

BEFORE THE BOARD OF TRUSTEES  
OF THE  
LOMA PRIETA JOINT UNION ELEMENTARY SCHOOL DISTRICT

In the Matter of the Accusation Against:

PADDY O'REGAN,

Respondent.

OAH No. 2008030114

**PROPOSED DECISION**

Administrative Law Judge Mary-Margaret Anderson, State of California, Office of Administrative Hearings, heard this matter in Los Gatos, California on April 30, 2008.

Patricia P. White, Littler Mendelson, represented the Loma Prieta Joint Union Elementary School District.

Christopher Schumb, Attorney at Law, represented Respondent Paddy O'Regan, who was present.

The record closed on April 30, 2008.

**SUMMARY**

The Board of Trustees of the Loma Prieta Joint Union Elementary School District decided to reduce or discontinue particular kinds of services provided by certificated employees for the 2008/2009 school year for budgetary reasons. The decision was not related to the competency and dedication of the teachers whose services were proposed to be reduced or eliminated.

District staff carried out the Board's decision by using a selection process involving review of credentials and seniority. The selection process complied with Education Code requirements.

**FACTUAL FINDINGS**

1. Henry Castaniada filed the Accusation in his official capacity as Superintendent of the Loma Prieta Joint Union Elementary School District (District).
2. Paddy O'Regan (Respondent) is a certificated employee of the District.

3. On March 4, 2008,<sup>1</sup> the District's Board of Trustees (Board) adopted Resolution No. 08-XII (Resolution), which sets forth the Board's determination that it will be necessary for the District to reduce or discontinue particular kinds of services for the 2008/2009 school year. The reasons for the reductions are solely budgetary. A total of 4.4 certificated full time equivalent (FTE) positions were targeted for reduction:

<u>Title</u>	<u>Full Time Equivalent</u>
K-5 Classroom Teaching	4.0
Spanish	.2
Leadership (Social Studies)	.2

4. The Resolution also contained the Board's determination

to retain the following particular kinds of service:

1. Mathematics-Middle School
2. Mild to Moderate and Moderate to Severe Special Education Services
3. Language, Speech and Hearing Special Education Services
4. Resource Specialist Special Education Services

5. The District maintains a list of certificated employees that includes seniority dates (first date of paid service), current assignments, advanced degrees, credentials, and authorizations. This document is referred to as the Certificated Seniority List. Certain teachers on the Seniority List were not noticed despite their respective placements because of the Board's decision to retain services as set forth in Finding 4.

6. By letter dated March 7, Superintendent Castaniada, gave written preliminary notice to Respondent that, based upon the Resolution, her services as a Middle School Spanish Teacher will be reduced from 0.6 FTE to 0.4 FTE for the 2008/2009 school year. The notice contained the reasons for the recommendation and a copy of the Resolution.

7. Respondent filed a timely request for hearing to determine if there is cause for terminating her services for the 2008/2009 school year. Accordingly, an Accusation was filed and served. Other teachers were served with preliminary notices, but did not request hearings.

8. At hearing, no jurisdictional issues were raised, save that Respondent did not timely file a Notice of Defense. The District waived this procedural defect and the Parties stipulated that all notices were timely and properly served.

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<sup>1</sup> All dates are in 2008.



9. The District considered attrition in its initial determination of the reductions that were necessary and some notices have been rescinded due to information subsequently received.

10. Respondent has credentials in Spanish and in Multiple Subjects. She currently teaches three periods (.06 FTE) of Spanish at the District's middle school. The reduction proposed for the 2008/2009 school year would reduce this to two periods (.04 FTE).

There is no 0.2 FTE position at the elementary school that is held by a less senior teacher that would be compatible with Respondent's position at the middle school. Superintendent Castaniada credibly testified that creating such a position at the elementary school would require a complete restructuring of the elementary school schedule. The District does not desire to do this.

11. No permanent or probationary employee with less seniority is being retained to render a service for which Respondent is certificated and competent to render.

12. The evidence established that the District is reducing services for the 2008/2009 school year.

13. The evidence established that the reduction or discontinuation of services is related solely to the welfare of the District and its pupils.

#### LEGAL CONCLUSIONS

1. The District established jurisdiction for this proceeding as to Respondent. All notices and other requirements of Education Code sections 44949 and 44955 have been provided or satisfied.

2. Cause exists pursuant to Education Code section 44955 to reduce the number of certificated employees in 4.4 FTE positions due to the reduction and discontinuation of particular kinds of services.

3. The proposed reductions and/or discontinuation of services are related to the welfare of the schools and the pupils as required by Education Code section 44949, subdivision (c)(3).

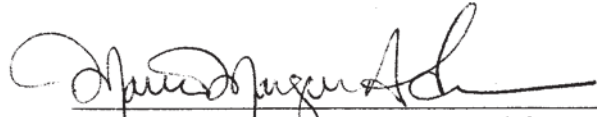
4. The District is not required to restructure the elementary school program so as to allow Respondent to retain 0.2 FTE by teaching part time there. (*King v. Berkeley Unified School Dist.* (1979) 89 Cal.App.3d 1016, 1020-1021.)

5. All contentions made by Respondent not specifically addressed herein are found to be without merit and are rejected.

ORDER

Notice may be given to Paddy O'Regan that her service as a Middle School Spanish Teacher will be reduced by 0.2 FTE for the 2008/2009 school year because of the reduction or discontinuation of particular kinds of services.

DATED: May 6, 2008

  
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MARY-MARGARET ANDERSON  
Administrative Law Judge  
Office of Administrative Hearings