

BEFORE THE
GOVERNING BOARD OF THE
LODI UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Reduction in Force of:

CERTAIN CERTIFICATED PERSONNEL
EMPLOYED BY THE LODI UNIFIED
SCHOOL DISTRICT,

Respondents.

OAH No. 2011020718

PROPOSED DECISION

This matter was heard before Administrative Law Judge Jonathan Lew, State of California, Office of Administrative Hearings in Lodi, California, on April 14, 2011.

Paul R. Gant and Justin J. Simpson, Attorneys at Law, represented the Lodi Unified School District (District).

Thomas J. Driscoll, Jr., Attorney at Law, represented the respondents who are identified as being represented on Attachment B to Attachment 1 hereto (represented respondents).

Respondents Dirk Bruno, Elizar Ceballos, Julie Fikse, Asheley Jones, Alisa Kearns, Mery Lo, Maria Mack, Waddell Robinson, William Robinson and Julie Vaz were unrepresented. There was no appearance by, or on behalf of these ten named respondents at the time of hearing.

On April 14, 2011, the District reached a stipulated settlement with the represented respondents, as set forth in the proposed decision below. Evidence was then received and testimony heard on remaining issues, and closing argument was made on behalf of represented respondents. The record remained open pending receipt of the District's written closing argument. The Post Hearing Brief of the Lodi Unified School District was received on April 19, 2011, and marked as Exhibit 22 for identification. The matter was thereafter submitted for decision on April 19, 2011.

FACTUAL FINDINGS

Represented Respondents

1. The District and the represented respondents agreed to the Stipulations, which are attached hereto as Attachment 1, and are incorporated herein by reference.
2. Paragraph Seven of the Stipulation provides:
District concedes that the certificated employees that are teaching in a Regional Occupational Program who were released/non-reelected, have “Probationary 0 classification” and shall have those release/non-reelections rescinded. However, the rescission of these releases/non-re-elections is without prejudice to the District’s right to release such employees at any time upon the expiration of the program or upon termination of the contract.

The following respondents represented by Mr. Driscoll fall within the category of employees covered by Stipulation paragraph seven: Tarah Hauger, Debra Miller, Bradley Vander Hamm, Kristin Cronin, Sandra Nishimura, Cherie Thornsberry, Karen Gonzalez, Cheryl Evans, Mary Boskovich, Gary Grafius, and Julie Abernathy.

3. Previously, members of the Lodi Pupil Personnel Association (LPPA) who were affected by the proposed layoff were represented by Ernest H. Tuttle, IV, Attorney at Law. By the time of hearing, issues respecting LPPA members had been resolved and all LPPA members represented by Mr. Tuttle had withdrawn their requests for hearing.

Unrepresented Respondents

4. Ten respondents who were not represented by Mr. Driscoll did not appear at the hearing. These unrepresented respondents are the certificated employees listed on Attachment B to Attachment 1, who do not have an “X” in the column under the heading “Rep. By Driscoll.” The District properly and timely served these unrepresented respondents with all notices required under Education Code sections 44949 and 44955.¹ In addition, the District served upon these unrepresented respondents a Notice of Hearing, issued on March 3, 2011, which notified them that the hearing would begin at 9:00 a.m. on Wednesday, April 13, 2011. Counsel represented that no unrepresented respondent appeared on April 13, 2011, at the time the hearing was scheduled to commence. Similarly, no unrepresented respondents appeared on April 14, 2011, when the hearing was scheduled to commence. Because these unrepresented respondents did not appear at the hearing on either of these two dates, this matter proceeded as a default against them under Government Code section 11520.

¹ All statutory references are to the Education Code unless otherwise indicated.

Classification of Respondents LeLeaux, Kotecki and Paris

5. Respondents Shannon LeLeaux, Aleta Kotecki and Cynthia Paris each rendered one complete year of probationary service during the 2008/2009 school year. Each of them was properly laid off from employment under Education Code section 44949 and 44955 at the close of the 2008/2009 school year, for the 2009/2010 school year. Each of them rendered differing amounts of substitute service for the 2009/2010 school year. They did so by virtue of the rights provided to them while on the layoff/reappointment list under Education Code section 44957.²

For the 2010/2011 school year, respondents LeLeaux, Kotecki and Paris were reappointed and were classified as probationary employees in their second year of probationary service. Respondents contend that the intervening substitute service rendered to the District during the 2009/2010 school year, pursuant to Education Code section 44957, while on the layoff/reappointment list must count towards the attainment of permanent status. Respondents therefore believe that they should each be classified as permanent employees at the commencement of the 2010/2011 school year.

² Education Code section 44957, subdivision (a) provides as follows:

For the period of 24 months from the date of such termination, any employee who in the meantime has not attained the age of 65 years shall have the preferred right to reappointment, subject to the prior rights to reappointment by all permanent employees as set forth in Section 44956, in the order of original employment as determined by the governing board in accordance with the provisions of Sections 44831 to 44855, inclusive, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees who continued in service. Except as otherwise provided, no probationary or temporary employee with less seniority shall be employed to render a service which such employee is certificated and competent to render and provided that such an employee shall be given a priority over employees whose right to a position is derived pursuant to Section 44918. However, prior to reappointing any employee to teach a subject which he or she has not previously taught, and for which he or she does not have a teaching credential or which is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

6. Education Code section 44918, subdivision (a) provides:

Any employee classified as a substitute or temporary employee, who serves during one school year for at least 75 percent of the number of days the regular schools of the district were maintained in that school year and has performed the duties normally required of a certificated employee of the school district, shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year.

Respondents rely upon section 44918 in contending that they are entitled to tack the 2009/2010 year of substitute service to their one year (2008/2009) of probationary service with the District, and thereby be deemed permanent employees at the commencement of the 2010/2011 school term. For the reasons discussed below, this is not permitted.

7. Education Code section 44918, by its terms, applies to the immediately preceding year of substitute/temporary service. Certificated employees are deemed to have served a complete school year as a probationary employee when they satisfy the 75 percent service requirement and are “employed as a *probationary* employee for the following year.” (Italics supplied.) Section 44918 clearly contemplates a certificated teacher serving as a second year probationary employee upon appointment to a regular probationary position. The public policy underlying section 44918 “is to prevent school boards and administrators from abusing their discretion in hiring substitute teachers so as to circumvent the tenure rights of teachers.” (*Centinella Valley Secondary Teachers Assn. v. Centinella Valley Union High School District* (1974) 37 Cal.App.3d 35, 38.) This is simply not the case here. Rather, respondents LeLeaux, Kotecki and Paris were already classified as probationary employees, and then for school year 2009/2010 the District was applying the preferred right to reappointment scheme set forth in section 44957. The District correctly noted that section 44918 did not contemplate the circumstance where a District would lose its opportunity to evaluate a second year probationary teacher because such teacher was previously laid off and exercised his/her entitlement to substitute service under section 44957. Importantly, under section 44957, the District had no discretion to manipulate classifications and it was required to offer preferred right to reappointment in order of seniority, as it did to respondents here.

8. This interpretation also makes practical sense. Under respondents’ interpretation, for laid off probationary teachers to avoid non-reelection while on the reappointment list, they would be required to demonstrate effective service in various intermittent substitute assignments in other teachers’ classrooms, teaching other teachers’ students, implementing other teachers’ lesson plans, and possibly teaching in an assignment for which they are not specifically credentialed. It is also problematic for a school district as it would be unable to reasonably evaluate such teachers in their critical second year of probationary employment. The teachers would be teaching across multiple school sites, under the direction of multiple supervisors, in other teachers’ classrooms with other teachers’ students, and implementing other teachers’ lesson plans. In short, the laid off employee rendering substitute service would not be afforded the same opportunity to succeed as a

regular probationary employee. And the district would not be offered the same opportunity to evaluate the employee in a regular employment setting.

By reading section 44918 to allow only tacking back one year, the district and the employee will have the critical second year to evaluate and prove worth in a regular assignment. The District makes a persuasive argument that if tacking forward were allowed, it would result in “a hodge podge of differing assignments all of which may or may not count toward probationary status depending upon whether sufficient substitute assignments arise after March 15th to net the necessary seventy-five percent of service under Section 44918.” Because the District would not know until March 15 whether an employee will render 75 percent service, it would be faced with the decision of whether to risk a premature non-reelection based on this same “hodge podge” of substitute service, or risk retention of a potentially substandard employee in permanent status should such employee be reappointed by virtue of his or her entitlement under section 44957.

9. The First District Court of Appeal decision in *Schnee v. Alameda Unified School District* (2004) 125 Cal.App.4th 555 is instructive. In *Schnee*, the teacher was employed for approximately eight years as a reading specialist, a position that was categorically funded under Education Code section 44909. She was then hired full-time as a third grade teacher in a position supported by general funds in the district’s regular education program. The district classified her as a second year probationary employee. At the end of the school year the district notified her that she would not be reelected and terminated her employment. The teacher filed a petition for a writ of mandate, alleging that the district had disregarded Education Code sections 44909 and 44929.21, subdivision (b), in classifying her as a probationary employee, and not as a permanent employee. The Court of Appeal held that when a certificated teacher has been employed for several years in a categorically funded position, and is subsequently employed by the district in a probationary position, the teacher obtains permanent status only if and when the teacher is retained for the succeeding school year.

Section 44909, like section 44918, contains terms and conditions under which certificated employees may be credited with one year of service toward attainment of permanent status if they are employed for at least 75 percent of the number of days the regular schools of the district are maintained. In *Schnee*, the teacher argued that under section 44909, she attained permanent status at the “commencement” of the probationary appointment. In rejecting this contention, the court explained:

If Schnee’s interpretation of the statute were accepted, on the date on which a teacher who formerly served in a categorically funded program for at least two years first renders paid service in a probationary position (see § 44845), the individual would immediately acquire permanent status. In effect, the individual would never serve as a probationary employee, much less do so for a school year, although section 44909 requires as a condition of receiving credit for service in a categorically funded program

that the person be “subsequently employed as a probationary employee.”

(*Id.* at p. 563.)

10. The *Schnee* court further noted that “Schnee’s interpretation unquestionably would deprive the school district of the opportunity to evaluate the performance of the individual as a general curriculum teacher, and would require the district to decide whether to grant tenured status based solely on the individual’s performance in the categorically funded program.” (*Id.* at pp. 563-564.) And while a teacher may possess the qualifications rendering her eligible for permanent status as a teacher, the “mere fact that an individual possesses the qualifications rendering him or her eligible for permanent status does not dispense with the importance of permitting the school district to evaluate the suitability of that person for a permanent position in the district before tenure is secured.” (*Id.* at p. 564.)

11. Of note here, in determining that permanent status did not attach until the employee served at least one full probationary year subsequent to the categorical service, the appellate court referenced legislative history relating to provisions of the Education Code dealing with temporary employees. Citing to both Education Code sections 44920 and 44918, the *Schnee* court indicated: “Regardless of the number of years that the employee may have served in a temporary status in a position with certification qualifications, the employee must serve one year as a probationary employee before receiving credit for the prior period of temporary employment and acquiring permanent status. Although the language of section 44909 is more opaque, we conclude that the same period of probationary employment is required before permanent status may be obtained.” (*Ibid.*)

12. For the above reasons, respondents LeLeaux, Kotecki and Paris are not entitled to tack the 2009/2010 year of substitute service to their one year (2008/2009) of probationary service with the District, and thereby be deemed permanent employees at the commencement of the 2010/2011 school term. The substitute service offered to them under section 44957³ does not fall within the scope of the circumstances against which section 44918 was intended to offer protection. Section 44918 was enacted to stop public school employers from abusing their discretion in hiring substitute/temporary teachers so as to circumvent tenure rights. That is not what occurred here. The District was required to hire respondents per their preferred rights to reappointment under section 44957. Section 44918 was not enacted to undermine the policy underlying section 44929.21, or to abrogate a district’s right to evaluate a probationary employee in a regular assignment in his or her second year of probationary employment.

³ The District also suggested that Education Code section 44957, subdivisions (c) and (d) prohibit such service from counting towards the attainment of permanent status. This is not the case. Subdivision (c) relates to the period of “absence” from service not being counted as part of the service required for attaining permanent status in the district. It does not apply to actual service following exercise of preferred right to reappointment. Subdivision (d) relates to, among other matters, the retention of one’s “previous classification and rights” not being affected by substitute service.

Rescission of Layoff Notices Due to Conversion of Temporary Employees to Regular Status

13. Respondents contend that the District failed to match section 44909 temporary employees to specific regular employees assigned to categorical programs. Section 44909 provides in part: “Whenever any certificated employee in the regular educational program is assigned to a categorically funded project not required by federal or state statute and the district employs an additional credentialed person to replace that certificated employee, the replacement certificated employee shall be subject to the provisions of Section 44918.”

In this case, the District released from employment, effective the close of the 2010/2011 school year, 26 teachers classified as temporary. There are 14.3 FTE certificated employees employed to replace teachers on leave of absence. There are an additional 40.9 FTE regular employees in categorically funded assignments. These teachers were presumably in the regular education program before being reassigned to a categorically funded project. Teachers employed by the District to backfill behind them in their regular assignment would be considered temporary employees under Education Code section 44909, and subject to the provisions of section 44918.

14. Seven represented respondents now challenge their classification as temporary employees on grounds that their credentials do not match any of the credentials held by teachers reassigned to categorical assignments.⁴ For example, respondent Charles Anema holds a single subject credential for physical education, and an adaptive physical education credential for special education. The District’s list of regular employees in categorically funded assignments does not contain any individuals who match these credentials. Respondents represent that 35 of these categorical employees hold multiple subject credentials, four hold special education credentials and two hold single subject credentials (English and Life Sciences/Chemistry). Respondents contend that even if the 26 teachers are offset by the 14.3 FTE teachers on leave of absence for the 2010/2011 school year, there are still 11.7 positions that cannot be justified based upon any match between regular employees’ teaching credentials and authorizations, and those held by corresponding temporary employees.

15. It is undisputed that the District was allowed to hire at least as many temporary employees as it required for the 2010/2011 school year to replace teachers on leave of absence, and that there was no requirement that a temporary teacher be assigned to the classroom of a particular permanent or probationary teacher whose absence due to leave or illness necessitated the hiring of the temporary teacher. (*Santa Barbara Federation of Teachers v. Santa Barbara High School District* (1977) 76 Cal.App.3d 223; *Paulus v. Sequoia Union High School District* (1976) 64 Cal.App.3d 59.) The *Santa Barbara* court recognized that the Legislature, by allowing school districts to replace employees on leaves

⁴ Respondents challenging their classification as temporary employees include: Charles Anema, Tanya Campoy, Aritz Cardenas, Kelsey Christenson, Tamara Cornaga, Kristopher Goldstein and Melissa Zermeno. The remaining employees receiving releases either failed to request a hearing or failed to appear and were dismissed from the proceeding.

of absence, created “a device which insures continuity of instruction while avoiding the problems of overstaffing.” (*Id.* at p. 232.) Without such discretion and means to assign teachers to various classes, the fear was that “school districts would resort to filling temporary vacancies on a day-to-day basis with various substitute teachers; such practice would be harmful to both the students and their substitute teachers.” (*Ibid.*) Thus, school districts are only required to insure that the number of temporary teachers not exceed the total number of probationary and permanent employees on leave at any one time.

16. Respondents specifically contend that *Santa Barbara* is limited in its application to section 44920 temporary employees, and that it has no application to section 44909 categorical employees. For the reasons discussed below, respondents’ arguments are persuasive.

The District argues that all the concerns expressed by the *Santa Barbara* court with regard to teachers hired to replace teachers absent on leave hold equal force where teachers were hired due to reassignment of regular teachers to categorically funded projects. The *Santa Barbara* court recognized that discretion should be given to school districts to freely assign and transfer teachers according to the best interests of the educational process. (*Id.* at p. 234.) The appellate court explained that in interpreting legislation dealing with the educational system, “the fundamental purpose of such legislation is the welfare of the children.” (*Ibid.*) The *Santa Barbara* court noted that petitioners were properly classified as temporary teachers and that the parties stipulated that all of the various classes taught by them could have been conducted by probationary or permanent employees had they not been away on leaves of absence. (*Id.* at p. 233.) However, this does not appear to be the case here as respondents contend that their credentials do not match any of the credentials held by teachers reassigned to categorical assignments.

Interestingly, the *Santa Barbara* court identified a single replacement teacher assigned to teach an industrial arts class, and noted that there was no teacher on leave who was qualified to teach that class. It indicated that it was “debatable” whether this industrial arts teacher was actually a replacement teacher, but then engaged in a discussion of possible reassignment scenarios that would ultimately allow for a replacement for the teacher on leave. In allowing for such reassignments the appellate court’s underlying premise was that the need for an additional teacher stemmed from the fact that a math teacher was on leave and that the math instructor vacancy at some point needed to be filled.⁵ (*Id.* at p. 234.) Thus,

⁵ The appellate court noted: “Although no one on leave during that school year was qualified to teach industrial arts, the facts indicate that Mr. Grant, a mathematics teacher not on leave, could have been reassigned to teach industrial arts, and his classes could have been taught by a mathematics teacher on leave, Janice Gute, had she not been away. In other words, instead of hiring petitioner Tucker, respondent could have reassigned a math teacher to teach industrial arts and hired a different temporary teacher to fill the resultant math instructor vacancy created by the fact that another math teacher was away on leave of absence; in *both instances the need for an additional teacher would stem from the fact that a math teacher was on leave.*” (Italics added. *Id.* at pp. 233 – 234.)

while wide latitude is afforded school districts in making assignments and reassignments, such still stems from and is necessitated by the fact that a particular teacher is on leave. The District must minimally satisfy such nexus here, however general, as the *Santa Barbara* court requires.

17. Respondents also noted differences in the language of Education Code sections 44909 and 44920. Section 44909 governs categorically funded projects and makes reference to one who is employed to fill behind a certificated teacher from the regular educational program as “an additional credentialed person to *replace* that certificated teacher.” (Italics added.) This is more specific than comparable language in section 44920, the section governing temporary employees that was interpreted by the *Santa Barbara* court. Section 44920 makes only general reference to temporary employees as follows:

[E]mployment of such persons shall be based upon the need for additional certificated employees during a particular semester or year because a certificated employee has been granted leave for a semester or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

The section 44909 reference to hiring an additional teacher to “replace that certificated teacher” suggests a stronger need to demonstrate a direct match and nexus for teachers replacing those reassigned to categorically funded programs. *Santa Barbara* considered only the more general language of section 44920. While the broad discretion afforded districts to assign and reassign teachers on account of absent teachers generally applies in all cases, section 44909 may properly be read to require a greater showing than what the District has proffered here. The District has not made even a minimal showing that any of the respondents challenging their temporary status hold credentials that match any of the certificated teachers in categorically funded programs.

It is also true that the seven respondents who raised this challenge have not demonstrated that they were specifically engaged to backfill for teachers in the pool of regular employees assigned to categorically funded projects, as opposed to the pool of regular employees on leaves of absence. Still, after accounting for the 14.30 FTE teachers on leave of absence for the 2010/2011 school year, the District must account for 11.70 FTE teachers in categorically funded programs. Absent a showing that corresponding backfill employees were properly classified as temporary employees, they must be classified as probationary employees. (Ed. Code, § 44915. See also *Bakersfield Elementary Teachers Association v. Bakersfield City School District* (2006) 145 Cal.App.4th 1260.)

18. The District requests that should a finding be made that it exceeded its “temporary entitlements” that it be required to reclassify some of its temporary employees, but that the particular employees to be converted to regular status be under the discretion of the District. The District noted that some or all of such employees may well possess credentials that do not place them in the pool of employees to be laid off and thus would not

affect the layoff itself. Respondents request that only the seven teachers who contested their classification have their notices rescinded.

The District should be ordered to correct the imbalance, in this case up to 11.7 FTE. However, it remains within the District's discretion to determine the manner in which to make necessary adjustments and to rescind any preliminary layoff notices as necessary based on the qualifications and seniority status of the converted employees.

Section 44955 Reassignments for 2011/2012 School Year

19. The District has an obligation under Education Code section 44955, subdivision (c), to "make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render." Respondents have identified senior employees who were not noticed for layoff who they believe should be assigned next school year to mathematics and special education to save junior employees from layoff. For example, Linda Brandt has served over the past six years as high school librarian. She holds a single subject credential in mathematics, and a multiple subject credential. She taught high school mathematics between 1989 and 1996, and has a preference for mathematics over elementary school instruction. She has never taught in a self-contained K-8 classroom. Ms. Brandt is being reassigned next year to elementary school instruction based upon her multiple subject credential. Respondents believe she should instead be assigned to teach high school mathematics, and thereby bump a probationary employee, Paige Blevins, instead of more senior permanent elementary teachers holding multiple subject credentials. Respondents have identified five permanent teachers holding multiple subject credentials with at least five years employment with the District.

20. The District has discretion as to whether additional assignments and reassignments should be made to save other junior teachers. However, its obligation to make assignments and reassignments under section 44955 is "limited to attempting to place an employee who would otherwise be terminated in a position being held by another employee with less seniority." (*Duax v. Kern Community College District* (1987) 196 Cal.App.3d 555, 568.) Thus, the District is not obligated to reassign senior teachers who are not losing their positions in an effort to save junior teachers. That is what respondents are seeking here by way of "inverse bumping" and this was not contemplated in the process by which districts exercise discretion as to which assignments and reassignments are made.

21. Respondents characterize Ms. Brandt's assignment to elementary instruction as "irrational" in support of claims that the District abused its discretion in not assigning her to high school mathematics instruction for school year 2011/2012. A party seeking to demonstrate "abuse of discretion must make some showing that the body invested with discretion has acted arbitrarily, capriciously, fraudulently, or without due regard for his rights and that the action was prejudicial to him." (*Fair v. Fountain Valley School District* (1979) 90 Cal.App.3d 180.) District Assistant Superintendent Mike McKilligan, Jr. testified that the District considered qualifications and credentials, including those held by Ms. Brandt, in making its determination to reassign, and where to reassign them for the 2011/2012 school year. The District only reassigned employees to positions for which they were qualified and

credentialed to render services. In doing so, the District considered the general circumstance that employees with credentials in the area of mathematics, science and special education are in high demand. It sought to retain employees with credentials in those subject areas. While respondents strongly disagree with such reasons, it was not established that the District acted arbitrarily, capriciously or otherwise abused its discretion in making these assignments and reassignments for next school year.

22. There was no evidence that the District proposes to eliminate any services that are mandated by state or federal laws or regulations.

23. Any other assertions put forth by any respondents at the hearing and not addressed above are found to be without merit and are rejected.

24. There was no evidence that any junior employees are being retained to render services that more senior respondents are certificated and competent to perform.

25. The District's reductions and eliminations of particular kinds of services relate solely to the welfare of the District's schools and pupils.

LEGAL CONCLUSIONS

1. The District complied with all notice and jurisdictional requirements set forth in sections 44949 and 44955.

2. The services identified in the PKS Resolution are particular kinds of services that may be reduced or eliminated under section 44955. The Board's decision to reduce or eliminate the identified services was neither arbitrary nor capricious, and was a proper exercise of its discretion. Cause for the reduction or elimination of services relates solely to the welfare of the District's schools and pupils within the meaning of section 44949.

3. The District shall correct the imbalance, up to 11.7 FTE, created by failing to match credentials of certificated teachers employed to replace regular teachers assigned to categorically funded programs. However, it remains within the District's discretion to determine the manner in which to make necessary adjustments and to rescind any preliminary layoff notices as necessary based on the qualifications and seniority status of the converted employees. (See Findings 13 through 18.)

4. Cause exists to reduce certificated employees of the District due to the reduction or elimination of particular kinds of services. Except as noted in Legal Conclusion 3, the District properly identified the certificated employees to be laid off as directed by the Board.

5. No junior certificated employee is scheduled to be retained to perform services that a more senior respondent is certificated and competent to render.

6. Cause exists to give notice to the represented respondents consistent with their stipulations with the District as set forth in Attachment 1, and to the unrepresented respondents, that their services will be reduced or will not be required for the 2011-2012 school year because of the reduction or elimination of particular kinds of services.

RECOMMENDATION

1. The Board shall adopt the stipulations reached by the District and the represented respondents as set forth in Attachment 1 hereto.

2. After making necessary adjustments per Legal Conclusion 3, notice may be given to respondents that their services will be reduced or will not be required for the 2011/2012 school year, consistent with the stipulations between the District and the represented respondents, as set forth in Attachment 1. Notice shall be given in inverse order of seniority.

DATED: April 28, 2011

JONATHAN LEW
Administrative Law Judge
Office of Administrative Hearings