

**BEFORE THE  
GOVERNING BOARD  
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT  
COUNTY OF SACRAMENTO  
STATE OF CALIFORNIA**

In the Matter of the Reduction in Force of:

CERTAIN CERTIFICATED PERSONNEL  
EMPLOYED BY THE SACRAMENTO  
CITY UNIFIED SCHOOL DISTRICT,

OAH No. 2008030078

Respondents.

**PROPOSED DECISION**

Administrative Law Judge Catherine B. Frink, Office of Administrative Hearings, State of California heard this matter in Sacramento, California on April 21-25, 2008.

Alison C. Neufeld, Attorney at Law, and Okhee Shim, Attorney at Law, of Ruiz and Sperow, L.L.P., represented the Sacramento City Unified School District (District).

Margaret Geddes, Attorney at Law, and Eileen Bissen, Attorney at Law, of Beeson, Tayer and Bodine, Attorneys, represented the Sacramento City Unified Teacher's Association (Association), which represented 133 of the certificated District employees receiving notice that their services would not be required for the upcoming school year are members, as identified in Exhibit A attached hereto and incorporated herein by reference.

The following respondents represented themselves; despite the fact that they are members of the Association, due to potential conflicts of interest: Whitney Cole, Sarah Wagner, Louise Lofton, Renae Hering, Sarah Garrett, Marcel Noffal, Terresa Guerin, Oriana Wehner, Beth Conklin, Jennifer Havey, Krystyna Bayley, and William Maddox.

Evidence was received, the hearing was closed, and the record was held open for the submission of written closing argument. The District's Post-Hearing Brief was received on April 30, 2008, and was marked as Exhibit 33. The Association's Post-Hearing Brief was received on April 30, 2008, and was marked as Exhibit S. The record was closed and the matter submitted on May 1, 2008.

## **Resolution of Motions Pending From Prehearing Conference**

1. The District's Motion for an Order as a Matter of Law Re: Classification of Temporary Certificated Employees was rendered moot by the fact that the District did not serve any temporary employees with preliminary notices of layoff; instead, these teachers received Notices of Release, effective at the end of the 2007-08 school year. Thus, temporary teachers were not parties to this layoff proceeding. To the extent that individual respondents were challenging their placement on the seniority list, issues of seniority and classification were addressed on a case-by-case basis, and only to the extent relevant to the issue of layoff.
2. The District's Motion to Exclude Employees Who Failed to Submit a Timely Request for Hearing was rendered moot by the fact that no such employees asserted a right to participate in the layoff hearing.
3. The District did not pursue its Motion to Exclude Evidence Barred by Res Judicata and/or Collateral Estoppel at the administrative hearing.
4. The District's motion to seal three confidential Resolutions of the Governing Board of the District (Board), one regarding nonreelection of probationary teachers in the District, and two regarding the possible release/reassignment of certificated administrative employees was granted.<sup>1</sup> The Resolutions were ordered sealed, not to be opened except by a duly designated and authorized representative of the Board, the Administrative Law Judge (ALJ) or another ALJ assigned to preside over further proceedings in the matter, or by a reviewing court of competent jurisdiction.

## **FACTUAL FINDINGS**

### **Jurisdiction**

1. The District is a large urban school district that provides services to approximately 48,000 students at 92 school sites in and surrounding the City of Sacramento. The District employs approximately 2,200 certificated employees.
2. Carol Mignone Stephen is the Associate Superintendent, Human Resource Services, of the District. M. Magdlena Carillo Mejia, Ed.D., is the Superintendent of the District.
3. The District has experienced declining enrollment over the last several years and increasing costs, as well as projected funding cuts from the State. In January 2008, the

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<sup>1</sup> Resolution No. 08-C, Resolution for Non-Reelection of Temporary Certificated Employees, although labeled "Confidential," was not sealed at the hearing.

Board was advised that the District faces a projected \$24 million budget shortfall for the upcoming school year, if services offered and staffing remain the same during the upcoming school year. The Associate Superintendent and her staff met and developed proposals for programs and services to be reduced and/or eliminated to address the anticipated budget deficit. The Associate Superintendent presented her findings and alternative recommendations to the Board at a meeting in February 2008, along with a proposed resolution specifying criteria to be used to determine the order of termination of certificated employees with equal seniority (tiebreaker criteria). As a result of the District's current financial situation, the Board determined that it must reduce particular kinds of services throughout the organization.

4. On March 6, 2008, the Associate Superintendent recommended to the Board that particular kinds of services being offered by the District be discontinued or reduced. The Associate Superintendent stated the reasons for the recommendation. The Board approved the recommendations and, following the adoption of the Resolution set forth below, directed the Associate Superintendent to implement the recommendations. The Board also charged the Associate Superintendent and her staff to identify an equivalent number of certificated personnel and give those certificated employees notice in writing of the Superintendent's recommendation that their services would not be required for the ensuing school year. The recommendation of certificated personnel to be identified for layoff from employment with the District was not related to their skills or competence as teachers.

5. In response to the Associate Superintendent's recommendation above, the Board adopted Resolution # 2507 on March 6, 2008. The Board resolved that the District needs to reduce or eliminate particular kinds of services as recommended by the Associate Superintendent, and accordingly, it was resolved that it is necessary to terminate the employment of an equivalent number of certificated employees of the District due to the reductions. Resolution #2507 authorized the Associate Superintendent to take action to reduce or discontinue the following particular kinds of services for the 2008-09 school year:

<u>Particular Kind of Service (PKS)</u>	<u>Full-Time Equivalent (FTE)</u>
<b>I. Administrators</b>	
High School Assistant Principals	4.0
School Improvement Facilitators	7.0
<b>II. Teachers</b>	
Elementary Teachers	52.0
K-8 Teachers	14.8
Middle School Teachers	
Home Economics	1.0
Art	1.2
Music	1.0
P.E.	2.0

<b>High School Teachers</b>	
Home Economics	2.0
Social Science	3.0
P.E.	4.4
Music	1.0
<b>Alternative Education Teachers, Continuation High School</b>	
Social Science	2.0
P.E.	3.0

**III. Other Teachers**

Elementary Teachers-Class Size Reduction	55.0
Auto Shop, High School	1.0
Business	1.0
Nurse, Health Services	4.0
Music Teachers, Traveling	6.0
Counselor	2.0
Social Worker	4.0

**IV. Special Education Teachers**

PH/OI Teacher	1.0
SDC/LD Teacher	6.0
SD/DD Teacher	1.0
RSP Teacher	7.0
SDC/VI Teacher	1.0

**V. Adult Education Teachers**

CBET Specialist	1.0
Carpentry	1.0

189.4 FTE

The proposed reductions total 189.4 FTE, with an equivalent number of certificated positions.

6. Resolution #2507 specified a "direct and specific need within the District for certificated employee [sic] qualified to serve the needs of K-12 students with respect to the following programs and services: English Language Learners (ELL) and classes requiring Bilingual Cross-Cultural Language and Development (BCLAD), which are highly specialized programs requiring the possession of additional specialized credentials and/or training or experience possessing these credentials and/or certifications in the 2008-09 school year." The Board noted a special need to retain employees with these specialized credentials, regardless of seniority.

7. At the same meeting, the Board also adopted Resolution #2508. This Resolution set forth criteria for breaking ties when two or more certificated employees with the same first day of paid service were facing potential layoff. The Board listed categories for consideration, and assigned weights to each category, as follows: Category I – English Language Learner (ELL) Certifications; Category II – Professional Preparation, including K-12 credentials (3 points each), added authorizations (1 point each), limited supplemental authorizations (1/2 point each), master's degrees (1/2 point each), National Board Certification (1 point), and Doctoral Degree (1 point); and Category III – certificated experience under contract with the District not reflected by the employee's date of hire (e.g., an employee who may have resigned and was later rehired by the District) (1 point for each year of service). In case of ties continuing through listed criteria, Category IV – Lottery, was to be used to break such ties.

8. The services set forth in Resolution #2507 are “particular kinds of services” that may be reduced or discontinued within the meaning of Education Code section 44955. There was no evidence that the Board’s decision to reduce or discontinue these particular kinds of services was arbitrary or capricious. The reduction or elimination of the particular kinds of services set forth in Resolution #2507 constituted a proper exercise of the Board’s discretion, within the meaning of Education Code section 44955.

9. On March 14, 2008, the District personally served a written preliminary notice that advised the respondents, pursuant to Education Code sections 44949 and 44955, that their services would not be required for the next school year. The preliminary notices were served on 189 certificated employees of the District. Each written notice set forth the reasons for the recommendation and noted that the Board had adopted Resolution #2507, which was attached to the preliminary notice.

10. Each preliminary notice was served by certified mail, return receipt requested. Of the 189 employees served a preliminary notice, 141 certificated employees timely requested in writing a hearing to determine if there is cause for not reemploying them for the ensuing school year.

11. The Associate Superintendent made and filed Accusations against each of the 141 certificated employees of the District who timely requested a hearing after receipt of the preliminary notice. It was not disputed that the Accusations, with required accompanying documents and blank Notices of Defense, as well as Notices of Hearing, were timely served on the responding employees.

12. Of the 141 District employees served with Accusations, six failed to timely file a Notice of Defense requesting an evidentiary hearing.

13. Jurisdiction for the subject proceeding exists pursuant to Education Code sections 44949 and 44955.

14. Prior to or at the hearing, the District rescinded the preliminary notices of layoff to the following 11 certificated employees: Joan Cochrane; Jennifer Walker; Jocelyn Stewart; Tracy Elliott; Irene Moore; Kari Zimny; Kelly Graves; Angela Lopez; Rachel Webb; Olivia Alvarado; and Carol Lambert.<sup>2</sup> These employees shall be retained for the 2008-09 school year.

15. As a consequence of the rescission of notices to Jennifer Walker, Jocelyn Stewart, and Tracy Elliott, the 4.0 FTE PKS reduction in RSP services was reduced to 1.8 FTE.

### **Temporary Employees**

16. Pursuant to Confidential Board Resolution #08-C, the District sent Notices of Release to 92 temporary certificated employees by certified mail on March 10, 2008. Those employees are not parties to this proceeding.

### **Probationary Nonreelects**

17. The Board acted pursuant to Confidential Resolution #08-B to not reelect certain first and second year probationary teachers in the District. These nonreelections were an appropriate exercise of the Board's absolute right not to reelect probationary teachers.

### **Method of Effectuating the Reduction in Services and Identifying Affected Employees**

18. The Board's Resolutions delegated to the Associate Superintendent and her designees the authority to implement the reduction and elimination of the listed particular kinds of services, to identify and determine which District employees would be affected by the reductions and to draft and serve the preliminary notices upon those identified employees. The District divides its schools into four geographic learning service units (LSUs) and assigns a personnel analyst from the Human Resources Department to each. Immediately following the passage of the Resolutions, the Associate Superintendent met with the four personnel analysts during the first week of March, 2008, and instructed them to work together to identify employees of the District who would be affected by the reduction or elimination of the particular kinds of services set forth in the Resolution.

19. Except as specifically noted below, the analysts were not given specific instructions about how to implement the layoff. The Associate Superintendent testified that the analysts had considerable experience between them in analyzing the District's master seniority list and effectuating District reductions in force in previous years. The analysts were provided with copies of the Resolutions for reference, and obtained the master seniority list for the District in two formats, by alphabetical order and by inverse seniority order. The analysts were also able to obtain "sublists," which were lists of certificated employees in a

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<sup>2</sup> The issue of whether a change should be made to the seniority dates of employees Rachel Webb, Olivia Alvarado, and Carol Lambert, is not addressed herein.

particular PKS, such as elementary teachers, or traveling music teachers. In addition, the analysts had access to the District's ESCAPE computerized data system, which contained information about certificated employees such as education, advanced degrees, status as full or part-time employees, and compliance with the "highly qualified" (HQ) teacher requirements of the No Child Left Behind Act of 2001 (NCLB).

20. The team of analysts identified the positions to be eliminated pursuant to Resolution #2507, and identified the certificated employees to receive preliminary notices of layoff based on seniority.

### **Administrators**

21. The Board adopted Confidential Resolution #08-A for possible release/reassignment of certificated administrative employees. As a result of the reduction of 11.0 FTE PKS District administrators, some administrators had return rights to classroom teacher positions. Analysts Joyce Compton and Janet Fong calculated the seniority of administrators using the District's ESCAPE computerized data system, and personnel records. There was no issue regarding whether any reassignments of administrators were appropriate, or whether any of the administrators being reassigned were certificated and competent to take the reassignments made.

### **Verification of Employment Status and Seniority**

22. Tenure is the relationship between a teacher and the District which gives the teacher greater job security.

Seniority is the relationship between the teachers within a school district. Among the teachers credentialed to provide a given service, greater seniority in the District gives a greater legal entitlement to a position. (See *Ferner v. Harris* (1975) 45 Cal.App.3d 363.)

Seniority date is defined as the date upon which an employee first rendered paid service in a probationary position. (Ed. Code § 44845.)

23. Employees were given the opportunity to correct and verify their seniority dates. On December 14, 2007, the Associate Superintendent transmitted to all site and department administrators of the District a list of all certificated employees at each site or department; verification statements for each certificated employee, for distribution to the named employee; and a proof of service, to be signed and returned when all employees had received and returned their Seniority Verification Statements to the site or department administrator. The deadline for submission of the completed verifications sheets was January 28, 2008.

24. The Employee Information Verification Statement for each employee listed the employee's name, seniority date; classification (first year probationary, second year probationary, or permanent); school assignment; position (e.g. elementary teacher, high

school, nurse); and credential (including issue date, expiration date, and “subjects authorized”). The Employee Information Verification Statement stated, in part:

Our records indicate the information shown regarding seniority, credentials, address and phone number. Please make any corrections as needed. Attach a copy of the credential(s) to this form, to correct or update our records. Please return this form no later than January 28, 2008.

I certify the information shown is true and correct.

The Employee Information Verification Statement contained a line for the employee to sign and date, certifying the truth of the information provided.

25. If employees made corrections to the Employee Information Verification statements, salary technicians would check the information and, if correct, enter the corrected information into the District’s ESCAPE data system; these corrections were reflected in the master seniority list.

26. The District relied on the verifications provided by certificated employees in updating the District’s seniority list, which it used to determine the order of layoff.

### Bumping and Skipping

27. Economic layoffs are generally to be carried out on the basis of seniority. A teacher with more seniority typically has greater rights to retain employment than a junior teacher. A senior teacher whose position is discontinued has the right to a position held by a junior teacher if the senior teacher is properly credentialed. That displacement of a junior teacher is known as “bumping.” In general, the District has an affirmative obligation to reassign senior teachers who are losing their positions into positions held by junior teachers if the senior teacher has both the credentials and competence to occupy such positions. The seniority rule is not absolute, and a junior teacher with a needed credential or skills may be retained even if a more senior teacher is terminated. Such “skipping” is recognized by statute (Education Code section 44955, subdivision (d)(1)) and appellate law (*Santa Clara Federation of Teachers, Local 2393 v. Governing Board of the Santa Clara Unified School District* (1981) 116 Cal.App.3d 831). In order to depart from a seniority-based economic layoff, Education Code section 44955, subdivision (d)(1), requires the District to “demonstrates a specific need for personnel to teach a specific course or course of study... and that the certificated employee (to be skipped) has special training and experience necessary to teach that course or course of study...which others with more seniority do not possess.”

28. Resolution #2507 proposed to retain teachers with ELL and BCLAD certifications. The analysts determined that all of the teachers in the District held ELL certifications. They further determined that two employees who would otherwise have been

subject to layoff held BCLAD certifications that were required for their classroom teaching assignments: Shannon Zavala (seniority date 2/5/07) and Teresa Martinez (seniority date 9/6/05). The analysts "skipped" these two teachers in accordance with the provisions of Resolution #2507, and neither received a notice of layoff. The analysts did not "skip" any employees who were slated for layoff who held BCLAD certifications if those teachers were not assigned to classrooms in which BCLAD certification was required. As a result, there are respondents with greater seniority than Ms. Zavala and Ms. Martinez who hold BCLAD certifications who received layoff notices.

29. The District acted reasonably in implementing Resolution #2507 by "skipping" only those teachers with BCLAD certifications who were actually using the credential in their classroom assignments. (See *Alexander v. Delano Jr. Union High School Dist.* (1983) 139 Cal.App.3d 567, 576.)

30. The District cannot be compelled to split full-time positions in order to offer "partial" bumping rights to senior employees who occupy less than 1.0 FTE positions. (*Murray v. Sonoma County Office of Education* (1989) 208 Cal.App.3d 456, 460; *King v. Berkeley Unified School District* (1979) 89 Cal.App.3d 1016.)<sup>3</sup>

31. The District's implementation of "bumping" rights of senior teachers is addressed in reference to specific PKS reductions, as set forth below.

#### **Application of District's Tiebreaker Criteria – Generally**

32. The analysts applied the tiebreaker criteria set forth in Resolution #2508 based on past District practice. They were provided information in a spreadsheet format for each category of PKS in which the tiebreaking criteria needed to be applied. The data for the tiebreaker spreadsheets and assignment of points was supplied by Velma Cole, Personnel Supervisor, and Terri Lauzon, Credential Specialist. Under Category I of the tiebreaker criteria, no employee was given points on any of the tiebreaker spreadsheets, because all District employees so evaluated held ELL certifications. Likewise, none of the employees who were subjects of the tiebreaker criteria had previous in-district certificated experience under contract that was not reflected in the employees' date of hire, and therefore no points were awarded to any employee under Category III of the tiebreaker criteria.

The analysts determined the order of seniority based on points awarded under the tiebreaking criteria. Where individual employees had the same number of points after application of all other criteria, the analysts conducted a lottery within each PKS category to determine which employee(s) would be subject to layoff.

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<sup>3</sup> Although both of these cases were decided under Education Code section 44956 concerning reinstatement rights of certificated employees laid off under section 44955, the application of the standard "certificated and competent" to render the service is the same.

33. The District's decision to apply the tiebreaker criteria by PKS, rather than as to all employees with the same credential and seniority date, was not arbitrary or capricious, and did not constitute an abuse of discretion.

### **Elementary – Special Subjects**

34. A teacher with a single subject credential can teach middle school (grades 7-8) or high school (grades 9-12). In addition, the District utilizes certain teachers with single subject P.E. or music credentials as elementary "prep period" teachers. These teachers teach P.E. or music to students during their classroom teacher's preparation period. Unlike middle school or high school music and P.E., "prep period" music and P.E. teachers are not assigned to teach "periods" of music or P.E.; rather, they are assigned to particular schools on a daily basis. The District categorizes "prep period" teachers as "Elementary – Special Subjects," and considers them to be a PKS separate and distinct from elementary teachers (due to differences in credentialing), and from middle school and/or high school music teachers and P.E. teachers (due to the manner in which work is assigned). The District's treatment of elementary – special subjects as a separate PKS is reasonable, and does not constitute an abuse of discretion.

35. The District did not reduce or eliminate elementary – special subjects PKS as part of Resolution #2507.

36. During the course of hearing, three part-time elementary – special subjects teachers were identified: Robert Lobese (seniority date 8/30/07) (.4 FTE P.E. prep); Nadine Nouchi (seniority date 8/3/07) (.8 FTE P.E. prep); and Merri Sue Brown (seniority date 11/13/07) (.5 FTE music prep).

Mr. Lobese teaches two days per week. Ms. Nouchi teaches four days per week, split between two schools. The exact nature of Ms. Brown's assignment was not established by the evidence, except that she is assigned by day(s) of the week, rather than by periods, as are middle school and high school music teachers.

37. The analysts were instructed by the District's legal counsel not to allow a more senior full-time employee to "bump" a more junior part-time employee out of his or her position. The District justified its position due to the differences in scheduling between high school or middle school subjects such as P.E. or music, as compared with elementary – special subject P.E. prep or music prep. However, noted in Finding 27 above, the District must, where practicable, reassign senior teachers who are losing their positions into positions held by junior teachers if the senior teacher has both the credentials and competence to occupy such positions. Therefore, the District abused its discretion when it did not permit full-time employees slated for layoff in P.E. and music to "bump" less senior part-time P.E. prep or music prep teachers, as further set forth below.

## **Elementary Teacher and Elementary Teacher – Class Size Reduction PKS Reductions**

38. Elementary teacher and elementary teacher – class size reduction (CSR) are both “particular kinds of services” that may be reduced by the District. (See *San Jose Teachers Assn. v. Allen* (1983) 144 Cal.App.3d 627, 630.) Regarding the elimination of 55.0 FTE CSR, the District proposes to eliminate CSR in one grade level, but had not determined which grade level (kindergarten, first, second, or third) would be affected by the elimination of CSR as of the date of hearing.

39. In effectuating the reduction in Elementary Teachers and Elementary CSR teachers FTEs, the analysts did not distinguish between the two groups for purposes of seniority. Both groups hold MS credentials, for a total of 107 FTE reduction. The analysts identified the least senior elementary teachers occupying 107 FTE using a seniority sublist of elementary teachers. In addition, some less senior elementary teachers were “bumped” by more senior teachers who were certificated and qualified to fill the positions of junior teachers. The analysts also considered whether elementary teachers slated for layoff could be reassigned to “bump” a less senior teacher if the elementary teacher held another credential in addition to an MS credential.

40. In implementing the layoff of teachers with MS credentials, the analysts checked the ESCAPE data system for all teachers with supplemental authorizations to determine if they were “highly qualified” and therefore possibly eligible to “bump” a less senior teacher in a subject that the more senior teacher was qualified to teach.

## **K-8 PKS Reduction**

41. The District operates six K-8 schools, and one K-12 school. The teachers at these schools who teach in grades K-6 hold MS credentials. The teachers who teach grades 7 and 8, whether in a K-8 school or in middle school, generally hold single subject credentials or supplemental authorizations in specific subjects. A teacher with a MS credential can teach grades 7 and 8 in a K-8 school or in a middle school if the teacher is in a “core” setting, in which the same teacher teaches two or more subjects (e.g. English and social studies, or science and mathematics) to the same students, for two or more periods, provided that the teacher is “highly qualified” in compliance with NCLB in each of the subjects taught.

42. The District’s credential specialist, Terri Lauzon, was responsible for determining whether middle school teachers currently teaching in “core” settings were NCLB-compliant.

43. Resolution #2507 proposed to reduce the number of K-8 certificated employees by 14.8 FTE. To effectuate this layoff, the analysts identified the 15 least senior K-8 teachers occupying 14.5 FTE, and they determined whether the identified teachers could be reassigned based on their seniority and qualifications.

44. The analysts determined that all of the identified K-8 teachers held MS credentials. Fourteen of the teachers were believed to be able to "bump" less senior teachers and were retained by the District.<sup>4</sup> However, in one case, the analysts erroneously permitted K-8 teacher Veasna Nim (seniority date 10/11/04) to "bump" elementary teacher Bertha Udell (seniority date 9/7/04), who received a layoff notice and is a respondent herein. Ms. Nim was not served with a preliminary notice of layoff. Since Ms. Udell has greater seniority than Ms. Nim and is certificated and qualified to render the services for which Ms. Nim is being retained, Ms. Udell shall likewise be retained by the District, and her notice of layoff shall be rescinded.

45. The Association contended in its Post-Hearing Brief that Resolution #2507 was vague and ambiguous in that it "does not specify at what grade levels the District was to reduce services in the K-8 schools." In this case the analysts testified that they identified the most junior employees assigned to K-8 schools to the 14.8 PKS reduction in K-8 pursuant to Resolution #2507. They further testified that they identified teachers with MS credentials assigned to the K-6 grades at the K-8 schools, and determined that most were senior to elementary teachers with MS credentials and therefore able to bump into elementary positions, resulting in the proposed layoff of additional elementary teachers. The analysts reasonably interpreted Resolution #2507 to determine K-8 PKS to be reduced or eliminated.

46. In effectuating the layoff, the analysts did not identify middle school teachers that held only MS credentials as potential employees for layoff or "bumping." The Association identified three employees with MS credentials and seniority dates of September 4, 2007, who were not given preliminary notices of layoff, while similarly-credentialed respondents with greater seniority were slated for layoff. These junior employees are Ruth Lindahl, Alf Ballard, and Melissa Lucchesi.<sup>5</sup> The District did not provide specific information about the teaching assignments of these three individuals, other than to establish that they were teaching at Sam Brannan Middle School. Although District personnel speculated that these teachers were assigned to "core" settings, and that they were HQ teachers in those assignments, the District did not produce corroborating evidence to establish these facts. In the absence of proof to the contrary, the Association's contention that these teachers are providing services which respondents with greater seniority are credentialed and qualified to render has merit. Consequently, the District shall be required to retain the services of the three most senior teachers with MS credentials currently slated for layoff.

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<sup>4</sup> The tiebreaker criteria was applied to elementary teachers holding MS credentials with the seniority date of September 7, 2004, due to the fact that similarly credentialed K-8 teachers with more seniority were allowed to "bump" more junior elementary teachers.

<sup>5</sup> The Association's Post-Hearing Brief lists a fourth employee, "Joan Cooperman." However, there is no employee named Joan Cooperman with a seniority date of September 4, 2007. Employee Joan Cochrane has a September 4, 2007 seniority date; she was sent a preliminary layoff notice which was later rescinded, because she had single subject credentials in English and Social Science that allowed her to be reassigned. Employee Jody Cooperman has a seniority date of September 7, 2004.

47. Angela Cleavenger-Artz (seniority date 11/1/99), occupies .5 FTE position in an elementary classroom at Genevieve Didion Elementary, a K-8 school. She holds an MS credential. Ms. Cleavenger-Artz was the fifteenth "least senior" K-8 teacher identified by the analysts for layoff under the K-8 PKS reduction. The analysts were instructed by legal counsel not to "carve" out a half-time position for Ms. Cleavenger-Artz by splitting the position of a junior full-time elementary teacher. The District properly determined that there was no less senior teacher occupying .5 FTE position that Ms. Cleavenger-Artz could bump (see Finding 30).

### **Music Teachers**

48. The services of music teachers in the District were affected by three PKS reductions: middle school music teacher (1.0 FTE), high school music teacher (1.0 FTE), and traveling music teachers (6.0 FTE). The employee classification of "traveling music teacher" reflects the fact that some or all of the teachers so designated are or could be assigned to more than one school.

49. An additional classification of music teachers, elementary – special subjects elementary music "prep" teachers (music prep) was not part of the PKS reduction in music, so none of the teachers serving in those positions were initially identified by the analysts for possible layoff. However, more senior full-time music teachers were able to "bump" junior full-time music prep teachers holding single subject credentials.

50. To effectuate the layoffs in high school music and middle school music, the analysts identified the least senior high school music teacher and the least senior middle school music teacher. The two least senior high school music teachers, Daniel Almanzo and Martin Beal, had the same seniority date (9/5/06). The analysts applied the tiebreaker criteria to them, and Mr. Almanzo was "saved" by lottery, and Mr. Beal was slated for 1.0 FTE high school music layoff. However, Mr. Almanzo was "bumped" by a more senior traveling music teacher, Penny Elliott (seniority date 3/10/04).

51. Juliette Turner (seniority date 9/2/97) was a traveling music teacher who did not receive a notice of layoff, while Kari Zimny (seniority date 9/12/86) was slated for layoff. The District rescinded Ms. Zimny's layoff notice, in recognition of the fact that a less senior employee had been retained to provide a service that Ms. Zimny was certificated and qualified to perform (Finding 14).

52. As set forth in Finding 36, Merri Sue Brown (seniority date 11/13/07) serves as a music prep teacher occupying .5 FTE. She did not receive a preliminary notice of layoff from the District. There are several full-time music teachers with greater seniority than Ms. Brown who are certificated and qualified to serve in the half-time position occupied by Ms. Brown. Therefore, the District shall be required to retain the services of the most senior music teacher currently slated for layoff for .5 FTE (see Finding 37).

## P.E. Teachers

53. The services of P.E. teachers in the District were affected by three PKS reductions: middle school P.E. teachers (2.0 FTE), high school P.E. teachers (4.4 FTE), and alternative education teachers, continuation high school (3.0 FTE).

54. An additional classification of P.E. teachers, elementary – special subjects elementary P.E. “prep” teachers (P.E. prep) was not part of the PKS reduction in P.E., so none of the teachers serving in those positions were initially identified by the analysts for possible layoff. However, less senior full-time P.E. prep teachers were subject to layoff if they could be “bumped” by a more senior full-time P.E. teacher slated for layoff as a result of reductions in P.E. PKS.<sup>6</sup>

55. Although Resolution #2507 called for a reduction of 3.0 FTE P.E. Alternative Education Teachers, the evidence established that there was only one alternative education teacher, Thomas Crocker, and 1.0 FTE vacant position. Therefore, while Resolution #2507 reflects a total of 9.4 FTE layoffs of P.E. teacher positions, only 8.4 FTE positions were actually reduced.

56. To effectuate the layoffs in high school P.E., the analysts identified the least senior high school P.E. teachers occupying 4.4 FTE positions. The analysts determined that it was necessary to utilize the tiebreaker criteria to determine the relative seniority of three high school P.E. teachers with the same seniority date (9/5/06): William Maddox, Marcel Noffal, and Nathan Oltmanns. After applying the criteria, the three were tied, and the analysts conducted a lottery. As a result of the application of the tiebreaker criteria, Mr. Maddox was retained for .6 FTE high school P.E., and was slated for layoff of .4 FTE. Mr. Noffal and Mr. Oltmanns were each slated for layoff of 1.0 FTE.

57. To effectuate the layoffs in middle school P.E., the analysts identified the least senior middle school P.E. teachers occupying 2.0 FTE positions, and determined that it was necessary to utilize the tiebreaker criteria to determine the relative seniority of six middle school P.E. teachers with the same seniority (9/5/06). Two of the employees were “saved” because they had more “points” than the others under the tiebreaker criteria. Among the four remaining employees, the analysts conducted a lottery, which “saved” Jesse Hernandez, Michel Karas, and Chance Peterson. Renae Hering was slated for layoff of 1.0 FTE.

58. Thomas Crocker (seniority date 9/5/06) holds a single subject P.E. credential, but was not included in either the middle school tiebreaker or the high school tiebreaker, because he teaches at Capital City School, an independent study school. He was slated for layoff pursuant to the PKS reduction in alternative education P.E.

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<sup>6</sup> Maria Clayton (seniority date 9/6/05), a high school P.E. teacher, “bumped” Mary Vielleux (seniority date 11/16/06), a less senior P.E. prep teacher.

59. The Association, and individual respondents representing themselves, contended that the District erred when it did not combine all similarly-credentialed single subject P.E. teachers with the same date of paid service in a single lottery to determine the order of layoff 8.4 FTE P.E. positions in the District. Had the District done so, it would have increased the chances that high school teachers Mr. Noffal and Mr. Oltmanns, and alternative high school teacher Mr. Crocker, had of being retained by the District to provide services (in middle school P.E.) that they were certificated and qualified to render. However, as previously set forth in Finding 33, the District's decision to apply the tiebreaking criteria separately to each PKS was within its discretion.

60. As set forth in Finding 36, Robert Lobese (seniority date 8/30/07) serves as a P.E. prep teacher occupying .4 FTE, and Nadine Nouchi (seniority date 8/3/07) serves as a P.E. prep teacher occupying .8 FTE. Neither received a preliminary notice of layoff from the District. As set forth in Finding 56, William Maddox is slated to be laid off for .4 FTE and retained as a high school P.E. teacher for .6 FTE. He is certificated and competent to displace Ms. Nouchi in her .8 FTE P.E. prep position. Therefore, the District shall be required to retain the services of Mr. Maddox for an additional .2 FTE, for a total of .8 FTE. (See Finding 37.)

61. There were several P.E. teachers (Mr. Crocker, Ms. Hering, Mr. Noffal, and Mr. Oltmanns) with the same seniority date (9/5/06) who each received layoff notices for 1.0 FTE. Each of these teachers has greater seniority than Nadine Nouchi, and are certificated and qualified to render the service for which she has been retained by the District for .4 FTE. In addition, as a consequence of the retention of Mr. Maddox in the .8 FTE P.E. prep position, a "vacancy" of .6 FTE exists in high school P.E. Therefore, the District shall be required to apply its tiebreaker criteria to the above-listed employees and shall retain two teachers who are currently slated for layoff, one in .6 FTE high school P.E. position, and one in .4 FTE PE prep position. (See Finding 37.)

### **Individual Respondents**

62. *Whitney Cole*

The District agreed that Ms. Cole (seniority date 9/6/05) should be classified as a permanent employee of the District. This change did not affect her status as a certificated employee slated for layoff.

63. *Sarah Wagner*

The District agreed to change Ms. Wagner's seniority date to January 24, 2005, and to change her classification to "permanent." The change in her classification and seniority date does not affect her status as a certificated employee slated for layoff.

*64. Sarah Garrett*

The District agreed to change Ms. Garrett's seniority date to September 5, 2006, and to change her classification to "second year probationary." The change in her classification and seniority date does not affect her status as a certificated employee slated for layoff.

*65. Krystyna Bayley*

The District agreed to change Ms. Bayley's seniority date to September 6, 2005 and to change her classification to "permanent." The change in her classification and seniority date does not affect her status as a certificated employee slated for layoff.

*66. April Feliciano*

The District agreed to change Ms. Feliciano's seniority date to January 8, 2007. The change in her seniority date does not affect her status as a certificated employee slated for layoff, and it does not impact the layoff status of any other certificated employee of the District.

*67. Jennifer Havey*

The parties stipulated that Ms. Havey's correct seniority date is September 5, 2006. This correction does not affect her status as a certificated employee slated for layoff.

*68. William Maddox*

Mr. Maddox (seniority date 9/5/06) is a high school P.E. teacher and holds a single subject P.E. credential. As a result of the application of the District's tiebreaker criteria to high school P.E. teachers with the same first date of paid service with the District, he was slated to be laid off for .4 FTE of his 1.0 FTE position. Mr. Maddox contends that the District erred when it conducted separate lotteries for middle school and high school P.E. teachers with the same seniority date, in that he is credentialed and qualified to teach middle school P.E., and there were a greater number of middle school P.E. teachers "saved" as a result of the District conducting separate lotteries. As set forth in Findings 33 and 59 above, the District's initial application of the tiebreaker criteria by separate PKS was not an abuse of discretion.

In addition, he believes he should be able to "bump" one of the two part-time elementary P.E. prep teachers who have less seniority than Mr. Maddox. This contention has merit, and is addressed in Finding 60 above.

*69. Jeremy Hammond*

Mr. Hammond (seniority date 9/6/05) is classified as a traveling music teacher. However, he is assigned to only one school, and has been so assigned since his first date of paid service to the District. He was not aware of any less senior music teacher with a single subject music credential who is being retained by the District.

*70. Rosario Ruiz*

Ms. Ruiz (seniority date 9/6/05) works as a kindergarten teacher in a regular classroom. She holds a MS credential and a BCLAD certification in Spanish. She teaches only in English, but she speaks Spanish to many of her students who are English language learners. Her position does not require a BCLAD certification. Therefore, Ms. Ruiz was not entitled to be "skipped" under Resolution #2507.

Ms. Ruiz disagrees with the manner in which the district "skipped" junior teachers who hold a BCLAD which is necessary for their job assignment. She believes the most senior teachers holding BCLAD certifications should be retained by the District.

*71. Louise Lofton*

Ms. Lofton (seniority date 9/7/04) holds a multiple subject credential. She was one of the elementary teachers to whom the tiebreaker criteria was applied, and she was "bumped" by a more senior teacher. Ms. Lofton objected to the District's tiebreaker criteria, because it does not take into account her extra-curricular activities for the school, or additional classwork she has completed, or her status as a master teacher.

*72. Renae Hering*

Ms. Hering (seniority date 9/5/06) holds a single subject P.E. credential. Prior to the first day of school, on August 30 and 31, 2006, Ms. Hering attended training (4.0 hours each day) in the following subjects: "Department Articulation – Access to Standards," and "Climate/Instruction/Management Inservice." Ms. Hering received a letter from the principal of Einstein Middle School, to which she was assigned, dated August 9, 2006, informing her of available workshops being held within the District in August of 2006, and encouraging her to attend. Ms. Hering was not paid for this service, but instead received 18 hours of professional development credit. She has recently been informed by the Human Resources Department that she could be paid for this service. Even if she were to be paid, this service was not "mandatory," or otherwise required as a condition of her employment, and would not result in a change in her seniority date from September 5, 2006 to August 30, 2006.

Ms. Hering also objected to the District's tiebreaking criteria, in that it did not give "points" for possession of a clear credential. She felt an employee with a clear credential

should be given preference over employees with intern credentials, for purposes of application of the tiebreaking criteria.

73. *Terresa Guerin*

Ms. Guerin (seniority date 9/7/04) holds a MS credential and teaches grades 4-6 in a self-contained classroom at Success Academy Community Day School. She worked as a long-term substitute for the District from February to June 2003, and from February to June 2004. She did not work more than 75 percent of the days in the 2003-04 school year to allow her to obtain an additional year of seniority with the District.

74. *Oriana Wehner*

Ms. Wehner (seniority date 9/7/04) holds a MS credential, and received a notice of layoff. She objects to the District's tiebreaker criteria because it awards 1/2 point for a master's degree, but no points for additional education. Ms. Wehner has 103.5 units over her B.A. degree, in subjects which she believes benefit her students more than the courses she would have needed for a master's degree.

75. *Marcel Noffal*

Mr. Noffal (seniority date 9/5/06) holds a single subject P.E. credential, and teaches high school P.E at Arthur A. Benjamin Health Professions High School. Due to the unique curriculum at the school, Mr. Noffal received special training on the integrated healthcare curriculum on August 21-23, 2006. He testified that he was not paid for this training through the District. He then participated in Freshman Induction and other District activities during the week of August 28-31, 2006, for which he was paid by the District. As a new teacher, he was told that "you need to work these two weeks." He did not question whether his participation was mandatory or voluntary, and assumed that it was required, in that all of the other teachers were present.

Mr. Noffal signed an Employee Information Verification Statement on February 8, 2008, certifying that his seniority date of September 5, 2006 was true and correct. The District was entitled to rely on the certification when the preliminary notices were sent (Findings 23-26).

If there is an error in Mr. Noffal's seniority date, the District is obligated to correct it, but not as part of these proceedings.<sup>7</sup>

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<sup>7</sup> If the District were to determine that his work during the week of August 28-31, 2006 was paid service in a probationary position, it would change his seniority date with the District to August 28, 2006. As such, he would have greater seniority than high school P.E. teacher William Maddox, who was retained by the District for .6 FTE, and middle school P.E. teachers Preston Jackson, Jesse Hernandez, Michel Karas, Chance Peterson, and Aprille Cochrane-Jenkins, all of whom have seniority dates of September 5, 2006, and did not receive notices of layoff.

76. *Beth Conklin*

Ms. Conklin (seniority date 9/6/05) holds a MS credential. She began employment as a classified employee with the district in 1994, and worked as an instructional aide from at least 1999 to 2005. Ms. Conklin also taught summer school from June 2005 to September 3, 2005 at Shriner's Hospital, in a program that is part of a contract between the hospital and the District. Ms. Conklin asserts that her seniority date should reflect her summer school teaching assignment. There is insufficient evidence in the record to determine whether Ms. Conklin's seniority date should be changed.

Ms. Conklin signed an Employee Information Verification Statement on January 8, 2008, certifying that her seniority date of September 6, 2005 was true and correct. The District was entitled to rely on the certification when the preliminary notices were sent (Findings 23-26).

If there is an error in Ms. Conklin's seniority date, the District is obligated to correct it, but not as part of these proceedings. In any event, it would not affect her status as a certificated employee slated for layoff.

77. *Debra Sanchez*

Ms. Sanchez (seniority date 9/5/06) has an MS credential. She does not hold any credentials in special education. From February 2000 until November 2004, she worked as an instructional aide and/or assistant in special education classrooms at the District. She was employed by the District from February to June 2005 as long-term substitute replacing a teacher who died. From September 26, 2005 to the end of the 2005-06 school year, Ms. Sanchez was employed by the District as a long-term substitute teacher at Hiram Johnson High School. She replaced a teacher who resigned from employment with the District. Her assignment was to prepare learning disabled students to take the California High School Exit Examination (CAHSEE). The Assistant Principal at Hiram Johnson High School who hired Ms. Sanchez to fill the long-term substitute special education assignment knew she only possessed an MS credential. The evidence did not establish that she applied for an emergency credential or permit to teach special education.

Ms. Sanchez signed an Employee Information Verification Statement on January 11, 2008, certifying that her seniority date of September 5, 2006, and her status as a second year probationary employee were true and correct. The District was entitled to rely on the certification when the preliminary notices were sent (Findings 23-26).

If there is an error in Ms. Sanchez's seniority date, the District is obligated to correct it, but not as part of these proceedings. In any event, it would not affect her status as a certificated employee slated for layoff.

78. Except as specifically addressed above, the arguments of the individual respondents were considered but were not persuasive.

## **Additional Arguments Raised in Association's Post-Hearing Brief**

### **A. Failure of District to Meet Its Burden of Proof as to FTE and HQ Data**

79. The Association contended that the District did not, in most cases, provide "direct evidence of the FTE status of Respondents,...and no direct evidence as to in what subject areas employees were deemed highly qualified ('HQ') pursuant to the requirements of the No Child Left Behind Act ('NCLB')."<sup>8</sup> The Association referred to the District's tie-breaking spreadsheets and "bumping chart" as "demonstrative evidence" which it characterized as hearsay. The Association's contention is without merit. The testimony of District personnel (analysts, personnel technicians, administrators, and credential specialist) constituted direct evidence. To the extent that documentary evidence is "hearsay," it supplements and explains the testimony of District witnesses, and is admissible under Government Code section 11513, subdivision (d).<sup>8</sup>

80. To the extent that the Association raised specific challenges to District actions, the evidence was evaluated on a case-by-case basis.

81. The Association contended that respondents were prejudiced by the District's failure to produce information and evidence about the HQ and part-time FTE status of District employees prior to the hearing, so that the Association could "confirm that the District had correctly identified individuals for layoff rather than reassignment." This contention is not persuasive. District personnel testified that, after elementary teachers with MS credentials and supplemental authorizations were identified for possible layoff, their compliance with NCLB and HQ status was considered in determining if any teacher could be retained. The Association, in its Exhibit R, identified respondents with supplemental authorizations. The Association could have requested additional information about the HQ status of specific respondents at hearing, but did not do so.

82. The Association further contended that the District failed to give notice to teachers that HQ status would be a determining factor for layoff purposes, and that their right to reassignment would be conditioned on their prior submission of documents to verify HQ status under supplemental authorizations and/or multiple credentials. The Association argued that this failure constituted a denial of due process, because it deprived them of the opportunity to establish NCLB compliance prior to issuance of preliminary notices of layoff. This contention is without merit.<sup>9</sup> Teachers have an obligation to inform the District of

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<sup>8</sup> Government Code section 11513, subdivision (d) states: "(d) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. An objection is timely if made before submission of the case or on reconsideration."

<sup>9</sup> In its Post-Hearing Brief, the Association asked the Administrative Law Judge to "take judicial notice of an earlier due process notice issue in a layoff proceeding conducted by this School District, as reported in the Proposed Decision issued in the 2004 layoff hearing...." The Association attached the Proposed Decision (PD) of ALJ M. Amanda Behe to the Post-Hearing Brief., but did not cite a particular finding or legal conclusion in support of its argument. In fact ALJ Behe's PD does not support the Association's position. In Legal Conclusion 5, ALJ Behe

matters such as credentials and supplemental authorizations held, and additional education and/or degrees obtained. Indeed, these matters may have an effect on the pay scale to which teachers are assigned. Likewise, teachers must establish that they are NCLB-compliant for the subjects in which they are teaching or for which they claim to be qualified to teach. It is the District's obligation to assure that teachers are assigned to teach subjects or classes in which they are highly qualified.

B. Resolution #2507 did not Authorize the "skipping" of full-time Junior Employees and Layoff of Part-Time Senior Employees

83. The Association attempted to characterize the District's decision to lay off part-time employee Angela Cleavenger-Artz while retaining full-time junior employees with MS credentials, and to retain part-time employees Robert Lobese, Nadine Nouchi, and Merri Sue Brown, while laying off more senior full-time employees, as unauthorized "skipping" of junior employees. However, the issues pertaining to these employees are more appropriately considered in the context of "partial bumping," and the Association's assertions to the contrary are not persuasive.

### **Welfare of the District and Its Students**

84. Other than that set forth particularly above, the Associate Superintendent's analysts correctly identified the certificated employees providing the particular kinds of services that the Board directed be reduced or discontinued. No junior certificated employee is scheduled to be retained to perform services which a more senior employee is certificated and competent to render, unless skipped, as set forth above.

### **LEGAL CONCLUSIONS**

1. Jurisdiction for this proceeding exists pursuant to Education Code sections 44949 and 44955. All notices and other jurisdictional requirements of sections 44949 and 44955 were met.

2. A District may reduce services within the meaning of section 44955, subdivision (b), "either by determining that a certain type of service to students shall not, thereafter, be performed at all by anyone, or it may 'reduce services' by determining that proffered services shall be reduced in extent because fewer employees are made available to deal with the pupils involved."<sup>10</sup> The burden is on the District to demonstrate that the reduction or elimination of the particular kinds of services is reasonable and that the District carefully considered its needs before laying off any certificated employee.<sup>11</sup>

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stated: "Respondents argue that the District should have notified respondents to obtain emergency CLAD or equivalent credentials to avoid layoff. The argument is without merit...."

<sup>10</sup> *Rutherford v. Board of Trustees* (1976) 64 Cal.App.3d 167, 178-179.

<sup>11</sup> *Campbell Elementary Teachers Association v. Abbott* (1978) 76 Cal.App. 3d 796, 807-808

3. Legal cause exists to reduce or eliminate 189.4 FTE of particular kinds of services offered by the District as set forth in detail in the Factual Findings. Cause for the reduction or discontinuation of services relates solely to the welfare of the District's schools and pupils, within the meaning of Education Code section 44949.

4. Legal cause also exists to accordingly reduce the number of certificated employees of the District due to the reduction and discontinuation of particular kinds of services. Cause exists to retain two teachers who are currently occupying positions in which BCLAD credentials are required, as set forth in Resolution #2507, regardless of seniority, and as set forth in Findings 6, 28, and 29.

### **Hearing Issues**

5. As set forth in Finding 14, the preliminary notices of layoff issued to Joan Cochrane, Jennifer Walker, Jocelyn Stewart, Tracy Elliott, Irene Moore, Kari Zimny, Kelly Graves, Angela Lopez, Rachel Webb, Olivia Alvarado, and Carol Lambert, are rescinded, and the above-named teachers shall be retained for the 2008-09 school year.

6. As set forth in Finding 44, the preliminary notice of layoff issued to Bertha Udell shall be rescinded, and she shall be retained for the 2008-09 school year.

7. As set forth in Finding 46, the District shall rescind the preliminary notices of layoff of the three most senior teachers with MS credentials currently slated for layoff. If there are more than three MS-credentialed respondents with the same seniority date, the District shall apply the tiebreaker criteria to determine which respondents shall be retained for the 2008-09 school year.

8. As set forth in Finding 52 the District shall rescind the preliminary notice of layoff of the most senior music teacher currently slated for layoff for .5 FTE, and the teacher so identified shall be retained for .5 FTE for the 2008-09 school year.

9. As set forth in Finding 60, the District shall rescind the preliminary notice of layoff issued to William Maddox for an additional .2 FTE, and he shall be retained by the District for a total of .8 FTE for the 2008-09 school year.

10. As set forth in Finding 61, the District shall apply its tiebreaker criteria to employees Thomas Crocker, Renae Hering, Marcel Noffal, and Nathan Oltmanns, and shall rescind .6 FTE preliminary notice of layoff and .4 FTE preliminary notice of layoff to the two most senior employees identified by the tiebreaker, who shall be retained in .6 FTE high school P.E. position, and in .4 FTE PE prep position, for the 2008-09 school year.

11. As set forth in Finding 62, Whitney Cole is classified as a permanent employee of the District.

12. As set forth in Finding 63, Sarah Wagner's correct seniority date is January 24, 2005, and she is classified as a permanent employee of the District.

13. As set forth in Finding 64, Sarah Garrett's correct seniority date is September 5, 2006, and she is classified as a second year probationary employee of the District.

14. As set forth in Finding 65, Krystyna Bayley's correct seniority date is September 6, 2005, and she is classified as a permanent employee of the District.

15. As set forth in Finding 66, April Feliciano's correct seniority date is January 8, 2007.

16. As set forth in Finding 67, Jennifer Havey's correct seniority date is September 5, 2006.

17. Other than the foregoing, no employee with less seniority than any respondent is being retained to render a service which any respondent is certificated and competent to render. Except as set forth above, the Board may give the remaining respondents whose preliminary notices have not been rescinded final notice before May 15, 2008, that their services will not be required for the ensuing school year, 2008-09.

## ORDER

1. The District shall comply with Legal Conclusions 5 through 16.

2. Except as noted above, notices shall be given to respondents identified in attached Exhibit A that their services will not be required for the 2008-09 school year because of the reduction or discontinuation of particular kinds of services. Notice shall be given to respondents in inverse order of seniority.

3. All other contentions and claims not specifically mentioned were considered and are DENIED.

DATED: May 6, 2008

*Catherine B. Frink*  
CATHERINE B. FRINK  
Administrative Law Judge  
Office of Administrative Hearings

## **EXHIBIT A**

### **RESPONDENTS**

Acton, Chris	Hanafee, Jennifer
Alvarado, Olivia	Harms, Kelly J.
Arnott, Michele	Havey, Jennifer
Bachman-Tavianini, Theresa A.	Hering, Renea L.
Baron, Christy	Herzog Kruse, Joy S.
Bayley, Krystyna	Hunt, Pamela
Beal, Martin	Jackson, Adriane
Boakeye-Donkor, Toneiya	Jarvis, Lisa
Boettner, Julie George	Johnston, Ryan
Brown, Amy	Jones, Art
Brown, Anne L.	Jones, Ginger J.
Brown, James E.	Kingston, Kesha
Bruce, Michael J.	Krier, Miles
Budge, Peter	Kuroda, Stephanie
Bujalski, Lisa	Lam, Christina Li-Ling
Cabanlit, Ma. Lanie	Lamb, Ron
Carr, Victoria	Lambert, Carol
Cerezo, Diana L.	Lawrence Jr., David
Choy, David	Lee, Mary
Cleavenger-Artz, E. Angela	Lemos, Tiffany
Cole, Whitney	Lofton, Kristi
Conklin, Beth W.	Lofton, Louise
Conner, Brandie	Lopez, Angela
Crocker, Thomas D.	Lopez, Nancy
Crumbley, Jane	Luong, Amie
Davis, Brandy	Maddox, William S.
Feliciano, Alice	Mahoney, Meghan
Feliciano, April	Mar, Kimberly
Fernald, Ryan	Marshall, Audrey
Fernandez, Chelsey	Martinez, Juan
Fine, Cassandra	Mashinini-Nigl, Siphewe
Flores, Mia M.	Matolo, Hazel
Galvan, Katrina	McFall, Tarik
Garrett, Sarah	Moore, Irene E.
Goodwin, Michelle C.	Moua, Houa
Gordon, Julie Ann	Moua, Mai P.
Graves, Kelly	Moua, Si
Guerin, Terresa	Murphy, Brendon
Hammond, Jeremy	Ngo, Lily

Nguyen, Kim  
Nguyen, Phuong  
Nishimura, Michelle  
Noffal, Marcel  
Ochoa, Claudia  
Oltmanns, Nathan  
Pedley, Sandra  
Peltz Planchon, Tiffany  
Perez, Rafael  
Phelps, Boyd  
Phillips, Katherine, T.  
Power, Deborah A.  
Pullano, Jacquelyn  
Reinke, Jennie  
Richey, Randall  
Roldan, Abigail  
Romanini-Heisler, Judi  
Rouse, Jennifer A.  
Ruiz, Rosario G.  
Ryan, Kelly J.  
Saechin, Nai  
Sakakihara, Robyn  
Sanchez, Debra  
Schlager, Matthew  
Schon, Julie  
Shankar, Preeti  
Smith, Diana  
Solis, Sylvia A.  
Stinson, Lisa M.  
Tamanaha, Fumi  
Thao, Shoua  
Udell, Bertha R.  
VanderKlay, Beth  
Vang, Jade  
Vang, Pang  
Vang-Her, Yee  
Vecchio, Dana  
Victa, Joycelyn  
Villegas, Laura  
Wagner, Sarah  
Walker, Bonita R.  
Webb, Rachel  
Wehner, Oriana  
Wells-Artman, Christie  
Whaley, Margo  
White Hibbs, Heather  
White, Rhiannon  
Willover, Valerie T.  
Wilson, Cinnamon  
Yaangh, Stacy  
Yang, Chong  
Yang, Julia  
Yip Tek, Chanh  
Younglove, Laura  
Zimny, Kari Lyn