

BEFORE THE  
BOARD OF EDUCATION OF THE  
GOLDEN PLAINS UNIFIED SCHOOL DISTRICT  
FRESNO COUNTY  
STATE OF CALIFORNIA

In the Matter of the Accusations (Reduction  
or Discontinuance of Certain Kinds of  
Services) against:

OAH No. N2007030962

Leticia Torres  
Jason Locke  
Holly Bundy  
Parice Dunigan  
Randy Jarrett  
Kathleen Henderson  
Meredith Sicard  
Carolyn Lozano  
Adelene Kezirian  
Frank Hidalgo

Respondents.

**PROPOSED DECISION**

Administrative Law Judge Ann Elizabeth Sarli, State of California, Office of Administrative Hearings, heard this matter in San Joaquin, California, on May 3, 2007.

Stephen A. Mendyk, Attorney at Law, of Lozano Smith, represented the Golden Plains Unified School District.

James McBreathy, Attorney at Law, represented respondents, with the exception of Holly Bundy, who represented herself.

Evidence was received, the hearing was closed and the matter was submitted on May 3, 2007.

## FACTUAL FINDINGS

1. On March 7, 2007, Joann E.S. Evans, Superintendent (Superintendent), Golden Plains Unified School District (District), State of California, made and filed the Accusation in her official capacity.

2. On March 8, 2007, the District Board of Education (Board) adopted Resolution No. FY07-01(Resolution). The Resolution was based on the Superintendent's determination that it was necessary to reduce or discontinue particular kinds of services for the 2007-2008 school year. Accordingly, the Board determined that the following particular kinds of services and corresponding number of full time equivalent (FTE) positions should be reduced or discontinued.

<u>Services</u>	<u>Number of FTE Positions</u>
Music Teacher	1.00
Home Economics Teacher	.25
Business Teacher	1.00
Social Science Teacher	1.00
Reading Teacher	1.00
English Teachers	2.00
Counselors	2.00
Elementary School Teachers	14.00
<b>Total Full Time Equivalent Reduction =</b>	<b>22.25</b>

3. On or about March 8, 2007, the Superintendent gave the Board of Trustees of the District (Board) written notice of her recommendation that notice be given to respondents that their services would not be required for the ensuing school year.

4. By letter dated March 13, 2007, the Superintendent provided written notice to twenty-seven certificated employees, including respondents, that it had been recommended that notice be given to them, pursuant to Education Code sections 44949 and 44955, that

their services will not be required for the ensuing year. The Resolution setting forth the reasons for the recommendation was attached to the notice.<sup>1</sup>

5. Respondents made timely written requests for a hearing to determine if there is cause for not reemploying them for the ensuing school year. The Accusation was timely served on respondents and respondents timely filed a Notice of Defense. All pre-hearing jurisdictional requirements have been met.

6. The services identified in the Board's Resolution are particular kinds of services that may be reduced or discontinued within the meaning of Education Code section 44955.

7. No certificated employees junior to respondents are being retained to provide services that they are certificated and competent to render.

8. Respondents contend that the decision to reduce or eliminate their services is arbitrary and capricious, and not a proper exercise of the District's discretion. They contend that the decrease of the District's services by 22.25 FTE, with a reduction in a corresponding number of certificated employees of the District, is not necessary and is not related to the welfare of the District and its pupils.

9. Specifically, respondents contend that a lay off of 22.25 FTEs is approximately a quarter of the teaching staff. They do not believe that a lay off of this magnitude is necessary or in the best interests of the District pupils. They believe that the District will not be adequately staffed to provide mandated services or to meet class size reduction standards.

10. The evidence was persuasive that the District has been experiencing severe financial difficulties, which became apparent in 2006. The County Office of Education, through its financial department (County), worked with the Superintendent to determine where cutbacks could be made in purchasing and other areas. Funds were so limited that the District had difficulty making payroll expenditures in June. The Superintendent, with the assistance of the County, retained The Fiscal Crisis and Management Assistance Team (FCMAT) to perform a management review.<sup>2</sup> The FCMAT management review prepared a multi-year financial forecast of the District's general fund and provided recommendations for improvements. The FCMAT report concluded that based upon the District's current spending pattern and multiyear budget assumptions, the District will not meet the legal

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<sup>1</sup> Prior to and during the hearing, various agreements were made between the District and several employees affected by the lay off. The District withdrew some notices of lay off, several employees conceded that they had not timely filed Notices of Defense, and some employees withdrew their Notices of Defense. As a result, only those employees identified in the caption as respondents remained in the action at the time of hearing.

<sup>2</sup> FCMAT was created by legislation in 1992, in accordance with Assembly Bill 1200, to assist local educational agencies in complying with fiscal accountability standards.



requirement that it have 3 percent of its general fund in reserves in 2006 through 2008, without a detailed plan to reduce expenditures and cease deficit spending. The FCMAT report concluded that "The board, administration and community will need to continue the process of identifying potential areas of reduction to eliminate deficit spending and sustain fiscal solvency. Otherwise, the district may require outside financial assistance and may face the loss of local governance and decision-making authority."

11. The evidence established that, after attrition and the District's withdrawal of several notices of lay off, the lay off affected approximately 19 percent of the teacher population. The evidence also established that employee reductions were made "across the board" with cuts in administrative positions as well as certificated teacher positions. The evidence further established that the District has planned to meet all mandated course requirements and class size requirements. In the event that the District experiences an increased average daily attendance in the ensuing year(s) the District is required to and plans to reinstate laid off certificated employees as prescribed in the Education Code.<sup>3</sup>

12. Respondents contend that the District did not consider the needs of students in making the decision which services should be reduced. For instance, respondents contend that home economics is a necessary course and that the District should have reviewed the Individual Educational Plan of each special education student in the District and considered how the reduction of classes, like home economics, would affect those that had life skill courses in their plans. These contentions lack merit. The Board has the discretion and authority to decide which services to reduce. Respondents may not second guess the Board with their views of which classes are necessary to student populations. Additionally, the evidence is persuasive that the Superintendent spent long periods of time with each principal to identify the classes which could feasibly be reduced. The Superintendent and Board exercised their authority and discretion in a well reasoned and thoughtful manner.

## LEGAL CONCLUSIONS

1. Jurisdiction for the subject 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. Cause exists because of the reduction or discontinuation of particular kinds of services pursuant to Education Code section 44955 to give notice to respondents that their services will not be required for the 2007-2008 school years, as set forth in the Factual Findings. The cause relates solely to the welfare of the schools and the pupils thereof within the meaning of Education Code section 44949.

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<sup>3</sup> California Education Code section 44956.

ORDER

Notice shall be given to respondents that their services will be reduced or discontinued for the 2007-2008 school year because of the reduction or discontinuation of particular kinds of services.

Dated: May 4, 2007

A handwritten signature in dark ink, appearing to read "Ann E. Sarli", is written over a horizontal line.

ANN ELIZABETH SARLI

Administrative Law Judge

Office of Administrative Hearings