

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA  
FOR THE  
GOVERNING BOARD OF THE  
CORONADO UNIFIED SCHOOL DISTRICT

In the Matter of the Reduction in Force  
Proceedings Concerning:

OAH No. 2014030642

26 Certificated Employees,

Respondents.

**PROPOSED DECISION**

Roy W. Hewitt, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Coronado, California on April 28, 2014.

Clifford D. Weiler, Esq., of Atkinson, Andelson, Loya, Ruud & Romo, represented the Coronado Unified School District (the district).

All of the respondents who were present for the hearing were represented by Fern M. Steiner Esq., of Smith, Steiner, Vanderpool & Wax.

The matter was submitted on April 28, 2014.

**FACTUAL FINDINGS**

1. Rebekah Barakos-Cartwright, Senior Director of Human Resources for the district, made and filed the district's Statement of Reduction in Force, dated April 3, 2014, while acting in her official capacity. Senior Director Barakos-Cartwright signed the Statement of Reduction in Force as the duly appointed designee of the district's Superintendent.

2. Respondents are certificated district employees.

3. On March 4, 2014, the Governing Board (the board) of the district adopted Resolution No. 14-03-02, determining that it would be necessary to reduce or

discontinue particular kinds of services (PKS) at the end of the current school year. The board determined that the PKSs that must be reduced for the 2014-2015 school year consisted of the following Assistant Principal, counseling and teaching services: Academic, Support and Enrichment (ASE), transitional kindergarten (K), and grades K through five; Specials-Music, elementary, transitional K, and grades K through five; Band, elementary; Specials-Science Lab, transitional K, and grades K through five; Specials-Art/Writing (STEAM), transitional K, and grades K through five; Specials-Literacy and Reading, transitional K, and grades K through five; English Language Development; Counselor services, transitional K, and grades K through five; Assistant Principal services; Technology Resource, grades nine through 12; Counselor, grades nine through 12; English, grades nine through 12; CiTV executive producer services; Financial Math, grades nine through 12; Biotechnology, grades nine through 12; Advanced Placement Spanish Literature, grades nine through 12; Advanced Placement Music Theory, grades nine through 12; Drama/Creative Writing, grades nine through 12; Graphic Design, grades nine through 12; Advanced Woodworking, grades nine through 12; Sports Medicine, grades nine through 12; Broadcasting, grades nine through 12; Animation, grades nine through 12; Dance 1, grades nine through 12; Spanish 1, grades nine through 12; Ceramics, grades nine through 12; Success Skills, grades nine through 12; Biology, grades nine through 12; Counselor, grades six through eight; Humanities, grades six through eight; KCMS 2 Journalism, grades six through eight; Technology Resources, grades six through eight; Literacy, grades six through eight; Geometry, grades six through eight; Spanish 1B, grades six through eight; Special Education, moderate/severe; Special Education, mild/moderate; Special Education Transition program; and Special Education Assistive Technology Coordinator.

The services listed above are PKSs, which may be reduced or discontinued within the meaning of Education Code section 44955.

The total number of FTEs being reduced is 18.0969.

4. The board's decision to reduce or discontinue the services listed in Finding 3, above, is neither arbitrary nor capricious; rather, it is due to substantial deficits in the operating budget<sup>1</sup>, and is, therefore, a proper exercise of the board's discretion. The reduction and discontinuation of services 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 board. No particular kinds of services were lowered to levels less than those levels mandated by state or federal law.

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<sup>1</sup> The budget must be reduced by two million dollars over the next two academic years (\$400,000 in the 2014-2015 school year, and \$1,600,000 in the 2015-2016 school year).

5. The district considered all positively assured attrition, including resignations, retirements, and requests for transfer in determining the actual number of necessary layoff notices to be delivered to its employees.

6. On March 13, 2014, the district timely notified respondents, pursuant to California Education Code sections 44949 and 44955, of the district's intent not to reemploy them for the upcoming school year. Accordingly, respondents received written notice, on or before March 15, 2014, notifying them that the board had recommended they not be re-employed in the upcoming, 2014-2015, school year.

7. All respondents were timely served with layoff notices, a copy of the Statement of Reduction in Force, and copies of other related materials.

8. The following 26 certificated employees were timely served with layoff notices: Christine Adams; Sean Castillo; Leslie Fisher; Justine Freeman; Kristine Mason; Elizabeth Ryan; Samantha Silverman; Wendy Vanlandingham; Maggie Walters; Kathleen Arada; Anne Boyer; Leanne Johnson; Matthew Stoeve; Rachel Tomaino; Kelly Casassa; Joshua Chao; Ashley Falconer; Patrick Galligan; Kenneth Heskestad; Andrea Lau; Keving Killacky II; Consuelo Martinez; Lindsey Richter; Frank Hafnr; Tony Perri; and Tiffany Corrigan.

9. Nine of the 26 certificated employees (respondents) timely requested a hearing and filed notices of defense/participation.

10. All respondents were properly noticed of the date, time and place of the instant hearing.

11. All prehearing jurisdictional requirements have been met.

12. Respondents have been selected for notice of layoff pursuant to their seniority dates, which are based on the first day of paid service for each respondent in a probationary position. Respondents were ranked for layoff in the inverse order of their seniority dates.

13. Due to the hard work of the attorneys, the teachers, the teachers' Union and district representatives, all of the issues concerning the layoff were addressed and no opposition to the layoffs was raised during the hearing.

## LEGAL CONCLUSIONS

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

2. A district may reduce services within the meaning of section 44955, subdivision (b), “either by determining that a certain type of service to students shall not, thereafter, be performed at all by anyone, or it may ‘reduce services’ by determining that proffered services shall be reduced in extent because fewer employees are made available to deal with the pupils involved.” (*Rutherford v. Board of Trustees* (1976) 64 Cal.App.3d 167, 178-179.)

3. The decision to reduce or discontinue a particular kind of service is not tied in with any statistical computation. It is within the governing authority’s discretion to determine the amount by which a particular kind of service will be reduced or discontinued as long as the district does not reduce a service below the level required by law. (*San Jose Teachers Assn. v. Allen* (1983) 144 Cal.App.3d 627, 635-636.) A school district has wide discretion in setting its budget, and a layoff decision will be upheld unless it was fraudulent or so palpably unreasonable and arbitrary as to indicate an abuse of discretion as a matter of law. (*California Sch. Employees Assn. v. Pasadena Unified Sch. Dist.* (1977) 71 Cal.App.3d 318, 322.)

4. The services listed in Factual Finding 3 are each determined to be a PKS within the meaning of Education Code section 44955.

5. Based on the Factual Findings, considered in their entirety, cause exists to reduce the number of certified employees of the district due to budgetary reasons.

6. Cause to reduce or discontinue services relates solely to the welfare of the district and its pupils within the meaning of Education Code section 44949.

7. No permanent or probationary employee with less seniority is being retained to render a service for which respondents are certificated and competent.

8. Cause exists to give all respondents notice that their services are not needed for the ensuing, 2014-2015, school year.

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## RECOMMENDATION

Prior to May 15, 2014, notice shall be given to all respondents that their services will not be required for the ensuing school year due to the projected budget deficit and the resulting need to reduce and/or discontinue certain kinds of services.

DATED: May 5, 2014

\_\_\_\_\_/s/\_\_\_\_\_  
ROY W. HEWITT  
Administrative Law Judge  
Office of Administrative Hearings