

BEFORE THE BOARD OF TRUSTEES
UPPER LAKE UNION HIGH SCHOOL DISTRICT

In the Matter of the Accusation Against:

STEVE KESLING,

Respondent.

OAH No. 2008020552

PROPOSED DECISION

Administrative Law Judge Nancy L. Rasmussen, Office of Administrative Hearings, State of California, heard this matter on April 15, 2008, in Lakeport, California.

John A. Drummond, Schools Attorney, Lake County Office of Education, represented the Upper Lake Union High School District.

James D. Allen, Attorney at Law, represented respondent Steve Kesling, who was present.

The matter was submitted for decision on April 15, 2008.

FACTUAL FINDINGS

1. Pat Iaccino made and filed the accusation in his official capacity as Superintendent of the Upper Lake Union High School District.
2. Respondent Steve Kesling is a certificated employee of the district.
3. On February 27, 2008, the district's Board of Trustees adopted Resolution No. 02-08-02 reducing particular kinds of services and directing the superintendent to give appropriate notices to certificated employees whose positions will be affected by the action.
4. On or about February 28, 2008, Superintendent Iaccino gave written notice to six certificated employees, including respondent, of the recommendation that their services will not be required for the 2008-09 school year. Each notice set forth the reasons for the recommendation.
5. Respondent filed a timely request for hearing to determine if there is cause for terminating his services for the 2008-09 school year. (The other five employees did not file

requests for hearing.) An accusation was served on respondent, and he filed a timely notice of defense. All prehearing jurisdictional requirements have been met.

6. The board took action to reduce the following particular kinds of services for the 2008-09 school year:

<u>Services</u>	<u>FTE¹ Reduction</u>
3 periods of Beginning Woodshop	0.6
2 periods of ROP Woodshop	0.4
3 periods of World History	0.6
3 periods of Health	0.6
5 periods of Spanish	1.0
4 periods of Earth Science	0.8
1 period of Chemistry	0.2
4 periods of English	0.8
5 periods of counseling	1.0

7. Respondent holds a Life Standard Secondary – Industrial Arts (Academic) teaching credential, and he teaches the three periods of Beginning Woodshop and two periods of ROP Woodshop that will be eliminated next year. He believes the classes he teaches are particularly important in this district, where many students do not go on to college. Respondent's classes give students an opportunity to think and problem-solve in a real world setting.

8. The board is not reducing services in Agricultural Science, Agricultural Mechanics or ROP Forestry. These classes, which respondent is not credentialed to teach, are taught by Erica Boomer, a certificated employee with less seniority than respondent.

9. Education Code section 51220 sets forth the areas of study that shall be included in the adopted course of study for grades 7 to 12. Subdivision (h) specifies: "Applied arts, including instruction in the areas of consumer and homemaking education, industrial arts, general business education, or general agriculture." Respondent contends that if the district continues to offer courses in applied arts, the board should consider employee seniority in deciding which courses to keep and which courses to eliminate. This principle would dictate that the board eliminate the agriculture classes taught by Erica Boomer rather than the industrial arts classes taught by respondent, because respondent has more seniority than Boomer.

Respondent's contention is without merit. In reducing or discontinuing particular kinds of services, the governing board of a school district has broad discretion to determine which services will be reduced or discontinued. Employee seniority must be considered only in determining which employees will be laid off to implement the service cuts.

¹ Full-time equivalent positions.

10. No certificated employee junior in seniority to respondent is being retained by the district to perform services that respondent is certificated and competent to render.

LEGAL CONCLUSIONS

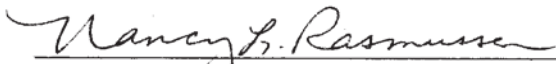
1. Jurisdiction for this proceeding exists pursuant to sections 44949 and 44955, and all notices and other requirements of those sections have been provided as required.

2. Cause exists because of the reduction of particular kinds of services pursuant to section 44955 to give notice to respondent that his services will not be required for the 2008-09 school year. The cause relates solely to the welfare of the schools and the pupils thereof within the meaning of section 44949.

ORDER

Notice may be given to respondent Steve Kesling that his services will not be required for the 2008-09 school year because of the reduction of particular kinds of services.

DATED: April 22, 2008


NANCY L. RASMUSSEN
Administrative Law Judge
Office of Administrative Hearings