

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

In the Matter of the Accusation Against:

Douglas S. Nunn,

Respondent.

OAH No. N2005030697

**PROPOSED DECISION**

Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, heard this matter in Mendocino, California, on April 26, 2005.

Stephen L. Hartsell, Associate General Counsel, School and College Legal Services, represented the Mendocino Unified School District.

Respondent Douglas S. Nunn was present and represented by James D. Allen, Esq.

The matter was submitted on April 26, 2005.

**FACTUAL FINDINGS**

1. Jim Shock, Superintendent, Mendocino Unified School District, made and filed the accusation in his official capacity.
2. Respondent Douglas S. Nunn is a certificated employee of the district. He is credentialed to teach English, German, and history. He currently teaches English and history at Mendocino High School. His seniority date with the district is January 18, 2000. Respondent is not credentialed to teach in a self-contained classroom.
3. On March 8, 2005, upon the recommendation of Superintendent Shock, the governing board adopted Resolution No. 2005-06, in which it resolved to reduce or discontinue the following particular kinds of services (PKS) for the 2005-2006 school year and directed the superintendent or his designee to send notice to certificated employees that their services would be terminated at the end of the 2004-2005 school year:

5.4 FTE classroom teaching positions

The resolution identified the positions to be reduced or discontinued as "classroom teaching positions" and did not identify the positions as "English," "history," or other specific subjects.

4. The superintendent recommended the reduction or discontinuance of services because of declining enrollment and revenue in the district. His recommendation was not based on respondent's competency as a teacher.

5. The superintendent timely served respondent with a notice of layoff. Respondent was timely served an accusation, statement to respondent, notice of defense, notice of hearing, and relevant statutes. Respondent made a timely request for hearing and timely notice of defense.

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

7. That the governing board's resolution referred to the reduction or discontinuation of "classroom teaching positions" rather than enumerating, for example, "English" or "history" teaching positions did not result in respondent being unaware of, or being unable to prepare a defense to, the charges against him. Respondent concedes that he was not prejudiced by the specification of "classroom teaching positions."

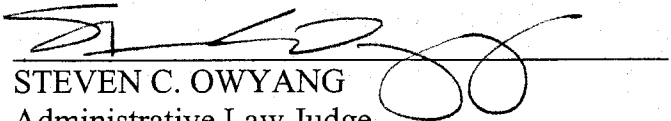
#### LEGAL CONCLUSIONS

Cause exists within the meaning of Education Code sections 44949 and 44955 for not reemploying respondent for the 2005-2006 school year. The cause for not reemploying respondent relates solely to the welfare of the district and the pupils thereof.

#### ORDER

Notice may be given to respondent that his services will not be required for the 2005-2006 school year.

DATED: May 4, 2005

  
STEVEN C. OWYANG  
Administrative Law Judge  
Office of Administrative Hearings