

BEFORE THE
GOVERNING BOARD OF THE
TWIN RIVERS UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

OAH No. 2013020622

In The Matter of the Reduction In Force of:

CERTAIN CERTIFICATED PERSONNEL
EMPLOYED BY THE TWIN RIVERS
UNIFIED SCHOOL DISTRICT,

Respondents.

PROPOSED DECISION

This matter was heard before Administrative Law Judge Dian M. Vorters, State of California, Office of Administrative Hearings, on April 10, 2013, in Sacramento, California.

Namita S. Brown, Attorney at Law,¹ represented the Twin Rivers Unified School District (District). Also present was Patty L. Smart, Associate Superintendent of Human Resources for the District.²

Margaret Geddes, Attorney at Law,³ represented the respondents listed on Attachment A (represented respondents).⁴

¹ Namita S. Brown, Attorney at Law, Fagen Friedman & Fulfroft, LLP, 70 Washington Street, Suite 205, Oakland, California 94607.

² Twin Rivers Unified School District, 3222 Winona Way, North Highlands, California 95660.

³ Margaret A. Geddes, Attorney at Law, Beeson, Tayer & Bodine, 520 Capitol Mall, Suite 300, Sacramento, California 95814.

⁴ On April 9, 2013, Ms. Geddes filed her “Represented Respondents’ Third Amended Notice of Defense” and attached the list of 45 certificated employees whose interests she represented in this layoff proceeding.

Respondent James Sullivan appeared on his own behalf.

Ward Allen, Melinda Durham, Alberto Macias, and Racheal Vargas, all four unrepresented, failed to appear at hearing.

FINDINGS OF FACT

1. The represented respondents and respondent Sullivan settled their issues with the District without the taking of evidence. As to the four unrepresented respondents who failed to appear, the matter proceeded as a default. (Gov. Code, § 11520.)

2. Unrepresented respondent Ward Allen did not appear. He timely filed his Request for Hearing on March 13, 2012, and Notice of Defense on March 27, 2013. As such, he was entitled to a hearing. (Gov. Code, § 44949, subd. (b) & (c).) The District established that it had complied with all notice requirements under Government Code sections 11505 and 11509, and Education Code section 44949. Consequently, this matter proceeded as a default with respect to unrepresented respondent Allen. (Gov. Code, § 11520.)

3. Unrepresented respondents Durham, Macias, and Vargas, did not appear. They timely filed their Request for Hearing on March 13, 2013. They did not file their Notices of Defense pursuant to Government Code section 44949, subdivision (c)(1). As such, they were not entitled to a hearing. The District waived these unrepresented respondents' failure to file Notices of Defense and established that it had complied with all notice requirements under Government Code sections 11505 and 11509, and Education Code section 44949. Consequently, this matter proceeded as a default with respect to unrepresented respondents Durham, Macias, and Vargas. (Gov. Code, § 11520.)

CONCLUSIONS OF LAW

1. Because the District established that it complied with all notice requirements under Government Code sections 11505 and 11509, and Education Code section 44949, unrepresented respondents were defaulted pursuant to Government code section 11520 due to their failure to appear at hearing. As a result of the unrepresented respondents' default, they may be served with final layoff notices.

RECOMMENDATION

Notice may be given to unrepresented respondents Ward Allen, Melinda Durham, Alberto Macias, and Racheal Vargas that their services will be reduced or will not be required for the 2013-2014 school year. Notice shall be given in inverse order of seniority.

DATED: April 11, 2013

DIAN M. VORTERS
Administrative Law Judge
Office of Administrative Hearings

ATTACHMENT A
TWIN RIVERS UNIFIED SCHOOL DISTRICT
REPRESENTED RESPONDENT EMPLOYEES

- | | |
|-------------------------|-----------------------------|
| 1. Beck, Timbre | 24. Joubert, Samantha |
| 2. Booth, Adrian | 25. Latcham, Daniel |
| 3. Borja, Sonia | 26. Markwardt, Sara |
| 4. Bowen, Carmen | 27. Martwick, Patrick |
| 5. Boyd, Howard | 28. McCarthy, Kathleen |
| 6. Brevik, Shelli | 29. McEwen, Renee |
| 7. Burnett, Rachel | 30. Mellor, Melissa |
| 8. Capodice, Lisa | 31. Nicolai, Kristal |
| 9. Cash, Caetisa | 32. Olivas, Megan |
| 10. Comeau, John | 33. Purcell, Steven |
| 11. Critchlow, Winifred | 34. Rogers, Joseph |
| 12. Dawson, Andrea | 35. Seastrom, Ashley |
| 13. Earley, Constance | 36. Shannon, Evelyn |
| 14. Evans, Kristin | 37. Steele, David |
| 15. Fiddler, Jacklynn | 38. Swartzlander, Stephanie |
| 16. Gaddess, Lilibeth | 39. Switzler, Justin |
| 17. Ganzer, Steven | 40. Waidhofer, Crystal |
| 18. Gluvers, Christine | 41. Walker, Jacob |
| 19. Goyeau, Jennifer | 42. White, Kathryn |
| 20. Graham, Manila | 43. Williamson, Carol |
| 21. Herfurth, Tara | 44. Zack, Norman |
| 22. Jensen, Steven | 45. Zazula, Chelsea |
| 23. Jones, Rebecca | |