

BEFORE THE  
GOVERNING BOARD  
OF THE  
CAJON VALLEY UNION SCHOOL DISTRICT  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

OAH No. 2008030064

All the Certified Employees of the Cajon  
Valley Union School District Who Received  
Preliminary Layoff Notices for the 2008-2009  
School Year,

Respondents.

**PROPOSED DECISION**

Administrative Law Judge Yolanda Gammill, Office of Administrative Hearings, State of California, heard this matter on April 23, 2008, at the Cajon Valley Union School District, El Cajon, California.

Anthony P. De Marco, Attorney at Law with Atkinson, Andelson, Loya, Ruud & Romo, represented the Cajon Valley Union School District.

Jon Y. Vanderpool, Attorney at Law with Tosdal, Smith, Steiner & Wax, represented Respondents listed in attached Exhibit "A."

Respondent Delia Villanueva represented herself and was present throughout the hearing.

Respondent Danielle Vanessa Wilner represented herself and was present throughout the hearing.

There was no appearance by or on behalf of Respondents Emily Clark, Allison M. Desilva, Lizette Hacket, Veronica Rae Jones, Jenna Leigh Keffer, Jill Ann Kennedy, Travis E. Lee, Deborah Ann Lueders, Kristine Dominique Mason, Heather Beck Paraiso, Erica Yolanda Parris, Daniela Ruiz-Jo, Linda Sanders, Laurey Kaye Stack, Tyra Ann Wilson, and Jennifer Earl Zamudio.

The matter was submitted on April 23, 2008.

## FACTUAL FINDINGS

1. On March 19, 2008, Dr. Janice Cook, Superintendent, Cajon Valley Union School District (District), signed and filed the Accusation in her official capacity and not otherwise.
2. Respondents are certificated District employees.
3. In March 2008, in accordance with Education Code sections 44949 and 44955, the Superintendent, through Kari Hull, Assistant Superintendent, Human Resources, notified the Governing Board of the District (the Board) in writing of her recommendation to reduce or discontinue particular kinds of services for the upcoming school year. The Superintendent stated the reasons for the recommendation.
4. On March 4, 2008, the Board, adopted Resolution 03-06-765 JC, determining that it would be necessary to reduce or discontinue particular kinds of services at the end of the current school year. The Board determined that the particular kinds of services that required to be reduced for the 2008-2009 school year were the following full time equivalent (FTE) positions:

PARTICULAR KIND OF SERVICE	FTE
Art	0.40
Assistant Principal	1.00
AVID	0.40
Coordinator - Learning Support	0.50
Counseling	1.50
Earth Sciences	0.20
English	3.00
English Language Development	1.00
Enrichment	0.80
Facilitator	2.60
Facilitator BCLAD	1.00
High Point	1.50
History	2.00
Home School (Grades K-8)	0.80
Hourly Support Teachers	28.00
Intervention English	1.00
K-5 Classroom Instruction	53.75
Life Lab	0.40
Life Sciences	1.00
Literacy Support	0.45
Math	3.50
Middle School Core (6th Grade)	7.00



Middle School Intervention	2.00
Music	0.80
Newcomers	2.00
Physical Education	7.40
Physical Sciences	2.00
Principal	0.50
Principal on Special Assignment	1.00
Psychologist	1.00
REACH	0.45
Read 180	0.45
Reading First Coach	0.20
Resource Specialist Program	2.00
SDC/NSH (Sped)	1.00
Spanish	0.80
Special Education - M/M	2.00
Special Education - M/S	1.00
Speech	0.50
Writing Elective	1.00

The proposed reductions totaled 137.4 full-time equivalent (FTE) positions.

5. The Board directed the Superintendent or her designee to send appropriate notices to all employees who might be affected by the reduction and elimination of particular kinds of services noted above.

6. The Assistant Superintendent was responsible for implementing the technical aspects of the layoff. The District developed a Seniority List that contained, among other things, the employee's name, seniority date, assignment, credential, authorization(s) and classification as permanent or probationary.

The seniority date was based on the employee's first date of paid service rendered.<sup>1</sup> A teacher hired as a probationary employee who worked as a substitute or temporary employee for at least 75 percent of the school days during the previous year and had performed the duties normally required of a certificated employee of the school district, was deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year. The teacher was entitled to have that earlier year counted as a year of probationary service.

7. After the Board adopted the resolution to reduce services by 137.4 FTE positions, the District continued to evaluate personnel needs in the District. Since the resolution was adopted, and after taking into consideration upcoming positively assured attrition, resignations, and retirements, the District has now determined it can meet its fiscal needs by reducing services by a total of 97 FTE positions for the 2008-2009 school year. To

<sup>1</sup> Education Code section 44845.

accomplish this reduction of services, the District needed to give preliminary notices of termination to 97 certificated employees, 67 of whom are respondents in this proceeding.

8. On or before March 15, 2008, each certificated employee who is party to this proceeding was given notice that the Superintendent had recommended that his or her services with the District would be terminated at the conclusion of the current school year and that his or her services would not be needed by the District for the upcoming 2008-2009 school year. Each employee was notified of the right to a hearing.

9. Each respondent timely filed a written request for hearing to determine if there was cause for not reemploying that respondent for the upcoming school year. Accusations were thereafter timely served on each respondent. Each respondent timely filed a Notice of Defense. All pre-hearing jurisdictional requirements were met.

10. The services the Board addressed in Resolution No. 03-06-765 JC were "particular kinds of services" that could be reduced or discontinued within the meaning of Education Code section 44955. The Board's decision to reduce or discontinue these particular kinds of services was not arbitrary or capricious, but constituted a proper exercise of discretion.

11. The reduction or discontinuation of particular kinds of services related to the welfare of the District and its pupils. The reduction or discontinuation of particular kinds of services was necessary to decrease the number of certificated employees of the District as determined by the Board. No particular kinds of services were lowered to levels less than those levels mandated by state or federal law.

12. No certificated employee junior to any respondent was retained to perform any services which any respondent was certificated and competent to render.

13. The District dismissed the Accusations against the following teachers: Argelia Cespedes, Charles Phillip Clegg, Nicole M. Crampton, Bethany Joy Dizon, Laura E. Eisele, Jeffrey P. Gumbayan, Heather Paige Hobson, Deanna Lynn Jones, Jennifer Lynne Koett, Lindsay Owens, Rebecca Marie Rettinger, Nona R. Richard, Jason Lawrence Robbins, Mackenzie Leigh Rollins, Shauna Rose Stueve, Nina Marie Tubbs, Autumn Dawn Welch, and Virginia Concepcion Wilhite.

14. As part of its overall reduction or elimination of particular kinds of services the District released all of its temporary certificated employees before laying-off any probationary or permanent certificated employees. The District employs temporary certificated employees pursuant to Education Code sections 44909 and 44920.

15. Respondents Linda Hirshmillier and Dayna Louise White sought to have their temporary status changed to probationary because they assumed after they were hired as temporaries that they would eventually become probationary employees. However, both signed contracts acknowledging their temporary employment status at the time of initial



employment and neither worked at least 75 percent of the number of days during the regular school year.<sup>2</sup>

16. Respondent Mary Patricia Durel sought to have her status as temporary changed to a probationary status because she had served two consecutive years in a categorically funded program. However, she was not entitled to have her service count toward permanent employment because she did not serve at least 75 percent of the number of days during the regular school year and she was not subsequently employed as a probationary employee in a position requiring certification qualifications.<sup>3</sup>

### LEGAL CONCLUSIONS

1. Jurisdiction in this matter exists under Education Code sections 44949 and 44955. All notices and jurisdictional requirements contained in those sections were satisfied as to those certificated employees identified herein.

2. Employment of a temporary teacher for two consecutive years does not compel a District to classify the temporary teacher as a probationary teacher. Moreover temporary teachers are not entitled to probationary status on the basis of their total length of service. (*Santa Barbara Federation of Teachers v. Santa Barbara High School District* (1977) 76 Cal.App.3d 223, 237.)

3. Cause exists under Education Code sections 44949 and 44955 for the District to reduce or discontinue particular kinds of services. The cause for the reduction or discontinuation of particular kinds of services related solely to the welfare of the schools and the pupils thereof. A preponderance of the evidence sustained the charges set forth in the accusation. It is recommended that the Board give respondents notice before May 15, 2008, that their services are no longer required by the District.

---

<sup>2</sup> Education Code section 44918.

<sup>3</sup> Education Code section 44909 and (see, *Hasse v. San Diego Community College Dist.* (1980) 113 Cal.App.3d 913). Durel also testified that she was not bilingual.

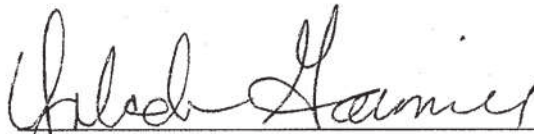
## RECOMMENDATION

It is recommended that the Accusations filed against Argelia Cespedes, Charles Phillip Clegg, Nicole M. Crampton, Bethany Joy Dizon, Laura E. Eisele, Jeffrey P. Gumbayan, Heather Paige Hobson, Deanna Lynn Jones, Jennifer Lynne Koett, Lindsay Owens, Rebecca Marie Rettinger, Nona R. Richard, Jason Lawrence Robbins, Mackenzie Leigh Rollins, Shauna Rose Stueve, Nina Marie Tubbs, Autumn Dawn Welch, and Virginia Concepcion Wilhite be dismissed.

It is recommended that the accusations served on all other respondents be sustained and that the Board send final notice to these respondent certificated employees who were previously served with the preliminary layoff notice that their services will not be required for the 2008 – 2009 school year because of the reduction or discontinuance of particular services.

DATED:

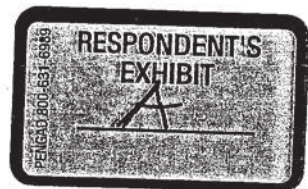
May 9, 2008



YOLANDA GAMMILL

Administrative Law Judge

Office of Administrative Hearings



**Cajon Valley Reduction-in-Force**

**April 23-24, 2008**

**Respondents Represented by Counsel and Not**

Barry, Joe
Bible, Dyana
Bobo, Nancy
Bolger, Regina
Bradshaw, Nicole
Burke, Jamie
Carlock, Sarah
Carmona, Sara
Celaya, Daniella
Cespedes, Argelia
Chui, Rebecca
Clark, Emily
Clegg, Charles
Crampton, Nicole
De La Marter, David
Dilgard, Choleanne
Durel, Mary
Dustin, Darci
Eisele, Laura
Fahey, Caitlin
Gilmore, Teryn
Gumbayan, Jeffrey
Hartnett, Penelope
Hirschmiller, Linda
Hobson, Heather
Humphrey, Janice
Hyde, Allison
Isom, Stacey
Jones, Deanna
Jones, Jennifer
Jones, Lori
Jones, Veronica
Keffer, Jenna
Kennedy, Jill
Koett, Jennifer
Lange, Casey
Linebach, Lindsey
Lucas, Kristen
Luck, Kristen

EX A



Lueders, Deborah
Mason, Kristine
Montes, April
Odonoghue, Katherine
Oleson, Victoria
Olson, Sarah
Paraiso, Heather
Parris, Erica
Petraglia, Jennifer
Pike, Jacklyn
Raimondo, Cherylann
Reese, Robin
Rettinger, Rebecca
Rice, Jaclyn
Richard, Nona
Robbins, Jason
Rollins, Mackenzie
Ruiz-Jo, Daniela
Ruth, Jacob
Saffer, Neil
Sanchez, Sandra
Sanders, Linda
Sauer, Lauren
Shackford, Kathleen
Stack, Laurey
Stueve, Shauna
Tillman-Harris, Amie
Tomlin, Dawn
Tout, Rachel
Tsay, Jennie
Tubbs, Nina
Valente, Brian
Wade, Robert
Wappler, Debra
Warren, Jackie
Welch, Autumn
White, Dayna
Wilson, Tyra
Wright, Kimberley
Zamudio, Jennifer

— Schantz, Lindsey — member, rep'd.  
 — Coaffee —  
 Villanueva, — ] — non-members, not rep'd.  
 Wilner — ]



**Cajon Valley Reduction-in-Force  
April 23-24, 2008  
Respondents Represented by Counsel and Not**

Barry, Joe  
Bible, Dyana  
Bobo, Nancy  
Bolger, Regina  
Bradshaw, Nicole  
Burke, Jamie  
Cafferata, Chantelle  
Carlock, Sarah  
Carmona, Sara  
Celaya, Daniella  
~~Cespedes, Argelia~~  
Chui, Rebecca  
~~Clark, Emily~~  
Clegg, Charles  
Crampton, Nicole  
De La Marter, David  
~~Desilva, Allison~~  
Dilgard, Choleanne  
Durel, Mary  
Dustin, Darci  
Eisele, Laura  
Fahey, Caitlin  
Gilmore, Teryn  
Gumbayan, Jeffrey  
~~Hacket, Lizette~~  
Hartnett, Penelope  
Hirschmiller, Linda  
Hobson, Heather  
Humphrey, Janice  
Hyde, Allison  
Isom, Stacey  
~~Jones, Deanna~~  
Jones, Jennifer  
Jones, Lori  
~~Jones, Veronica~~  
~~Keffer, Jenna~~  
~~Kennedy, Jill~~  
Koett, Jennifer  
Lange, Casey  
~~Lee, Travis~~

Linebach, Lindsey  
Lucas, Kristen  
Luck, Kristen  
~~Lueders, Deborah~~  
~~Mason, Kristine~~  
Montes, April  
Odonoghue, Katherine  
Oleson, Victoria  
Olson, Sarah  
~~Paraiso, Heather~~  
~~Parris, Erica~~  
Petraglia, Jennifer  
Pike, Jacklyn  
Raimondo, Cherylann  
Reese, Robin  
Rettinger, Rebecca  
Rice, Jaclyn  
Richard, Nona  
~~Robbins, Jason~~  
Rollins, Mackenzie  
~~Ruiz-Jo, Daniela~~  
Ruth, Jacob  
Saffer, Neil  
Sanchez, Sandra  
~~Sanders, Linda~~  
Sauer, Lauren  
Schantz, Lindsey  
Shackford, Kathleen  
~~Stack, Laurey~~  
Stueve, Shauna  
Tillman-Harris, Amie  
Tomlin, Dawn  
Tout, Rachel  
Tsay, Jennie  
Tubbs, Nina  
Valente, Brian  
~~Villanueva, Delia~~  
Wade, Robert  
Wappler, Debra  
Warren, Jackie  
Welch, Autumn  
White, Dayna  
~~Wilner, Danielle~~  
~~Wilson, Tyra~~  
Wright, Kimberley