

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

In The Matter of the Accusations/  
(Reduction In Force) against:

OAH No. 2008030368

ERIC HANSON, DENNIS HOLLEY,  
THERESA J. MOORE and ROGER  
STEINHOFF

Respondents.

**PROPOSED DECISION**

Ann Elizabeth Sarli, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on April 7, 2008, in Willows, California.

Matthew Juhl-Darlington, Attorney at Law, represented the Willows Unified School District.

A. Eugene Huguenin, Attorney at Law, represented respondents.

Evidence was received and the matter was submitted on April 7, 2008.

**FACTUAL FINDINGS AND DISCUSSION**

1. Steven Olmos, Ph.D. is the Superintendent of the Willows Unified School District (District). His actions and the actions of the District Governing Board were taken in their official capacities.

2. Respondents are permanent certificated employees of the District. On March 12, 2008, the District served on each respondent a written notice that it had been recommended that notice be given to respondents pursuant to Education Code sections 44949 and 44955 that their services would be reduced or would not be required for the 2008-2009 school year. Each written notice set forth the reasons for the recommendation and noted that the District Governing Board had passed a Resolution reducing the certificated staff by four

full-time equivalent (FTE) positions. Respondents timely requested in writing a hearing to determine if there is cause for not reemploying them for the ensuing school year.

3. The Superintendent made and filed Accusations against respondents. The Accusations with required accompanying documents and blank Notices of Defense were timely served on respondents. Respondents timely filed Notices of Defense to the Accusations.

4. On March 6, 2008, at a regular meeting, the District Governing Board was given notice of the Superintendent's recommendations that certificated employees holding four FTE positions be given notice that their services would be reduced or not required for the next school year and stating the reasons for that recommendation.

5. On March 6, 2008, the District Governing Board determined that it was necessary to decrease programs and services and thus it was necessary to reduce teaching services affecting employment of 4.0 FTE positions. The District Governing Board adopted Resolution No. 07-08-05 providing for the reduction or elimination of the following particular kinds of services (PKS):

1.00 FTE - Keyboarding teaching position at Willows High School and Willows Community High School

1.00 FTE – Various teaching positions at Willows High School;

- Creative Woods (two periods)
- Weight Training (two periods)
- Athletic Director (one period)
- Auto I (one period)

1.00 FTE - Grade 7/8 teaching position at Willows Intermediate School

1.00 FTE –Multiple Subject teaching position at Murdock Elementary School

6. No employees were affected by the elimination of the teaching positions at Willows Intermediate School and Murdock Elementary School.

7. The Governing Board's resolution to eliminate and reduce these particular kinds of services was made in order to reduce costs without reducing core subject areas.

8. The District maintains a Certificated Seniority List which contains employees' seniority dates (first date of paid service), status as tenured, probationary or temporary, and credentials and authorizations. Status, credential and authorization data are obtained from the District's records and employees are given the opportunity to correct errors in the seniority list.

9. The Superintendent and other District employees were responsible for implementation of the technical aspects of the layoff. The District used the seniority list to develop a proposed layoff list of the least senior employees currently assigned in the various services being reduced. The District then determined whether the least senior employees held credentials in another area and were entitled to "bump" other employees.

*Theresa Moore*

10. Theresa Moore has a seniority date of August 23, 2000. She holds a Clear Single Subject Credential in Physical Education. She is currently assigned to teach 1.0 FTE physical education at Willows High School. Her services are reduced by .50 FTE pursuant to the Governing Board's resolution to eliminate two periods of instruction in weight training and one period of athletic director. No employee junior to Ms. Moore is being retained to perform services that Ms. Moore is competent and certificated to render.

Ms. Moore maintains that she should be permitted to teach .50 FTE of a 1.00 FTE in physical education currently being taught by Geraldine Mahood at Murdock High School. Ms. Mahood is senior to Ms. Moore. Ms. Moore's novel argument is that a junior employee should be able to bump a senior employee, if the senior employee can, in turn, bump other junior employees and is therefore not "affected" by retention of the junior employee. This argument lacks merit. There is no statutory authority for this position and implementation of such a process is chaotic, unworkable and would often result in retention of junior employees over senior employees, in violation of Education Code section 44955, subdivision (b).

*Eric Hanson*

11. Eric Hanson holds a Vocational Credential in the following subjects; automotive mechanics; automotive brake installation and repair; automotive electrical systems and repair. He is currently assigned to teach five automotive classes. Four classes are funded through the ROP program. The District funds one class. His services are reduced by .16 FTE (the class funded by the District) pursuant to the Governing Board's resolution to eliminate one period of instruction in Auto I. The evidence is equivocal as to Mr. Hanson's seniority date; it is sometime in August 2004. There is no certificated employee being retained to teach automotive mechanics and there is no certificated employee Mr. Hanson can "bump" out of a position with his Vocational Credential. No junior employee is being retained to perform services that Mr. Hanson is competent and certificated to render.

*Roger Steinhoff*

12. Mr. Steinhoff has a seniority date of August 19, 1995. He holds a Standard Teaching Credential in Industrial Arts. He is currently assigned to teach woods at 1.0 FTE at Willows High School. His services are reduced by .33 FTE pursuant to the Governing Board's resolution to eliminate two periods of instruction in creative woods. Mr. Steinhoff maintains that he can bump into .33 FTE (one class/. 21 FTE) of the four auto repair classes



being taught by Mr. Hanson, a junior employee. Mr. Steinhoff provided no evidence to support his testimony that the industrial arts certification he holds allows him to teach automotive repair classes. Pursuant to California Code of Regulations (CCR) Title 5, section 80004, subdivision (c), holders of Single Subject Teaching Credentials in specific single subject areas, such as industrial arts, are authorized to teach trade, technical and vocational classes, but only in the area designated on the credential.<sup>1</sup> There was no evidence that automotive repair is an "industrial art."

Nor has Mr. Steinhoff provided evidence that he is competent to teach automotive classes. He has been teaching industrial arts classes at the district for the past 14 years. Further, the classes Mr. Hanson teaches are funded through ROP, a program that has specific credentialing requirements. No evidence was produced that Mr. Steinhoff, even if he were certificated and competent to teach automotive classes, satisfies the credentialing requirements of the ROP program.

The evidence is persuasive that Mr. Steinhoff is not credentialed to teach automotive classes, and he may therefore not bump into any classes Mr. Hanson is assigned to teach. No junior employee is being retained to perform services that Mr. Steinhoff is competent and certificated to render.

*Dennis Holley*

13. Mr. Holley has a seniority date of August 27, 1975. He holds a Standard Designated Teaching Credential in Business Education. He is currently assigned to teach keyboarding at 1.0 FTE at Willows High School and Willows Continuation High School. His services are eliminated pursuant to the Governing Board's resolution to eliminate 1.0 FTE of instruction in keyboarding. Mr. Holley maintains that he can bump into 1.0 FTE of a number of teaching positions held by junior employees. He maintains that his credential authorizes him to teach, among other subjects, (ROP) career education, integrated math, algebra lab, business English, ROP computer applications, computer multi-media, reading and economics (although no economics courses are offered).

Mr. Holley asserts that he is competent to teach these classes and he is close to obtaining a certification of compliance as a highly qualified teacher in math and economics

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<sup>1</sup> CCR, title 5, section 80004, subdivision (c) provides in pertinent part:

"The Single Subject Teaching Credential authorizes the holder to teach the subject area(s) listed on the document in grades twelve and below, including preschool, and in classes organized primarily for adults. ..

¶...¶

(c) The holder of a Single Subject Teaching Credential in Agriculture, Business, Home Economics, Industrial Arts, or Industrial and Technology Education is authorized to teach the subject area listed on the document in classes designated as technical, trade, or vocational by the employing agency."

under "No Child Left Behind." He has 18 units of math classes at Chico State College and has been assigned to teach math and economics classes at Willows High School multiple times over a five years period. Although Mr. Holley's competence to teach math and the other subjects he proposes to teach may be an issue, the threshold issue is whether he is certificated to teach these subjects.

Mr. Holley's Designated Teaching Credential in Business Education was issued in 1977. Under the heading "subjects or fields" the credential lists computer science and data processing. Under "authorizations" the certificate lists "204 q, j, d." These citations are to the back of the certificate. They reference the holder's authorization to "teach business subjects named on the credential, including evaluation of vocational pupil performance and relating of such performance to classroom instruction and including classes reimbursed from vocational education funds in grades 7 through 12 and classes organized for adults in elementary and high school adult programs." Nowhere does the credential authorize the holder to teach subjects other than those named on the credential; computer science and data processing.

Mr. Holley further maintains that the Commission on Teacher Credentialing authorizes the holder of a Designated Teaching Credential in Business Education to teach subjects other than those identified on the credential. He cites to the Administrator's Assignment Manual first edition eighth revision (September 2007), section C-1, as support for the proposal that the holder of a Standard Secondary Credential in a broad subject area authorizes the teaching of subjects listed as majors and minors in departmentalized classes. However, the language of this section permits the holder to teach only those subjects which "follow the colon on the credential" (here computer science and data processing). Further, this section does not apply to Mr. Holley's credential. He does not hold a Standard Secondary Credential in a particular subject area. Rather, he holds a Standard Designated Teaching Credential which is classified by the Administrator's Assignment Manual as "a credential which authorizes the service in the specific subject named on the document in classes designated as technical, trade, or vocational." (section I-1).

Mr. Holley maintains that he has the certification necessary to teach the one period of computer applications (ROP) and the one period of computer multi-media (ROP) currently taught by Margaret Ansel. Ms. Ansel has a seniority date of August 16, 2004, and is junior to Mr. Holley. Mr. Holley maintains that computer applications and computer multimedia are computer science courses. The District maintains that these courses are not included in Mr. Holley's certification. The evidence is that Ms. Ansel teaches these courses under a Designated Subject Computer Application Credential. There was no evidence offered by either party as to the comparative authorizations of Mr. Holley's and Ms. Ansel's credentials.

Even if Mr. Holley's credential authorizes him to teach these two courses, he has not provided evidence that he is competent to teach these courses. He holds a Master's Degree in computer science, which he earned in 1975. Since then, he has taught math, economics and keyboarding. It is questionable whether he has the current competence to teach these two courses. Further, two courses are funded through ROP, a program that has specific



credentialing requirements. No evidence was produced that Mr. Holley, assuming he is competent to teach multi-media and computer applications, satisfies the credentialing requirements of the ROP program. Moreover, Mr. Holley's insistence that he is certificated and competent to teach math, economics, career education and several other subjects, which he is clearly not certificated to teach, undermines his assertions that he is competent and certificated to teach these two classes.

## LEGAL CONCLUSIONS

1. The District employees receiving notices that their services would not be required next year have all rendered valuable services to the District.

2. All notice and jurisdictional requirements set forth in Education Code sections 44944 and 44945 were met. The notices sent to respondents indicated the statutory basis for the reduction of services and, therefore, were sufficiently detailed to provide them due process. (*San Jose Teachers Association v. Allen* (1983) 144 Cal.App.3d 627; *Santa Clara Federation of Teachers v. Governing Board* (1981) 116 Cal.App.3d 831.) The description of services to be reduced, both in the Board Resolution and in the notices, adequately describe particular kinds of services. (*Zalac v. Ferndale USD* (2002) 98 Cal.App.4th 838. See, also, *Degener v. Governing Board* (1977) 67 Cal.App.3d 689.)

3. The services identified in Board Resolution No. 07-08-05 are particular kinds of services that could be reduced or discontinued under section 44955. The Governing Board's decision to reduce or discontinue the identified services was neither arbitrary nor capricious, and was a proper exercise of its discretion. Cause exists to reduce the number of certificated employees of the District due to the reduction and discontinuation of particular kinds of services. Cause for the reduction or discontinuation of services relates solely to the welfare of the District's schools and pupils within the meaning of section 44949.

4. 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." (*Rutherford v. Board of Trustees* (1976) 64 Cal.App.3d 167, 178-179.)

5. Education Code section 44955, provides in pertinent part:

¶...¶

(b) Whenever in any school year ... whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, ...or whenever the amendment of state law requires the modification of curriculum,

and when in the opinion of the governing board of the district it shall have become necessary by reason of any of these conditions to decrease the number of permanent employees in the district, the governing board may terminate the services of not more than a corresponding percentage of the certificated employees of the district, permanent as well as probationary, at the close of the school year. Except as otherwise provided by statute, the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to render.

¶...¶

6. Education Code section 44955 provides that when certificated employees face layoffs due to reduction or elimination of PKS, 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 intent of the Legislation is clearly to prevent Districts from laying off senior teachers while retaining junior teachers. Section 44955, subdivision (c) provides in pertinent part:

Services of such employees shall be terminated in the inverse of the order in which they were employed... The governing board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render...

7. As set forth in Factual Findings 1 through 10, and the Legal Conclusions, the District has established that no employee junior to Ms. Moore is being retained to perform services which Ms. Moore is competent and certificated to render.

8. As set forth in Factual Findings 1 through 9 and 11, and the Legal Conclusions, the District has established that no employee junior to Mr. Hanson is being retained to perform services which Mr. Hanson is competent and certificated to render.

9. As set forth in Factual Findings 1 through 9, and 12, and the Legal Conclusions, the District has established that no employee junior to Mr. Steinhoff is being retained to perform services which Mr. Steinhoff is competent and certificated to render.

10. As set forth in Factual Findings 1 through 9, and 13, and the Legal Conclusions, no employee junior to Mr. Holley is being retained to perform services which Mr. Holley is competent and certificated to render. The District has met its initial obligation, under Education Code section 44955, subdivision (c), to make a determination whether Mr. Holley's seniority and qualifications entitle him to be reassigned to teach ROP multi-media



and computer applications. The District reasonably decided not to re-assign Mr. Holley, based upon the narrowness of Mr. Holley's certification. Mr. Holley has not persuasively rebutted the District's decision to disallow him from teaching these classes.<sup>2</sup>

### RECOMMENDATION

1. Notice shall be given to Theresa J. Moore that her services will be reduced by .50 FTE in the 2008-2009 school year, because of the reduction and discontinuance of particular kinds of services.

2. Notice shall be given to Eric Hanson that his services will be reduced by .16 FTE in the 2008-2009 school year, because of the reduction and discontinuance of particular kinds of services.

3. Notice shall be given to Roger Steinhoff that his services will be reduced by .33 FTE in the 2008-2009 school year, because of the reduction and discontinuance of particular kinds of services.

4. Notice shall be given to Dennis Holley that his services will be reduced by 1.00 FTE in the 2008-2009 school year, because of the reduction and discontinuance of particular kinds of services.

DATED: April 10, 2008

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ANN ELIZABETH SARLI  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>2</sup> The parties may request that this matter be re-opened for the taking of evidence (by telephonic hearing) regarding the issue of whether Mr. Holley's qualifications entitle him to teach ROP multi-media and computer applications. Any request to re-open the hearing shall be made before April 17, 2008. No request to re-open the hearing shall be granted unless Mr. Holley waives in writing final notice requirements under Education Code section 44955, subdivision (c), and agrees to an extension of the date prescribed in section 44955, subdivision (c), under the provisions of Education Code section 44949, subdivision (e). In the event the hearing is re-opened, it shall be scheduled before April 24, 2008. Recommendation 4 shall be stayed pending the outcome of any hearing.