

BEFORE THE
GOVERNING BOARD
BAKERSFIELD CITY SCHOOL DISTRICT
COUNTY OF KERN
STATE OF CALIFORNIA

In the Matter of the Layoffs Of:

Noemi Alcala and Other
Certificated Employees of the
Bakersfield City School District,

Respondents.

Case No. L2010030091

PROPOSED DECISION

Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, heard this matter on April 6 and 7, 2010, in Bakersfield, California.

Candace M. Bandoian, Attorney at Law, represented Linda Goodspeed (Goodspeed), Director of Certificated Personnel, Bakersfield City School District (District).

Thomas J. Driscoll, Attorney at Law, represented the certificated employees set forth in legal conclusion number 4 who appeared at the hearing, as well as other certificated employees against whom the District withdrew the accusations during the course of the hearing (Respondents).¹

¹ During the hearing, the district withdrew the accusations against the following individuals, thus retaining them for the 2010-2011 school year: Gloria Amezcua, Sue Ellen Anderson, La Vesha Anthony, Julie Ashley, Bertha Barrera, Michelle Bateman, Anne Bistany, Theresa Blair, Kally Bynum, Michael Caniff, Toni Carter, Courtney Castro, Michelle Cazares, Donna Cervantes, Maria Chaney, Demarcus Clear, Jennifer Costner, Nancy Craig, Jade D'Agostino, Scott Floyd, Albert Garcia, Jamileh Ghazi Moradi, Amanda Gonzales, Diane Higuera, Teresa Iparraguirre, Angela Jarrett, Katy Johnson, Susan Johnson, Stephanie Kurtz, Kimberly Larkin, Tiffane Llamas, Laurie Lopez, Jeanette Mai, Donna Mason, Babara McCormack, Ashley Moore, Jennifer Morse, Laura Oftedal, Silvia Olmos, Cherie Payne, Glen Purvis, Desiree Romero, Mary Ellen Rose, Ramona Ross, Tanisha Ross, Cheryl Salas, Christina Salazar, Cecilia Sandoval, Stephanie Tiede, Katie Venegas, Ruth Villalobos, Samantha Wood, and Christine Ybarra.

Jennifer Morse and Gricelda Elizalde represented themselves and appeared on the first date of hearing.

The District has decided to reduce or discontinue certain educational services and has given Respondents and other certificated employees of the District notice of its intent not to reemploy them for the 2010-2011 school year. Respondents requested a hearing for a determination of whether cause exists for not reemploying them for the 2010-2011 school year.

Oral and documentary evidence, and evidence by oral stipulation on the record, was received at the hearing, and the matter was submitted for decision.

FACTUAL FINDINGS

1. Director Goodspeed filed the Accusations in her official capacity.
2. Respondents are certificated employees of the District.
3. a. On February 23, 2010, the Governing Board of the District (Governing Board) adopted a resolution reducing or discontinuing the following services for the 2010-2011 school year:

<u>Service</u>	<u>FTE² Equivalent Positions</u>
Principal	1.0
Vice Principals	6.0
Library Media Specialists	8.0
Counselors	22.0
Controlled Open Enrollment/TIIG Program	10.0
Increase Class Sizes – Grades K-3	46.0
Increase Class Sizes – Grades 4-6	10.0
Increase Class Sizes – Grades 7 -8	15.0
Art	1.0
Physical Education	<u>1.0</u>
Total	120.0

² Full-time equivalent position.

b. Following adoption of the resolution, the District took into account anticipated attrition, and concluded that the actual number FTE positions that had to be reduced was 101, not 120.

4. On or about February 24, 25, and 26, 2010, the District provided notice to Respondents that their services will not be required for the 2010-2011 school year due to the reduction of particular kinds of services.

5. On February 24, 2010, Director Goodspeed, acting on authority delegated to her by the Superintendent of the District, notified the Governing Board that she had recommended that notice be provided to 244 certificated employees of the District, including Respondents, that their services will not be required for the 2010-2011 school year due to the reduction of particular kinds of services. Of these notices, 68 were characterized as “precautionary,” issued as a precaution in the event that layoff notices to other employees were not sustained after hearing.³

6. Respondents timely requested a hearing to determine if there is cause for not reemploying them for the 2010-2011 school year.

7. On or about March 15, 2010, the District issued the Accusations, and served them on Respondents.

8. Respondents thereafter filed timely notices of defense.

9. All prehearing jurisdictional requirements have been met.

10. The services set forth in factual finding number 3 are particular kinds of services which may be reduced or discontinued within the meaning of Education Code⁴ section 44955.

11. The reduction or discontinuance of services set forth in factual finding number 3, in the context of the anticipated decline in revenue, is related to the welfare of the District and its pupils, and it has become necessary to decrease the number of certificated employees as determined by the Governing Board.

³ Pursuant to a stipulation between the parties, all precautionary notices and all accusations issued against certificated employees who received such a notice were rescinded at the hearing.

⁴ All further references are to the Education Code.

12. On February 23, 2009, the Governing Board adopted a resolution setting forth the criteria to determine seniority among employees who first rendered paid service in a probationary position on the same date (tie-breaking criteria). The criteria are reasonable as they relate to the skills and qualifications of certificated employees.

13. No certificated employee junior to any Respondent was retained to render a service which any Respondent is certificated and competent to render.

LEGAL CONCLUSIONS

1. Jurisdiction for the subject proceeding exists pursuant to sections 44949 and 44955, by reason of factual finding numbers 1 through 9.

2. The services listed in factual finding number 3 are particular kinds of services within the meaning of section 44955, by reason of factual finding numbers 3 and 10.

3. Cause exists under sections 44949 and 44955 for the District to reduce or discontinue the particular kinds of services set forth in factual finding number 3, which cause relates solely to the welfare of the District's schools and pupils, by reason of factual finding numbers 1 through 13.

4. Cause exists to terminate the services of Respondents Noemi Alcala, Natasha Anaya, Rebecca Aranda, Cassandra Atkinson, Gayla Ballew, Daniela Baltazar, Valerie Barksdale, Shannon Barnes, Kristen Behill, Martha Bentley, Melissa Bila, Rebecca Bolton, Mandy Bradford, Andrea Brazier, Esther Castillo, Maria Ceballos, Isabel Chavez, Shennel Clark, Jillian Collins, Steven Comstock Jr., Melissa Delehoy, Nicole Despot, Amy Dinsmore, January Dinwiddie, Kimberly Doering, Nicole Eckberg, Amy Erickson, Monica Escalera, Aurora Federico, Dian Fernandez, Laura Figueroa, Paula Fitzgerald, Holly Fox, Monica Garza, Marty Gomez, Holly Gonzales, Molly Gutierrez, Carly Haardt, Constance Hennessy, Amanda Horton, Melinda Hufft, Kayla Illington, Barbara Iriart, Jamie Jenkins, Colleen Jiron, Becky Johnson, Rebecca Larsen, Mike Long, Christina Lopez, Monica Lopez, Evangelina Luna, Heather Lundin, Jennifer Maddern, Cassie Magorian, Brooke Malley, Carrie Maxwell, Kenya McCormack, Ashley McDonald, Ryan McGowan, Claudia Medrano, Christina Mejia, George Moncier, Sunny Mueller, Christine Nelson, Brian Osborne, Marci Palla, Terysa Patterson, Marciel Pelpelen, Sarah Peterson, Melanie Pratt, Martha Quiroz-Varela, April Ranguindin, Harmanjit Rai, Denise Ramirez, Jennifer Reynolds, Carly Rhodes, Richard Ribaud, Alcia Rice, William Riley, Leticia Rodriguez, Maranda Rust, Kelli Schillinger, Anna Schrader, Veronica Shepherd, Shelly Shultz-Johnson, Zachary Smith, Caitlin Sedegren, Sandra Taylor, Melynie Thomas, Heather Trubey, Jennifer Unruh, Brandon Ware, Amy Wiener, Melinda Witt, and Sarah Yanney, by reason of factual finding numbers 1 through 13 and legal conclusion numbers 1 through 3.

ORDER

The Accusations are sustained and the District may notify the Respondents set forth in legal conclusion number 4 that their services will not be needed during the 2010-2011 school year due to the reduction of particular kinds of services.

DATED: _____

SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings