

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

In the Matter of the Employment Status of:

LISA MILA, et al.

Respondents.

OAH No. 2008030440

PROPOSED DECISION

Robert Walker, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter in Riverbank, California, on April 18, 2008.

Chesley D. Quaide, Attorney at Law,¹ represented the complainant, Joseph Galindo, Superintendent, Riverbank Unified School District.

Ernest A. Tuttle, IV, Attorney at Law,² represented the respondents, Lisa Mila et al. (A list of respondents is attached.)

FACTUAL FINDINGS

1. Respondents Lisa Mila, et al., are certificated district employees.
2. Not later than March 15, 2008, in accordance with Education Code sections 44949 and 44955,³ the superintendent of the school district caused the governing board of the district and respondents to be notified in writing that it was recommended that respondents be notified that the district would not require their services for the ensuing school year. The notice stated the reasons for the recommendation. The recommendation was not related to respondents' competency.

¹ Chesley D. Quaide, Attorney at Law, 5776 Stoneridge Mall, Suite 200, Pleasanton, California 94588.

² Ernest A. Tuttle, IV, Attorney at Law, 735 Sunrise Avenue, Suite 115, Roseville, California 95661.

³ All references to the Code are to the Education Code unless otherwise specified.

3. A notice was delivered to each respondent, either by personal delivery or by depositing the notice in the United States mail, registered, postage prepaid, and addressed to respondent's last known address.

4. The notice advised each respondent of the following: He or she had a right to a hearing. In order to obtain a hearing, he or she had to deliver a request for a hearing in writing to the person sending the notice. The request had to be delivered by March 17, 2008, which was not less than seven days after the notice of termination was served. And the failure to request a hearing would constitute a waiver of the right to a hearing.

5. Each respondent timely filed a written request for a hearing to determine whether there was cause for not reemploying him or her for the ensuing year. An accusation was timely served on each respondent. Each respondent filed a timely notice of defense. All prehearing jurisdictional requirements were met.

6. The governing board of the district resolved to reduce or discontinue particular kinds of services. Within the meaning of Code section 44955, the services are "particular kinds of services" that can be reduced or discontinued. The recommendation to reduce or discontinue these services was not arbitrary or capricious but constituted a proper exercise of discretion.

7. The governing board of the district determined that, because particular kinds of services are to be reduced or discontinued, it is necessary to decrease the number of permanent employees in the district.

8. The district is not retaining any employee with less seniority than respondents have to render a service that respondents are certificated and competent to render.

LEGAL CONCLUSIONS

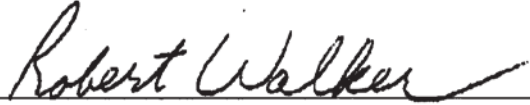
1. Jurisdiction in this matter exists under Code sections 44949 and 44955. All notice and jurisdictional requirements contained in those sections were satisfied.

2. Within the terms of Code sections 44949 and 44955, the district has cause to reduce or discontinue particular kinds of services and to give notices to respondents that their services will not be required for the ensuing school year. The cause relates solely to the welfare of the schools and the pupils.

ORDER

The district may give notice to the respondents that the district will not require their services for the ensuing school year.

Dated: April 24, 2008

A handwritten signature in cursive script, reading "Robert Walker", is written over a horizontal line.

ROBERT WALKER

Administrative Law Judge

Office of Administrative Hearings

RESPONDENTS

Lisa Mila

Cristina Calderon

Karen Baker

Zachary Wilkins

Holly Kroutil