, 2012

DANIEL JUAREZ
Administrative Law Judge
Office of Administrative Hearings

Appendix A
OAH Case No. 2012030919
Respondents

- | | | | |
|-----|--------------------------|-----|--------------------|
| 1. | Santa Acuña | 38. | Lety Kalmikov |
| 2. | Lourdes Aizpuru-Bartlett | 39. | Erica Kilgore |
| 3. | Glenda Alvarado | 40. | Guadalupe Laguna |
| 4. | Rudy Alvarado | 41. | Rebecca Lee |
| 5. | Shannon Alvarado | 42. | Dyana Martin |
| 6. | Oswaldo Angel | 43. | Salvador Martin |
| 7. | Arcelia Arenas | 44. | Susana Martin |
| 8. | Marcela Avila | 45. | Gloria Medrano |
| 9. | Rosalinda Barajas | 46. | Christian Mendoza |
| 10. | Gladys Barbieri | 47. | Rodney Michael |
| 11. | Claudia Barroso | 48. | Patricia Munoz |
| 12. | Alejandra Betancourt | 49. | Norma Nuanez |
| 13. | Allison Buitenveld | 50. | Christy O'Donnell |
| 14. | Alejandra Carrera | 51. | Maritza Ohannesian |
| 15. | Ann Chaffey | 52. | Maria Oropeza |
| 16. | Rosaisela Chavez | 53. | Nancy Orozco |
| 17. | Alejandra Cordova | 54. | Maria Ortiz |
| 18. | Leticia Corona | 55. | Alberto Paredes |
| 19. | Rosie Cruz | 56. | Efrain Pinedo |
| 20. | Delmira Felix | 57. | Tamara Premsrirath |
| 21. | Claudia Flores | 58. | Clarissa Quintero |
| 22. | Monica Flores | 59. | Jesus Rius |
| 23. | Armando Franco | 60. | Gerardo Rivas |
| 24. | Elizabeth Franco | 61. | Irma Rodriguez |
| 25. | Mario Franco | 62. | Ricardo Rodriguez |
| 26. | Norma Garcia | 63. | Yvonne Rodriguez |
| 27. | Leticia German-Mendoza | 64. | Roberta Salas |
| 28. | Jessica Gomez | 65. | Martha Sirolli |
| 29. | Nuria Gomez | 66. | Angelica Trujillo |
| 30. | Maria Guerrero | 67. | Isbell Vila |
| 31. | Emilia Gutierrez | 68. | Ryan Williams |
| 32. | Guadalupe Gutierrez | 69. | Gabriela Zaragosa |
| 33. | Issa Hernandez | | |
| 34. | Rosa Hernandez | | |
| 35. | Veronica Hernandez | | |
| 36. | M. Elsa Herrera | | |
| 37. | Maria A. Jimenez | | |