

BEFORE THE
GOVERNING BOARD OF THE
DURHAM UNIFIED SCHOOL DISTRICT
COUNTY OF BUTTE
STATE OF CALIFORNIA

In the Matter of the Accusation (Reduction
or Discontinuance of Certain Kinds of
Services) against:

Wesley Daniel Bill
Veronica Masuda
William E. Stevens Jr.

Respondents.

OAH No. N2007030960

PROPOSED DECISION

Administrative Law Judge Ann Elizabeth Sarli, State of California, Office of Administrative Hearings, heard this matter in Durham, California, on April 24, 2007.

Elizabeth B. Mori, Assistant General Counsel, School and College Legal Services of California, represented the Durham Unified School District.

Joan Marie Maredyth, Attorney at Law, represented respondents.

Evidence was received, the hearing was closed and the matter was submitted on April 24, 2007.

FACTUAL FINDINGS

1. On March 30, 2007, Penny Chennell Carter, Ed.D., Superintendent (Superintendent), Durham Unified School District (District), State of California, made and filed the Accusation in her official capacity.

2. On March 7, 2007, the Board of Trustees of the District (Board) adopted Resolution No. 06-22 (Resolution). The Resolution was based on the Superintendent's determination that it was necessary to reduce or discontinue particular kinds of services for the 2007-2008 school year. Accordingly, the Board determined that the following particular

kinds of services and corresponding number of full time equivalent (FTE) positions should be reduced or discontinued.

<u>Services</u>	<u>Number of FTE Positions</u>
<u>Durham Elementary School</u>	
Elementary Multiple Subject Teaching (K-5)	1.40
Physical Education	.20
VAPA	.20
Total	1.80 FTE
<u>Durham Intermediate School</u>	
Elementary Multiple Subject Teaching (K-5)	1.0
Exploratory Agriculture	.17
Physical Education	.17
Total	1.34 FTE
<u>Durham High School</u>	
U.S. History	.20
Algebra	.20
Welding	.20
CADD I/II	.20
Total	.80 FTE
Total Reduction	3.94 FTE

3. On or before March 13, 2007, the Superintendent gave the Board written notice of her recommendation that notice be given to respondents that their services would not be required for the ensuing school year.

4. By letter dated March 9, 2007, the Superintendent provided written notice to respondents that it had been recommended that notice be given to them, pursuant to Education Code sections 44949 and 44955, that their services will not be required for the ensuing year. The Resolution setting forth the reasons for the recommendation was attached to the notice.

5. Respondents made timely written requests for a hearing to determine if there is cause for not reemploying them for the ensuing school year. The Accusation was timely served on respondents and respondents timely filed a Notice of Defense. All pre-hearing jurisdictional requirements have been met.

6. The services identified in the Board's Resolution are particular kinds of services that may be reduced or discontinued within the meaning of Education Code section 44955. The decision to reduce the services is neither arbitrary nor capricious, but rather a proper exercise of the District's discretion.

7. The decrease of the District's services by 3.94 FTE, with a reduction in a corresponding number of certificated employees of the District, is necessary. The reduction or discontinuation of services is related to the welfare of the District and its pupils.

8. Wesley Daniel Bill has a seniority date of August 20, 1998. He holds a Designated Subject Vocational Education Credential with an Authorization in Welding and Auto Mechanics. Mr. Bill is presently employed as a full-time certificated employee of the District, teaching in the high school. His services are being reduced by .20 in welding. No certificated employee junior to Mr. Bill is being retained to provide services that he is certificated and competent to render.

9. Veronica Masuda has a seniority date of August 19, 2004. She holds a Multiple Subjects Credential with a CLAD certification. Ms. Masuda is presently employed as a full time certificated employee of the District, teaching K-5 instruction. Her services are being reduced by 1.0 FTE. No certificated employee junior to Ms. Masuda is being retained to provide services that she is certificated and competent to render.

10. William E. Stevens has a seniority date of September 23, 1985. He holds a Credential in Designated Subjects/Vocational Education, with Authorization in Agricultural Production. Additionally, he is certified in Ed/SB 395. Mr. Stevens is presently employed .80 FTE, teaching .60 in agriculture in the high school, and .20 agricultural exploratory in the intermediate school. His services are being reduced by .20 in agricultural exploratory in the intermediate school.

11. Mr. Stevens maintains that he is certificated and competent to teach leadership classes currently being taught by a certificated employee, Jeff Flores, with a seniority date junior to him. Jeff Flores has a seniority date of August 22, 1989. He holds a Single Subject Credential Authorization in Physical Education, with Supplementary in Biology/Intro. Life Sciences. Additionally, he is certified in Ed/SB 395. He is a full time employee, currently assigned to teach leadership classes. The District anticipates that Mr. Stevens will continue to teach leadership classes in the ensuing school year. Mr. Stevens maintains that he can "bump" into .20 of the leadership classes Mr. Flores is scheduled to teach in the 2007-2008 school year.

12. The District maintains that even though Mr. Stevens is senior to Mr. Flores, Mr. Stevens does not hold the appropriate credential to teach leadership, and thus cannot bump into .20 of Mr. Flores's 2007-2008 leadership assignment. The District's leadership classes are general education classes, taught by teachers who hold "regular credentials," that is Single or Multiple Subject Credentials rather than Vocational Credentials. The issue presented is whether the holder of a Designated Subjects/Vocational Education in Agricultural Production is credentialed to teach general leadership classes.

13. In a prior year, the District reduced Mr. Stevens's position by .20 FTE in exploratory agriculture. In 2006, when the District instituted leadership classes, it sought to reinstate Mr. Stevens and looked into his ability to teach leadership. Mr. Stevens had taught a leadership component in his agriculture classes and the District believed he was competent to teach leadership. The Butte County Office of Education advised District personnel that a person holding a vocational credential in agriculture is qualified to teach agricultural leadership, but not general leadership classes. The District was advised that a person with only a vocational credential is not certificated to teach in a regular education program, primarily because that teacher did not receive credentialing based upon a teacher preparation program. The District concluded that it would be a mis-assignment to assign a teacher with a Designated/Vocational Credential in Agriculture to teach leadership other than within agricultural classes.

14. Mr. Stevens holds a Bachelor's of Science (BS) in Animal Science. He received a Clear Designated Subjects Vocational Education Teaching Credential (Full Time), based upon his BS and his experience in the field. He has obtained a designation as a "highly qualified teacher" under the No Child Left Behind Act, in Designated Subjects, Vocational Education. He has completed some student teacher training. He has never completed a teacher credentialing program. He has taught for twenty eight years, and at times he has taught life sciences classes as well as agricultural classes.

15. Mr. Steven's teaching credential states on its face "This credential authorizes the holder to teach the subject or subjects named above [Agricultural Production] in technical trade, or vocational courses that are part of a vocational education program in grades twelve and below, including preschool, and in classes organized primarily for adults." Mr. Steven's teaching credential clearly authorized him to teach only agricultural production in technical trade and vocational classes. The leadership classes are presented as electives to the general student population, not as part of the vocational education or technical programs.

16. Additionally, it is clear that there is no vocational/designated subject credential available in leadership. Leadership is not included on the lengthy list of subjects available for vocational credentialing through the California Commission on Teacher Credentialing.

17. There is no credential specifically authorizing instruction in leadership classes. California Code of Regulations, title 5, section 80005, subdivision (b), provides in pertinent part that leadership classes may be taught by "the holder of a teaching credential *based upon*

a baccalaureate degree and a teacher preparation program, including student teaching or the equivalent," provided the teacher has the requisite knowledge and skills to teach the subject (emphasis added). Even though Mr. Stevens holds a Baccalaureate degree and he has done some student teaching, his credential is not *based* upon a bachelor's degree and a teacher preparation program which includes student teaching. His credential is based upon his fulfillment of the requirements for a vocational/designated subjects credential. These requirements include five years of work experience directly related to the subject listed on the credential and possession of a high school diploma or equivalent. It is clear that even though Mr. Stevens holds a college degree and has some student teaching experience, his credential does not qualify him to teach general education classes, such as leadership. Additionally, the fact that he may have taught a class he was not credentialed to teach in the past (life sciences) does not confer upon him the right to again teach a class he is not qualified to teach.

18. No certificated employee junior to Mr. Stevens is being retained to provide services that he is certificated and competent to render.

LEGAL CONCLUSIONS

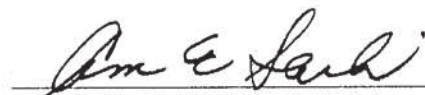
1. Jurisdiction for the subject proceeding exists pursuant to Education Code sections 44949 and 44955, and all notices and other requirements of those sections have been provided as required.

2. Cause exists because of the reduction or discontinuation of particular kinds of services pursuant to Education Code section 44955 to give notice to respondents that their services will not be required for the 2007-2008 school year, as set forth in the Factual Findings. The cause relates solely to the welfare of the schools and the pupils thereof within the meaning of Education Code section 44949.

ORDER

Notice shall be given to respondents that their services will be reduced or discontinued for the 2007-2008 school year because of the reduction or discontinuation of particular kinds of services.

Dated: May 3, 2007


ANN ELIZABETH SARLI
Administrative Law Judge
Office of Administrative Hearings