

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE GOVERNING BOARD OF  
THE TEMECULA VALLEY UNIFIED SCHOOL DISTRICT

In the Matter of the Proposed Dismissal  
Concerning:

LORI SOLA,

Respondent.

OAH No. 2016070122

STIPULATION TO HEARING BY A SINGLE ADMINISTRATIVE LAW JUDGE

On July 26, 2016, as required by Education Code section 44944, subdivision (c)(1), the parties submitted to the Office of Administrative Hearings, a statement in writing, waiving their rights to convene a Commission on Professional Conduct, and stipulating to having the hearing conducted by a single Administrative Law Judge.<sup>1</sup>

**DECISION**

Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, heard this matter in Temecula, California on September 13, 2016.

Mark W. Thompson, Esq., of Atkinson, Andelson, Loya, Ruud & Romo, represented the Temecula Valley Unified School District.

Jon Cadieux, Esq., of Smith, Steiner, Vanderpool & Wax, APC, represented respondent, Lori Sola. Respondent was present throughout the hearing.

The matter was submitted on September 13, 2016.

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<sup>1</sup> The Stipulation was marked by the Administrative Law Judge as Exhibit 18 and received in evidence.

## FACTUAL FINDINGS

1. Respondent is employed by the Temecula Valley Unified School District in a teaching position that requires a permanent certificated employee.

2. On August 28, 2015, the California Commission on Teacher Credentialing (CCTC) revoked respondent's educator's credentials, the revocations were stayed and respondent was placed on probation.

3. On December 22, 2015, respondent was arrested for driving under the influence of alcohol in violation of Vehicle Code section 23152, subdivision (a) (DUI), and for driving with a blood-alcohol content of .08 percent or higher in violation of Vehicle Code section 23152, subdivision (b) (DUI). Additionally she was charged with the special allegation that she had previously been convicted of driving under the influence. That criminal matter is still pending.

4. Effective February 26, 2016, respondent's credentials were revoked by the CCTC because respondent violated one of the conditions of her August 28, 2015, probation.

5. On April 25, 2016, the Temecula Valley Unified School District Assistant Superintendent, Human Resources Development, filed a Notice of Recommendation for Dismissal and Statement of Charges. The Assistant Superintendent filed the Notice of Recommendation for Dismissal and Statement of Charges while acting in his official capacity. The Notice of Recommendation for Dismissal and Statement of Charges set forth the following causes for dismissal:

1. Your Education Specialist Instruction Credential (No. 150173717) was revoked by the California Commission on Teacher Credentialing (CCTC) pursuant to Education Code section 44421, effective February 26, 2016. This revocation was due to violation of CCTC-imposed probation due to misconduct.

¶ . . . ¶

2. Your Education Specialist Instruction Credential (No. 110218779) was revoked by the California Commission on Teacher Credentialing (CCTC) pursuant to Education Code section 44421, effective February 26, 2016. This revocation was due to violation of CCTC-imposed probation due to misconduct.

¶ . . . ¶

3. The District has determined that there is no evidence that your teaching credential(s) will be restored in the foreseeable future.

Therefore, as of February 26, 2016, you are not authorized to teach in any public school in California.

4. In addition to being precluded from teaching in any of the public schools of California, your failure to renew and maintain a valid teaching credential is a persistent violation of District policies. Specifically, Administrative Regulation (“AR”) 4112 . . .

[¶] . . . [¶]

6. Your continued employment as a certificated employee with the District is precluded by several Education Code statutes . . . (Exh. 2, DID 227-228.)

6. Currently, respondent, who was employed as a Special Education teacher, is on unpaid leave.

7. Respondent’s attorney argued that respondent should be allowed to remain on unpaid leave status until the Driving Under the Influence charges are fully litigated. Additionally, he argued that it would be unfair to terminate respondent based on “unproved conduct” – the DUI allegations.

8. E. Joe Mueller’s, the Director of the Temecula Valley Unified School District’s Human Resources Development Department, testimony is summarized as follows: The District cannot continue holding respondent’s former position open; the District has had difficulty filling respondent’s special education position with qualified part-time teachers because the teachers have no guarantee of a full-time position; the District needs a highly-qualified teacher to teach special education full-time; he does not believe respondent’s credentials will be reinstated and without a valid credential, respondent is prohibited from teaching; and the District risks being fined if respondent teaches without a credential.

## LEGAL CONCLUSIONS

1. Education Code section 44065, subdivision (a) provides, in part:

[A]ny person employed on or after July 1, 1963, by a school district . . . shall hold a valid teaching or service credential as appropriate . . . authorizing the particular service.

The work of instructors and the instructional program for pupils is a “particular service” within the meaning of Education Code section 44065, subdivision (a).

2. Education Code section 44830, subdivision (a) provides, in part:

The governing board of a school district shall employ for positions requiring certification qualifications, only persons who possess the qualifications for those positions prescribed by law. . .

3. Education Code section 45037, subdivision (a) provides, in part:

Except as provided in Section 45036, for the fiscal year 2001-02 and for any fiscal year thereafter in which a person renders service as a teacher in kindergarten or any of grades 1 to 12, inclusive, who does not have a valid certification document, the school district or county office of education in which the person is employed shall be assessed a penalty. . . .

4. The CCTC's revocation of respondent's credentials are not subject to collateral attack in the present proceedings for the reasons and rationale set forth in *Arneson v. Fox* (1980) 28 Cal.3d 440, 449.

5. Respondent no longer has a valid certification to teach; therefore, she is unfit for service within the meaning of Education Code section 44932, subdivision (a)(6). Accordingly cause for dismissal exists.

6. A second cause for dismissal exists because with no valid certification to teach, respondent is in violation of Education Code section 44932, subdivision (a)(8) (persistent violation of the laws of the state or reasonable regulations prescribed . . . by the State Board of Education or by the Governing Board of the school district).<sup>2</sup>

### *Analysis*

7. The statutes and administrative regulations governing the certification of employees mandate respondent's dismissal. Retention of respondent, even on unpaid leave, is not in the best interests of the district or the students it serves.

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<sup>2</sup> Temecula Valley Unified School District Administrative Regulations, numbers AR 4112, subdivision (a) and 4112.2, subdivision (a) require individuals appointed to the certificated staff to "possess the appropriate certification . . . and register the certification document in accordance with law and Board policy."

## ORDER

Respondent, Lori Sola, is dismissed from her employment with the Temecula Valley Unified School District.

DATED: October 7, 2016

DocuSigned by:  
  
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ROY W. HEWITT  
Administrative Law Judge  
Office of Administrative Hearings