

**BEFORE THE
OFFICE OF THE SANTA CLARA COUNTY
SUPERINTENDENT OF SCHOOLS
COUNTY OF SANTA CLARA
STATE OF CALIFORNIA**

**In the Matter of the Reduction in Force Involving 27
Certificated Employees, Respondents.**

OAH No. 2021030909

PROPOSED DECISION

Administrative Law Judge Regina Brown, State of California, Office of Administrative Hearings, heard this matter remotely on April 28, 2021.

Adam J. Fiss and Michelle M. Holmes, Attorneys, Littler Mendelson P.C., represented the Santa Clara County Office of Education (SCCOE).

Sarah Sandford-Smith, Attorney, Beeson, Tayer & Bodine, APC, represented the 15 respondents listed on Attachment A¹, including Veronica Ramos, Kristin Rivers, Michelle Oliver, Aeth Manuel-Biagtan, Rebecca Allswang, Pamela Ellis, and Lissa Thiele, who were present throughout the hearing.

¹ Attachment A, attached hereto and incorporated herein (also admitted into evidence as Exhibit 14), is an alphabetical list of the 15 respondents.

The matter was submitted for decision on April 28, 2021.

FACTUAL FINDINGS

Background

1. Larry Oshodi, Assistant Superintendent, Personnel Services, SCCOE, made and filed the Statement of Reduction in Force in his official capacity.

2. On March 11, 2021, Mary Ann Dewan, Ph.D., SCCOE Superintendent of Schools, adopted a resolution entitled "Resolution of the Santa Clara County Superintendent of Schools Regarding the Reduction of Certificated Services" (PKS Resolution) reducing or discontinuing particular kinds of services for the 2021-2022 school year, and directing Assistant Superintendent Oshodi to send notices to all affected employees.

3. The PKS Resolution identified the services to be reduced no later than the beginning of the 2021-2022 school year as:

Teacher – Severe Disabilities (SD)	5.0 FTE ²
Teacher – Emotionally Disturbed (ED)	3.0 FTE
Teacher – CTE/Career Readiness & Work (Community School)	1.0 FTE
Teacher – Special Education – Early Childhood	2.0 FTE

² Full-Time Equivalent.

Teacher – Work Experience Education	1.0 FTE
Teacher – Special Assignment – Parent Liaison	2.0 FTE
Resource Specialist	3.0 FTE
Counselor	1.0 FTE
School Therapist	1.0 FTE
Teacher – Court School	5.0 FTE

The services set forth in the PKS Resolution are particular kinds of services that may be reduced or discontinued within the meaning of Education Code section 44955. The PKS Resolution also designated to retain particular kinds of service (otherwise known as skipping) including Math/Science Teachers and the Opportunity Youth Academy (OYA).

4. SCCOE’s decision to retain Math/Science Teachers (who must possess both a single subject and science credential) due to their specialized training and experience relating to their courses satisfies the requirements of Education Code section 44955, subdivision (d).

5. On March 11, 2021, Superintendent Dewan also adopted a resolution entitled “Resolution of the Santa Clara County Superintendent of Schools Regarding the Establishment of Criteria for Order of Layoff and Reappointment for Employees with Equal Seniority” which established tie-breaker criteria. In determining which employees would receive a layoff notice, SCCOE applied tie-breaking criteria for employees and there are no issues with respect to the application of the criteria to respondents.

6. Pursuant to Education Code section 44955, subdivision (b), when a governing board reduces particular kinds of services resulting in a decrease in the number of certificated, permanent employees, the services of a permanent employee may not be terminated if another employee with less seniority is retained to render a service that the more senior employee is "certificated and competent to render." In other words, a teacher with more seniority typically has greater rights to retain employment than a teacher with less seniority. A senior teacher whose position is discontinued has the right to a position held by a junior teacher if the senior teacher is properly credentialed which is known as "bumping."

7. The seniority date of certificated employees is determined in accordance with Education Code section 44845, which provides: "Every probationary or permanent employee employed after June 30, 1947, shall be deemed to have been employed on the date upon which [s]he first rendered paid service in a probationary position."

8. On or before March 15, 2021, SCCOE timely issued layoff notices to 27 impacted employees pursuant to Education Code sections 44949 and 44955.

9. SCCOE timely provided to all initial 27 respondents: a statement to respondent regarding the layoff process, the statement of reduction in force, copies of relevant Education and Government Code sections, a notice of participation and a notice of hearing.

10. Prior to hearing, SCCOE rescinded 12 layoff notices. The 15 remaining respondents timely submitted hearing requests and notices of participation and are as follows (with their respective positions on the seniority list; dates of hire; and job titles):

- 1) Stacey McCabe (273, 10/12/2020, Teacher, Alternative Education)³
- 2) Lissa Thiele (270, 8/15/2020, Teacher/Adult Reentry/AED⁴)
- 3) Kristin Rivers (263, 8/30/2019, Teacher, Alternative Education)
- 4) Eric Camilleri (266, 12/5/2019, Teacher, Alternative Education)
- 5) Rolando Vital (243, 10/19/2018, Teacher, SD⁵)
- 6) Gabriel Coffman (245, 11/8/2018, Teacher, SD)
- 7) Rebecca Allswang (247, 1/30/2019, Teacher, ECSE⁶)
- 8) Pamela Ellis (249, 8/5/2019, Teacher, SD)
- 9) Zeeshan Hassan (252, 8/5/2019, Teacher, SD)
- 10) Patrice Mcneal (256, 8/5/2019, Teacher, ED⁷)
- 11) Michelle Oliver (257, 8/5/2019, Teacher, ECSE)
- 12) Alicia Arellano (213, 3/30/2017, Teacher, ECSE)

³ The parties have a stipulation that will update McCabe's seniority status outside of these proceedings.

⁴ AED means Alternative Education.

⁵ SD means severe disabilities.

⁶ ECSE means early childhood special education.

⁷ ED means emotional disturbances.

- 13) Winston Cole (216, 8/2/2017, Teacher, ED)
 - 14) Aeth Manual-Biagtan (219, 8/11/2017, Teacher, SDC⁸)
 - 15) Veronica Ramos (195, 7/1/2016, Teacher, Alternative Education)
- 11. SCCOE timely issued an Amended Notice of Hearing to the respondents.
 - 12. All prehearing jurisdictional requirements have been met.

PKS Resolution and Skipping

13. At hearing, Assistant Superintendent Oshodi explained that the proposed reductions in the PKS Resolution occurred after a review of SCCOE's needs and its ability to comply with federal and state mandated programs.

14. The PKS Resolution skipped OYA because it is a unique program. Prior to issuing the layoff notices, SCCOE reviewed the specialized training and experience required for OYA teachers and staff and determined that no senior employees at SCCOE met the requirements for bumping purposes.

15. Prior to issuance of the PKS Resolution, Assistant Superintendent Oshodi and his executive team considered other areas to skip in addition to skipping Math/Science and OYA. They assessed Adult Reentry, which is a mandated program. However, it was determined that it was unnecessary to skip Adult Reentry because SCCOE could continue to provide the service with the remaining skilled and credentialed employees.

⁸ SDC means special day class.

Assistant Superintendent Oshodi also assessed whether to skip the Court School program which services students in the juvenile justice system and is a mandated program. SCCOE personnel spoke to the decisionmakers in the probation department before eliminating the five court school positions. SCCOE intends to reorganize the program for the upcoming school year. Oshodi is aware that the Department of Juvenile Justice's facilities will close on July 1, 2021. In the assessment of whether to skip Court School, Oshodi considered the expected increase in the number of students SCCOE would have to serve with the facilities' closures. SCCOE will be able to fulfill its mandate because four credentialed teachers will remain at the Court School at juvenile hall and provide special education services.

Assistant Superintendent Oshodi also assessed whether to skip the Head Start/Early Head Start program which is a mandated program for incoming students who are three years old and may need special education services. SCCOE will continue to fulfill its mandate if there is an increase in students.

Skipping of OYA Counselor

16. SCCOE deviated from seniority order in deciding to retain an OYA counselor, Kipsia Jimenez-Mendoza, who was junior to another employee, Veronica Ramos. In order to deviate from seniority order and retain a junior teacher, SCCOE must satisfy the requirements of Education Code section 44955, subdivision (d), which provides in relevant part:

Notwithstanding subdivision (b), a school district may deviate from terminating a certificated employee in order of seniority for either of the following reasons:

The district demonstrates a specific need for personnel to teach a specific course or course of study, . . . and that the certificated employee has special training and experience necessary to teach that course or course of study . . . which others with more seniority do not possess.

For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.

Therefore, in order to skip a junior teacher and layoff a more senior teacher, SCCOE must establish the following: that it has "a specific need" for personnel to teach "a specific course or course of study"; that the junior teacher possesses "special training and experience" necessary to teach such a course or course of study; and that teachers senior to the junior teacher do not possess those special qualifications. (*Bledsoe v. Biggs Unified School Dist.* (2009) 170 Cal.App.3d 127.)

17. Assistant Superintendent Oshodi applied the skipping criteria to OYA and proposes to skip Jimenez-Mendoza, who presently holds the Academic Counselor position at OYA. Oshodi concluded that Jimenez-Mendoza cannot be bumped by a more senior employee because of the skipping provision in the PKS Resolution and because she has the special training and experience for that position that more senior teachers at SCCOE do not possess.

Assistant Superintendent Oshodi did not meet with any senior teacher, including respondent Veronica Ramos, to discuss his or her specific training and experience. In Oshodi's view, a specific analysis of respondent Ramos's training and experience was not required because "employers have the right of skipping." Oshodi

contends that respondent Ramos does not have the special training and experience that Jimenez-Mendoza has for the OYA Academic Counselor position.

18. Phil Morales has been the Director of OYA for five years. OYA is a program for youth and adults ages 16 to 24 years old to reengage and assist them with completing their high school education and transition to either post-secondary school or careers. OYA is a dependent charter school with 10 teachers and one counselor with average enrollment of 350 students, but has enrolled up to 600 students. It is a voluntary program comprised of a student population of low income and socioeconomic disadvantaged students and teen parents who have not been in school for extended periods of time, sometimes years.

19. Morales explained how the job description for OYA Academic Counselor differs from an SCCOE Academic Counselor. Generally, the OYA Academic Counselor provides all aspects of counseling and guidance services to students in SCCOE programs including supplemental academic intervention services to support underachieving students; provides informational services to parents, teachers, and administrators in order to promote a comprehensive decision-making process for student educational objectives; and is involved in development and school programming.

Also, according to the job description, an OYA Academic Counselor is required to have a valid California Pupil Personnel Services Credential authorizing services as a School Counselor. An OYA Academic Counselor must demonstrate knowledge and experience in counseling 16-24 year old students in need of credit completion to earn a high school diploma, among other things. The essential duties of OYA Academic Counselor are to review student skills assessment/educational needs evaluation; assist

with individualized student programming/scheduling; monitor student graduation process; evaluate transcripts; refer students for support services; act as transfer liaison; provide individual student counseling, group counseling and parent conferencing; provide support services to teachers; develop and implement specialized curriculum; provide career counseling; monitor work experience; act as community liaison and provide in-service to employers working with students enrolled in county office programs. Also, the OYA Academic Counselor must have a flexible schedule to accommodate students who are not on site.

20. According to Morales, OYA teachers must have special education or general education credentials; experience or training in Blended Learning and Blended Learning certification; and prior experience working with OYA because it serves a specific population and is not a traditional high school setting.

21. OYA provides training to teachers and staff through Connect Ed associated with the National Center for College and Career which has a sequenced set of activities and services to support the introduction and implementation of the Linked Learning approach. Connect Ed serves as coaches to OYA teachers and staff and has issued an assessment report and action plan that will be implemented in the 2021-2022 school year. Jimenez-Mendoza is on the Connect Ed leadership team.

22. OYA differs from Alternative Education. Alternative Education (where Ramos is assigned) only serves students 18 and younger. Also, the Ingenuity curriculum is used in Alternative Education. OYA uses the SIATech curriculum. SIATech previously provided in-person training, which is now online, to teachers and staff. Morales states that the OYA Academic Counselor must be able to read transcripts to determine credits and how they are associated with the SIATech curriculum.

23. OYA has adopted a flex model, comprised of 60 percent online and 40 percent in-person small group setting for Math and English, instead of a 100 percent online learning model. Blended Learning is the online training platform for OYA teachers and staff. Online and Blended Learning Certification is provided by Professional Innovation Pathways and Leading Edge Alliance which provides a pedagogy of effective online instruction and strategies for enhancing the learning opportunities for online and blended learning classes. Morales explained that if a student is struggling, the OYA Academic Counselor can recommend that the student be placed in the 40 percent in-person cohort.

24. Jimenez-Mendoza is a permanent full-time (1.0 FTE) certificated Academic Counselor at OYA and was hired on October 3, 2016. She has credentials in Pupil Personnel Services – Clear and Subject – School Counseling. Jimenez-Mendoza has been the only counselor at OYA since its inception. She has completed all necessary training and has experience for her position at OYA, including Blended Learning and Connect Ed. Jimenez-Mendoza has also had annual SIATech group training; however, a SIATech representative is available to provide individual training. She is also a Career Labs trained facilitator and facilitates a four-week job skills program for students. She has also had training in the Naviance College/Career Online Curriculum to assist student with career exploration and academic planning.

VERONICA RAMOS

25. Ramos is a permanent full-time (1.0 FTE) certificated teacher in Alternative Education and was hired on July 1, 2016. She is assigned to teach at Blue Ridge Ranch and Court School in Morgan Hill. She has credentials in Administrative Services – Clear; Multiple Subject Teaching – Clear; Pupil Personnel Services – Clear;

Subject-School Counseling; BCLAD; and Subject – General Subjects (Examination). She has 24 years in education and she is working on her doctorate. Currently, Ramos works with incarcerated youth who are disengaged and disinterested in completing high school and often have school credit deficiencies. She uses their transcripts to counsel and provide guidance to students on which courses to take. She has experience applying the Alternative Education curriculum, Ingenuity, to a student's transcript to avoid having the student retake entire courses. She develops relationships with the students and helps them set goals, develop interests, and transition back to school. She is a Gallop-Strength Finders Coach. She also provides assistance to the onsite counselor.

26. Throughout her teaching career, Ramos has worked at Community High School. She worked on the Promise Youth initiative which is comprised of socially and economically disadvantaged students, dropouts, and teen parents. She worked at the Migrant Youth Education Program where she served as a teacher and performed counseling duties. She is familiar with the OYA student population as some of her students transitioned to OYA. Although she has never taught at OYA, Ramos is willing to be assigned to OYA and has a flexible schedule as she already works with students in the evenings.

27. Ramos has had Blended Learning training, as a result of the COVID-19 pandemic. She has not taken the training offered by Connect Ed or SIATech. She has never been employed as a SCCOE Academic Counselor.

ANALYSIS OF RAMOS' TRAINING AND EXPERIENCE

28. SCCOE maintains that Jimenez-Mendoza may be skipped because she has special training and experience necessary to provide services at OYA and that

Ramos, a senior employee, does not have the training and experience, by virtue of the fact that she never worked at OYA, did not receive the specialized training as Jimenez-Mendoza, and she was never a counselor.

29. First, respondent Ramos contends that given SCCOE's affirmative duty to determine if she was competent for the OYA Academic Counselor position, SCCOE administrators were required to meet with her to review her qualifications. This argument is not persuasive. The hearing in this matter provided Ramos with the opportunity to present evidence of her training and experience. (See *Bledsoe, supra*, at 170 Cal.App.4th at p. 143 [the court found that the District should have assessed Bledsoe's qualifications prior to issuance of the preliminary notice, but he was not prejudiced by this failure because his qualifications were assessed at the hearing].)

30. Second, respondent Ramos persuasively contends that her training and experience meet the requirement of Education Code section 44955, subdivision (d)(1), and therefore, voids the skipping of Jimenez-Mendoza for the OYA Academic Counselor position.

It is undisputed that Ramos has not had the experience of working at OYA or as a SCCOE Academic Counselor. SCCOE has not established, however, that Ramos, who is more senior to Jimenez-Mendoza, does not have equivalent specialized training and experience. Regarding her experience, Ramos has worked with students (albeit not adults between the age of 18-24) who are at risk for not graduating and utilized many of the same alternative education resources. She reviews transcripts and works on class scheduling.

Additionally, the job description for OYA Academic Counselor only requires credentialing in Pupil Personnel Services and School Counseling which Ramos

possesses. The evidence established that Ramos has substantially performed the essential duties, outlined in the job description, for an OYA Academic Counselor. Ramos's experiences are not identical to those of Jimenez-Mendoza, but it has not been demonstrated that she lacks equivalent experience.

Also, the evidence established that the "specialized" training provided to Jimenez-Mendoza was minimal, and could be made available to Ramos. The evidence did not establish that Ramos could not easily obtain the same training in the summer (before the school year) or at the inception of the school year. In fact, the training on Connect Ed's Linked Learning approach does not go into effect at OYA until the upcoming school year. Also, SIATech training is available online or a SIATech representative is available to provide individual training.

For these reasons, SCCOE's layoff of Veronica Ramos is not supported by the facts and applicable law and should be rescinded.

Other Skipping Contention: Respondent Lissa Thiele

31. Thiele is a permanent full-time (1.0 FTE) certificated teacher in Adult Reentry/Alternative Education and was hired on August 15, 2020. Thiele works with high risk adult parolees and probationers through a contract with the Office of Reentry Services. She also serves as the school office coordinator and registrar. Her position does not provide mandated services.

Thiele believes that she should be retained because she was "hand selected" for the position to set up the entire school as it is hard as a teacher to relate to felons. She has attended courtroom trainings and spends a significant amount of time on the

phone talking to probation officers. She believes that her program should have been skipped.

32. Again, Education Code sections 44949 and 44955 establish a seniority-based layoff procedure that mandates that employees shall be terminated in the inverse order in which they were employed. These statutes do not permit employees to establish that they should be skipped because their certifications and experience render them more valuable to SCCOE than other employees. (See *Martin v Kentfield* (1983) 35 Cal. 3d 294, 299.) It is SCCOE's right and burden, not the employee's, to demonstrate a specific need for personnel or services such that those qualifications may be skipped in the layoff process. (Ed. Code, § 44955, subd. (d); *Bledsoe, supra*, 170 Cal.App.4th at p. 135.)

33. Thiele's argument does not raise a valid challenge to her layoff. The PKS Resolution reduced the service that Thiele provides and did not skip the Adult Reentry program. There is no permanent or probationary employee junior to Thiele who is being retained to render a service that she is credentialed and competent to teach. (Ed. Code, § 44955, subd. (b).) Thiele was properly bumped by a more senior employee. She may properly be given a final notice.

Respondents' Additional Contentions

MANDATED SERVICES

34. Respondents argue that the Statement of Reduction in Force should be dismissed in its entirety because of the "generally flawed nature and lack of determination of federal and other mandated services." In other words, respondents argue that SCCOE did not demonstrate its ability to provide mandated services

because Assistant Superintendent Oshodi did not provide evidence of what services will be eliminated.

35. This challenge to the layoff is rejected. SCCOE may properly reduce services in a statutorily mandated program as long as the mandated services do not fall below the statutory minimum. (*Campbell Elementary Teachers Assn., Inc. v. Abbott* (1978) 76 Cal.App.3d 796.) There was no evidence that SCCOE proposes to eliminate any services that are state or federally mandated. Furthermore, SCCOE was not required to present its post-layoff plan for providing mandated services at the layoff hearing; it is reasonable to expect SCCOE would have a plan for providing mandated services and would not act in a manner that invites federal or state scrutiny. Respondents' contention that SCCOE would be unable to provide mandated services is speculative and unsupported by the evidence.

REDUCTION OF SERVICES

36. Respondents also contend that SCCOE's discretion as to what particular kinds of services may be reduced is limited if it is not actually reducing services and plans to provide the same services in the upcoming school year. This argument is also speculative and unsupported by the evidence. There was no evidence that SCCOE will not actually reduce the services pursuant to the PKS Resolution.

INDIVIDUAL TEACHERS

Kristin Rivers

37. Rivers is a permanent full-time (1.0 FTE) teacher in Alternative Education hired on August 30, 2019. Rivers is assigned to Blueridge Ranch, but she is currently

covering for another teacher at juvenile hall. Rivers is surprised by the layoffs because class sizes have not reduced. She believes that class sizes at juvenile hall cannot be collapsed due to security reasons, such as keeping rival gang members separated. In addition, Rivers expects an increase in the number of students in the upcoming school year because of the anticipated Department of Juvenile Justice closures.

38. Rivers's argument is speculative and unsupported by the evidence. The PKS Resolution reduced the service that Rivers provides. (Factual Findings 3 and 10.) There is no permanent or probationary employee junior to Rivers who is being retained to render a service that she is credentialed and competent to teach. (Ed. Code, § 44955, subd. (b).) Rivers may properly be given a final notice.

Michelle Oliver

39. Oliver is a permanent full-time (1.0 FTE) teacher hired on August 5, 2019, and works in Early Childhood Special Education, a federally mandated program for student intervention. Oliver asserts that SCCOE did not properly perform an assessment of the impact of the higher percentage of students expected to exit Early Start throughout the school year who are potentially eligible for special education services. Oliver acknowledged that she had no personal knowledge of the assessments conducted by SCCOE.

40. Oliver's argument is speculative and unsupported by the evidence. The PKS Resolution reduced the service that Oliver provides. (Factual Findings 3 and 15.) There is no permanent or probationary employee junior to Oliver who is being retained to render a service that she is credentialed and competent to teach. (Ed. Code, § 44955, subd. (b).) Oliver may properly be given a final notice.

Aeth Manuel-Biagtan

41. Manuel-Biagtan is a permanent full-time (1.0 FTE) teacher for Special Day Class hired on August 11, 2017. Manuel-Biagtan works at juvenile hall. She contends that SCCOE is mandated to provide a special education teacher for 50 percent of the school day to students. She believes that she should be retained to maintain an equal number of special education teachers.

42. Manuel-Biagtan's argument that SCCOE would be unable to provide the mandated service is speculative and unsupported by the evidence. The PKS Resolution reduced the service that Manuel-Biagtan provides. (Factual Findings 3 and 15.) There is no permanent or probationary employee junior to Manuel-Biagtan who is being retained to render a service that she is credentialed and competent to teach. (Ed. Code, § 44955, subd. (b).) Manuel-Biagtan may properly be given a final notice.

Rebecca Allswang

43. Allswang is a permanent full-time (1.0 FTE) credentialed teacher in Early Childhood Special Education hired on January 30, 2019. Allswang works solely with blind/vision impaired infants and toddlers, with over 20 years of experience. She states that she has unique training and her position is distinguished from other special education preschool teachers.

44. This argument does not raise a valid challenge to Allswang's layoff. The PKS Resolution reduced the service that Allswang provides. There is no permanent or probationary employee junior to Allswang who is being retained to render a service that she is credentialed and competent to teach. (Ed. Code, § 44955, subd. (b).) Allswang may properly be given a final notice.

Pamela Ellis

45. Ellis is a permanent full-time (1.0 FTE) teacher in Severe Disabilities hired on August 5, 2019. Ellis works in the Alternative Education department at two locations. She believes she should be retained because she was “administratively moved” to work in two capacities.

46. This argument does not raise a valid challenge to Ellis’s layoff. The PKS Resolution reduced the service that Ellis provides. There is no permanent or probationary employee junior to Ellis who is being retained to render a service that she is credentialed and competent to teach. (Ed. Code, § 44955, subd. (b).) Ellis may properly be given a final notice.

Remaining Respondents

47. The other SCCOE employees not specifically identified above that received layoff notices did not possess sufficient seniority to permit them to bump any other employee, and it was not alleged or proved that any one of them were skipped in favor of any more junior employee.

Other Matters

48. Except as set forth above, no permanent or probationary certificated employee with less seniority than a respondent is being retained to provide a service for which a respondent is credentialed and competent to render.

49. The reduction or discontinuation of the particular kinds of services set forth in the PKS Resolution is related to the welfare of SCCOE and the students thereof within the meaning of Education Code sections 44949 and 44955. The decision to

reduce or discontinue these services is neither arbitrary nor capricious, but rather a proper exercise of discretion of SCCOE.

LEGAL CONCLUSIONS

1. SCCOE complied with all notice and jurisdictional requirements set forth in Education Code sections 44949 and 44955.

2. The services identified in the PKS Resolution are particular kinds of services that can be reduced or discontinued under Education Code section 44955. SCCOE's decision to reduce or discontinue the services is neither arbitrary nor capricious, but rather a proper exercise of SCCOE's discretion. Cause exists to reduce the number of certificated employees of SCCOE due to the reduction or discontinuance of particular kinds of services.

3. As set forth in Factual Findings 14 and 16-30, SCCOE shall rescind the layoff notice to respondent Ramos. On this record, SCCOE has not sustained its burden of proving that she, as a senior teacher it proposes to lay off, lacks the special training and experience of the junior teacher it proposes to retain. For these reasons, it is concluded that SCCOE has failed to establish all of the necessary elements set forth in Education Code section 44955, subdivision (d)(1), in order to justify deviating from seniority with respect to the junior certificated employee at OYA.

As the most senior employee who received a layoff who has been affected by SCCOE's erroneous decision to skip Jimenez-Mendoza, the appropriate remedy for this error is that respondent Ramos may not receive a final notice.

4. Other than as set forth above, the evidence established that no certificated employees with less seniority than respondents are being retained to render services which they are certificated and competent to perform. (Factual Findings 10, 13, 33, 35, 36, 38, 40, 42, 44, 46 through 49.)

5. Because of the reduction or elimination of particular kinds of services set forth in Factual Findings 2 and 3, cause exists pursuant to Education Code sections 44949 and 44955 to give notice to the respondents (except respondent Ramos) up to the number of the FTE reductions set forth in the PKS Resolution that their services will not be required or will be reduced for the 2021-2022 school year. This cause solely relates to the welfare of the schools and the pupils thereof within the meaning of Education Code section 44949.

6. All other arguments of the parties not specifically addressed herein were considered and are rejected.

ORDER

1. The Statement of Reduction in Force against respondent Veronica Ramos is dismissed and the preliminary notice of layoff is rescinded. Final notice of layoff may not be provided to this employee.

2. Except as set forth above, the Statement of Reduction in Force is sustained. Notice may be given to the certificated employees in 14 FTE positions, as established in Factual Findings 3 and 10, that their services will not be required or will be reduced for the 2021-2022 school year because of the reduction or elimination of particular kinds of services. In issuing its final notices, SCCOE shall follow the seniority requirements of Education Code section 44955, subdivision (b), to effectuate all reductions in services.

DATE: May 6, 2021

Regina Brown

REGINA BROWN

Administrative Law Judge

Office of Administrative Hearings

List of Respondents - Santa Clara County Office of Education		
	Last Name	First Name
1	Mc Cabe	Stacey
2	Thiele	Lissa
3	Rivers	Kristin
4	Camilleri,	Eric
5	Vital	Rolando
6	Coffman	Gabriel
7	Allswang	Rebecca
8	Ellis	Pamela
9	Hassan	Zeeshan
10	Mcneal	Patrice
11	Oliver	Michelle
12	Arellano	Alicia
13	Cole	Winston
14	Manuel- Biagtan	Aeth
15	Ramos	Veronica