

BEFORE THE
GOVERNING BOARD OF THE
RIALTO UNIFIED SCHOOL DISTRICT

In the Matter of the Employment Status of:

OAH No. L2004030278

All Certificated Employees of the Rialto
Unified School District Receiving
Preliminary Layoff Notices for the 2004-
2005 School Year,

Respondents.

PROPOSED DECISION

James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Placentia, California, on April 16, 2003.

Sherry G. Gordon, Attorney at Law, represented the Rialto Unified School District.

Paul Crost, Attorney at Law, represented all the certificated teachers employed by the Rialto Unified School District who received preliminary layoff notices for the 2004-2005 school year.

The matter was submitted on April 26, 2003.

FACTUAL FINDINGS

The Rialto Unified School District

1. The Rialto Unified School District (the District) is located in Rialto, between the cities of Fontana and San Bernardino. It serves the community of Rialto and other communities and unincorporated areas within the District.

The District provides educational services at 17 elementary schools, five middle schools, two comprehensive high schools, an adult continuation school and through an independent studies program. The District serves the educational needs of about 30,000 students from Kindergarten through 12th Grade.

The elementary schools have four year-round tracks. The secondary schools have traditional school schedules.

The District employs approximately 3,900 persons, about 2,300 of whom are certificated employees. The certificated employees provide direct educational services and supports to the District's students.

2. The District is governed by an elected five member Board of Education (the Board).

Edna D. Herring (Superintendent Herring) is the Superintendent of Schools and the Board's Chief Executive Officer.

Joseph G. Davis, Ed.D. (Assistant Superintendent Davis) is an Assistant Superintendent of Schools and serves as the District's Personnel Officer.

The Economic Layoff

3. Proposition 13 limited the imposition of local property taxes and reduced a major source of assured revenue for funding public education. Since the passage of Proposition 13, public school districts have looked primarily to the State of California and to other governmental entities for necessary funding.

A school district cannot determine the level of state funding it will receive until the state budget is chaptered, an event usually occurring in late June. Before then, the school district's governing board must take steps to make certain that ends meet if the worst-case financial scenario develops.

A school board's obligation to balance its budget often requires that some teachers, administrators and/or other certificated employees be given preliminary layoff notices, warning them that their services will not be required in the next school year. Under Education Code section 44949, these preliminary layoff notices must be given no later than March 15.

The economic layoff statutes found in the Education Code generally require the retention of senior employees over more junior employees and the retention of permanent employees over probationary employees and other employees with less seniority.

4. On March 10, 2004, Superintendent Herring advised the Board in writing of her recommendation that particular kinds of services being provided by the District be reduced or eliminated.

Superintendent Herring recommended 190 full-time equivalent (F.T.E.) positions filled by certificated employees be reduced or eliminated and that the certificated employees potentially affected by the proposed reduction in services be given notice as required by law.

Board Resolution No. 03-04-40

5. On March 20, 2004, Board Resolution No. 03-04-40 was adopted. Board Resolution No. 03-04-40 provided:

WHEREAS, the Board of Education of the Rialto Unified School District has determined that the particular kinds of services set forth herein must be reduced or discontinued; and

WHEREAS, it is the opinion of the Board that because of the aforementioned reason, it is in the best interest of the District that the number of regular certificated employees of the District must be reduced; and

WHEREAS, the Board does not desire to reduce the services of regular certificated employees based upon the reduction of average daily attendance during the past two years.

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of the Rialto Unified School District as follows:

- A. That the particular kinds of services set forth below be reduced or eliminated commencing in the 2004-2005 school year.

<u>Elementary Classroom Teachers</u>	<u>177 F.T.E.</u>
<u>Counselors</u>	<u>5 F.T.E.</u>
<u>Middle School P.E.</u>	<u>5 F.T.E.</u>
<u>High School Business</u>	<u>2 F.T.E.</u>
<u>High School Home Economics</u>	<u>1 F.T.E.</u>
TOTAL CERTIFICATED EMPLOYEES	190 F.T.E.

- B. That due to the reduction or elimination of particular kinds of services, the legal number of certificated employees of the District be terminated pursuant to Education Code section 44955.

- C. That the reduction of certificated staff be affected by the termination of regular employees and not by terminating temporary or substitute employees.

PASSED AND ADOPTED at the regular meeting of the Board of education held on March 10, 2004.

AYES	<u>5</u>
NOES:	<u>0</u>
ABSENT:	<u>0</u>

Joanne T. Gilbert
President
Board of Education

Jurisdictional Matters

6. On March 12, 2004, a Notice of Recommendation that Services Will Not Be Required, a Notice of Accusation, an Accusation, (blank) Notice of Defense and Request for

Hearing, copies of pertinent Education Code sections and a Notice of Hearing were served by mail on approximately 175 certificated employees who were determined by the District's administrative staff to be the most junior employees performing particular kinds of services that were subject to reduction or elimination.

7. On March 15, 2004, a Notice of Recommendation that Services Will Not Be Required, a Notice of Accusation, an Accusation, (blank) Notice of Defense and Request for Hearing, copies of pertinent Education Code sections and a Notice of Hearing were served by mail sent to Tami Butler, a certificated employee determined by the District's administrative staff to be a junior certificated employees who was performing particular kinds of services that were subject to reduction or elimination.

8. Fifty-seven of the certificated employees who were served with the aforementioned jurisdictional documents timely filed a Notice of Defense.

9. Those certificated employees timely filing a Notice of Defense were served with an Amended Notice of Hearing.

10. On April 16, 2004, the record in the administrative hearing was opened. Jurisdictional documents were presented. Counsel for the District gave an opening statement. Respondents were represented by Paul Crost, who waived the giving of an opening statement. Stipulations were recited. Sworn testimony and documentary evidence was received.

Counsel for Respondents requested the parties be permitted to filing written closing arguments. The parties were directed to file written closing arguments by the close of business on April 23, 2004.

On April 26, 2004, following the filing of the written closing arguments, the record was closed and the matter was submitted.

Documentary Evidence

11. Respondents stipulated to the admission of Exhibits 1 through 12, without stipulating to the accuracy of some of those documents including the accuracy of the District's seniority list (Exhibit 6), the District's bumping analysis (Exhibit 7), the Board's tie-breaking criteria (Exhibit 9) and the District's proposed final layoff list (Exhibit 11).

The Testimony

12. Assistant Superintendent Davis, the District's Personnel Officer, has been employed by the District for 12 years. Assistant Superintendent Davis was in charge of the District's layoff proceedings relating to the 2004-2005 school year.

The District developed a 2003-2004 Certificated Employee Seniority List (Exhibit 6). The seniority list contained the names of the District's 1,526 certificated employees. The list

contained an employee ranking number (from most senior to most junior), a seniority date,¹ a hire date,² each employee's name, the school site where the employee provided educational services in the 2003-004 school year, the employee's assignment, the employee's status (e.g., Tenured, Prob. 2, Prob. 1, Intern, Emergency, Pre-Intern, or Temporary), and the teaching credential(s) held.

The seniority list was 38 pages long. Those employees whose names were highlighted in yellow were given preliminary layoff notices.

13. The District prepared a seven page "bump analysis" which contained a brief description of the particular kinds of services that were subject to reduction or elimination under the Board's resolution,³ the names of the credentialed employees providing the particular kinds of services (ranked in order from the employee with the least seniority to the employee with the most seniority for those employees who might be subject to layoff), the employee's status, the employee's first date of service, the employee's credential, whether the employee could "bump" a more junior employee, whether positive attrition (resignation, termination, death) affected the number of employees required to be laid off and some other notes.

Those employees whose names were highlighted in yellow were proposed to be given preliminary layoff notices. Those employees whose names were highlighted in orange were proposed to be given precautionary notices. The "bump analysis" set forth the name of the junior employee (and seniority rank) who was bumped.

Bumping

14. Under Education Code section 44955(c), employees must be "retained to render any service which their seniority and qualifications entitle them to render."

15. The term "bumping" relates to the right of a senior employee to displace a more junior employee who is rendering a particular kind of service the senior employee can competently provide.⁴

¹ The "seniority date" was the first date on which an employee provided service to the District under a full credential.

² A "hire date" was the first date on which an employee provided service to the District under a temporary permit or university intern credential. An employee's "seniority date" and "hire date" often are the same, but an employee cannot have an earlier "seniority date" than his or her "hire date."

An employee is not entitled to a seniority date until he or she holds a proper credential, according to Assistant Superintendent Davis.

³ Board Resolution No. 03-04-40 required the reduction or elimination of 170 Elementary Classroom Teacher F.T.E.s, five Counselor F.T.E.s, five Middle School P.E. F.T.E.s, two High School Business F.T.E.s, and one High School Economics F.T.E.

⁴ Upon determining a need for a reduction in the number of permanent employees, a school district must comply with the layoff procedures enumerated in Education Code section 44955. Seniority determines the order of

16. *Counselors*: One counselor resigned, requiring final layoff notices to be given to four certificated employees providing counseling services – Fatima Aguirre (#1279), Dorothy Robinson (#1167), Katrina Patterson (#1121), and Rachel Conner (#1048). Robinson, Patterson and Conner are tenured employees.

17. *Middle School P.E. Teachers*: Two middle school physical education teachers resigned. The District correctly determined Mary Margaret Hamner (#1193), was entitled by her seniority and credential to bump Jason Van Heerde (#1399), who was a high school physical education teacher, and Kenya Quiros (#1184) could bump Daniel Williams (#1318), who was also a high school physical education teacher.

Only one certificated employee providing services as a middle school physical education teacher – Della Foster (#1474), who was an intern – will be given a final layoff notice.

18. *High School Home Economics*: There was no positive attrition in the area, requiring a final layoff notice to be given to one certificated employee providing services as a high school home economics teacher – Patricia Ivins (#1480), an intern.

19. *High School Business Education*: There was no positive attrition in the area. One certificated employee providing services as a high school business teacher, Carla De Frates (#1126), who was tenured, had sufficient seniority and credentials to bump Edward Schrier (#1215), a middle school teacher; however, the remaining certificated employee providing services as a high school business teacher – Richard Borman (#1214), a probationary employee – will be given a final layoff notice.

20. *Elementary School Teachers*: Numerous certificated employees providing services as elementary school teachers either resigned or their contracts were not renewed.⁵

Fifteen certificated employees providing services as elementary school teachers were given “precautionary” notices. One hundred fifty elementary school teachers were going to be given final notice under the District’s bump analysis.

dismissals and between employees with the same first date of paid service, the order of termination is determined on the “basis of the needs of the district and its students.” Senior employees are given “bumping” rights and will not be terminated if there are junior employees retained who render services which the senior employee is certificated and competent to render. Conversely, a district may move upward from the bottom of the seniority list, “skipping” over and retaining junior employees who are certificated and competent to render services which more senior employees are not. Seniority is not an inherent or constitutional right. Seniority itself confers no rights on employees but entitles them to preferential treatment only to the extent that a statute or collective bargaining agreement so provides. Seniority rights may be limited by subsequent legislation. (See, Ozsogomonyan, *Teacher Layoffs in California: An Update* (1979) 30 Hastings L.J. 1727.)

⁵ Employees who did not obtain a credential in a timely fashion or who did not show progress towards the completion of their credential in accordance with their agreement with the District did not have their employment contracts renewed. Each employee was regularly counseled concerning the effect of his or her lack of credential/lack of progress and its adverse impact on his or her employment status.

The District correctly determined Kelly Hardwick (#1375) was entitled by her seniority and credential to bump Came Vein (#1451), Zsa Zsa Greenland (#1360) was entitled by her seniority and credential to bump William Cardosi (#1498), William Cardosi (#1498) was entitled by his seniority and credential to take the position of a high school social science teacher who resigned, Sandra Webster (#1275) was entitled by her seniority and credential to take a vacant middle school English Department position, Laurie Hicks (#1263) was entitled by her seniority and credential to take a vacant middle school English Department position, Katherine DeStefano (#1252) was entitled by her seniority and credential to bump Michelle Autrey (#1504), Johanna Cueller (#1229) was entitled by her seniority and credential to take a position held by Elizabeth Odell (#15515) a 7th Grade English teacher who resigned, Patricia Ortega (#1219) was entitled by her seniority and credential to take the position of Ana Centeno (#1520), a middle school English teacher who resigned, and Alma Razo (#1178) was entitled to bump Kevin Hennessy (#1183) to fill a vacant middle school math position. The District also correctly determined Luis Motta (#1177), Teresa Macias (#1175), K. Jeffrey Whisman (#1174), Ann Snively (#1165), James Nava (#1164), Kira Shearer (#1160), Krista Woodgrift (#1156), Julie Navarro (#1154), Elsa Flores-Guiles (#1151), Elizabeth Jay (#1120) and Patricia Fuerte Miranda (#1119) had bumping rights and more junior certificated employees Deborah McCain (#1186), John Deeney (#1202), Robert Daughters (#1220), Michelle Russell (#1276), Kevin Ibanez (#1280), Kristine Mundt (#1281), Liddy Adams (#1285), Erica Bouffard (#1294), Clotilde Dvoran (#1302), Erica King and Canda Lofts (#1304) were bumped and should be given notice.

None of the persons providing services as elementary school teachers who are subject to final layoff are tenured.

The names of the credentialed employees who should receive final layoff notices are set forth in Legal Conclusions 12 and 13.

Skiping

21. The District did not "skip" any junior employee over any more senior employee.⁶

The Tie-Breaking Criteria

22. The Board enacted seniority tie-breaking criteria, which were to be used in the event it became necessary to determine the layoff order of credentialed employees with the same seniority date, as follows:

⁶ Education Code section 44955(d) sets forth an exception to the general rule that the services of a senior employee must be retained over the services of more junior employees. This exception involves "skipping" a junior employee and retaining that junior employee's unique and necessary services over a more senior employee who does not have the special training and experience necessary to teach a particular course of study.

The following criteria shall be applied in order, one step at time, to resolve ties in seniority between credentialed employees:

1. No Child Left Behind Act compliant (i.e., highly qualified in the subject areas the person is presently teaching).
 2. Possession of Commission on Teacher Credentialing authorization to teach English Language Learners (i.e., BCLAD, CLAD, etc.).
 3. Possession of additional NCLB compliant credentials or authorizations to teach additional subject areas.
 4. Possession of a Master's Degree in subject area being taught (earliest date prevails).
 5. Possession of a University Certificate in teaching GATE students.
 6. Current assignment includes GATE classes or Advanced Placement classes.
 7. Prior full time teaching experience outside the district (not substitute teaching) as verified by documents on file with the Personnel office (highest number of verified years prevails).
 8. Teaching experience in different grades or subject areas.
23. It was not necessary to use the Board's tie-breaking criteria.

The District's Use of Interns and Determination of Seniority

24. In the last several years, when the District was growing and when there was a shortage of credentialed teachers, the District hired university interns to provide teaching services. The District also employed persons under temporary permits.

25. Assistant Superintendent Davis, the District's Personnel Officer, testified that all district interns, probationary teachers and tenured teachers had a "seniority" date that coincided with their first date of paid service as a probationary employee.

Assistant Superintendent Davis testified that all temporary, pre-intern and emergency credentialed teachers had a date of hire that coincided with their first date of paid service with the District, but that date did not constitute a "seniority" date because those persons did not hold an appropriate credential.

The Temporary Employee/Probationary Status Issue

26. The District classified some persons as "temporary" employees because those persons provided services either under an emergency permit or a pre-intern certificate.

27. An argument was made to the effect that those persons working under emergency permits were certificated employees and holding valid credentials, that emergency permit holders are generally presumed to be probationary employees, that the employment contracts those persons signed were not relevant to a determination of their classification, that seniority must be defined by an employee's first date of paid service in a probationary position, that the persons described by the District as "temporary employees"

were actually probationary employees and that the District's seniority list was flawed as a result of these alleged errors.⁷

28. An argument was also made that the District's failure to produce evidence related to the application of the tie-breaking criteria should preclude its use in any layoff proceeding.

29. The District argued it properly denied seniority credit for services provided by persons under emergency permits or pre-intern certificates.⁸

30. The District argued it did not need to use its tie-breaking criteria and no prejudice was established.

31. As outlined in Legal Conclusions 3-9, the District properly classified emergency permit and pre-intern certificate holders as "temporary employees."

Other Matters

32. The District accepts applications for employment from interested persons and keeps them on file, even though there are no current teaching positions available in those areas where there is a reduction in force. The District is not hiring new employees in those areas where there is a proposed reduction in force.

The District actively recruits Mathematics and Special Education teachers, since there are a limited number of properly credentialed persons available to teach in those areas.

The District is acting prudently in both instances.

33. The Board considered all known attrition, resignations, retirements and requests for transfer in determining the actual number of necessary layoff notices.

34. No certificated employee junior to any Respondent was retained to perform any services which any senior Respondent was certificated and competent to render.

35. The District's proposed reduction in force will not result in any particular kinds of service dropping below those levels mandated by state or federal law.

⁷ To support this legal argument, reference was made primarily to *CTA v. Governing Board of Golden Valley Unified School District* (2002) 998 Cal.App.4th 369

⁸ To support this legal argument, reference was made primarily to *Summerfield v. Windsor Unified School District* (2002) 98 Cal.App.4th 369.

LEGAL CONCLUSIONS

1. *Jurisdiction*: Jurisdiction in this matter exists under Education Code sections 44949 and 44955. All notices and jurisdictional requirements mandated by those sections were satisfied as to those certificated employees identified in the seniority lists.

2. *Particular Kinds of Services*: A school board's decision to reduce or discontinue particular kinds of services need not be tied to any statistical computation, such a reduction in the number of students. It is within a board's discretion, subject to the minimum level required by law, to determine the extent to which a reduction of services is necessary and proper under the circumstances. The board's decision is made at the time of the final notice. *San Jose Teachers Assn. v. Allen* (1983) 144 Cal.App.3d 627.

3. *Credentialing*: The California Commission on Teacher Credentialing issues teaching credentials. The term "credential" encompasses "a credential, certificate, life document, life diploma, certificate of clearance or waiver issued by the commission." Education Code section 44002.

A school district may employ an individual under an emergency teaching permit.⁹

Education Code section 44845 provides: "Every probationary or permanent employee employed after June 30, 1947, shall be deemed to have been employed on the date upon which he first rendered paid service in a probationary position."

Education Code section 44929.21(b) provides: "Every employee of a school district . . . having an average daily attendance of 250 or more who, after having been employed by the district for two complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position

⁹ Education Code section 44300 provides "the commission may issue or renew emergency teaching or specialist permits in accordance with regulations adopted by the commission . . . provided that all of the following conditions are met:

(1) The applicant possesses a baccalaureate degree conferred by a regionally accredited institution of higher education and has fulfilled the subject matter requirements of Section 44301.

(2) The applicant passes the state basic skills proficiency test as provided for in Section 44252.

(3) The commission approves the justification for the emergency permit submitted by the school district in which the applicant is to be employed. The justification shall include all of the following:

(A) Annual documentation that the district has implemented in policy and practices a process for conducting a diligent search . . . but has been unable to recruit a sufficient number of certificated teachers, including teacher candidates pursuing full certification through internship, district internship, or other alternative routes established by the commission.

(B) A declaration of need for fully qualified educators . . . made in the form of a motion adopted by the governing board of the district . . . "

requiring certification qualifications shall, at the commencement of the succeeding school year be classified as and become a permanent employee of the district.”¹⁰

Under Education Code section 44911 provides:

“Service by a person under a provisional credential shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

This section shall not be applicable to teachers granted a one-year emergency credential under the conditions specified in subdivision (b) of Section 44252 and subdivision (h) of Section 44830.”

4. *California Teachers Association v. Governing Board of the Golden Valley Unified School District* (2002) 98 Cal.App.4th 369 stated “teachers serving under an emergency permit who satisfy the requirements of section 44915 are entitled to the statutory protections governing the dismissal of a probationary employee.”

Golden Valley involved a mid-year “for cause” termination action rather than an economic layoff action. In *Golden Valley*, the written contract between the employee and the district specifically provided the employee with contingent probationary status.

5. *Summerfield v. Windsor Unified School Dist.* (2002) 95 Cal.App.4th 1026 involved the issue of whether service under a temporary permit should count toward completion of a mandatory two-year probation period.

Summerfield concluded that under Education Code section 44911, time spent teaching under an emergency teaching credential may not be counted in computing progress toward permanent status unless the employee was credentialed in another state and demonstrated adequate basic skills pending successful completion of the California Basic Educational Skills Test. *Summerfield* reasoned that the plain language of Education Code section 44911 suggested that emergency credentials were the same as provisional credentials, or are at least were one type of provisional credential, and under Education Code section 44911 service by a person under a provisional credential could not be included in computing the mandatory probationary service.

6. A teacher serving under an emergency permit continues to serve under that permit and under the contract to which they agreed until the teacher is issued a credential and registers it with the district. The district has no duty to classify a teacher as probationary employee retroactive to the validity date of the credential. No statutory provision suggests a contrary conclusion, and precedent confirms that contract terms to which a teacher has agreed should not be abrogated unless the statutory mandate is clear. Moreover, this conclusion comports with related statutory provisions, as well as considerations of

¹⁰ A complete school year for purposes of seniority is attained by serving at least 75% of the number of days the regular schools are maintained. Education Code section 44908.

practicality and common sense. *Fine v. Los Angeles Unified School Dist.* (2004) 116 Cal.App.4th 1070, 1078.

7. No person who was characterized by the District as a “temporary employee” presented any factual argument that he or she was misled by his or her employment into believing that he or she was a probationary employee. This is not a case of the District’s manipulation of the classification system to any temporary employee’s detriment; if anything, the reverse is the case. See, *American Federation of Teachers v. Board of Education* (1977) 77 Cal.App.3d 100, 109.

8. Within the context of this economic layoff proceeding – as opposed to a termination for cause proceeding – it makes little sense to retain a teacher who does not have a teaching credential, but possesses only an emergency permit which can only be issued for one year on an emergency basis because duly credentialed teachers cannot be found, over a teacher who possesses a regular teaching credential. The economic layoff statutes were designed to ensure that qualified and competent senior employees will be retained over more junior employees and that permanent employees will be retained over probationary employees. A teacher cannot become a permanent (tenured) employee without serving a mandatory two year probationary period first, and a teacher cannot attain probationary status under a temporary permit.

For these reasons, and based on a review of the authority cited in Legal Conclusions 3-8, it is concluded that persons serving as teachers under emergency permits were not entitled to seniority credit in this layoff proceeding.

9. *Pre-Intern Certificates:* Pre-interns are teachers who have a baccalaureate or higher degree from an accredited institution, but who have not taken the education courses required to obtain a teaching credential. These persons receive a certificate from the California Commission on Teaching Credentialing, not a credential. The next step in the training process is internship.

Education Code section 44466 provides:

“An intern shall not acquire tenure while serving on an internship credential. A person who, after completing a teaching internship program authorized pursuant to this article, is employed for at least one complete school year in a position requiring certification qualifications by the school district that employed the person as an intern during the immediately preceding school year and is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year, acquire tenure.”

A similar provision does not exist for service under a pre-intern certificate.

10. Since the tie-breaking criteria were not used, no issue has been presented for determination. Should the tie-breaking criteria be used to determine the order of any

rehiring, any persons adversely affected shall have the right to seek appropriate legal remedy to rectify any inequity arising out of the criteria themselves or their specific application.

11. Cause exists to affirm the Board's reduction of 190 full-time equivalent positions. The Board's decision was not fraudulent, arbitrary or capricious, but constituted a valid exercise its discretion. The Board's reduction and elimination of these particular kinds of services related to the welfare of the District and its students.

12. As a result of the reduction or discontinuation of particular kinds of service, cause exists under Education Code section 44955 to give the following employees notice that their services will not be required for the 2004-2005 school year: Michael Aril, Lady Adams, Shannon Adcock, Fatima Aguirre, Isabel Alexander, Ricky Anderson, Mary Andrade, Elisa Anthony, Mary Patricio, Dirk Apollonius, Sandra Arnold, Dianne Austin, Richard Barman, Erica Buford, Tyler Brooders, Jo Anne Brooks, Karen Butler, Tami Butler, Tamara Carlson, Teresa Carrillo, Jennifer Carroll, Laurel Carter, Theresa Chandler, Tara Cigarillo, Sandra Clemons, Rachael Conner, Miguel Contreras, Patricia Conyers-Ruskauff, Billie Cox, Joaquin Cristales, Angelo Cunanan, Gazelle Dara, Robert Daughters, Ida Davila, John Deeney, Ada Diaz, Cheryl Dietz, Susan Dix, Amy Dodd, Roxie Dominguez, Clotilde Dvoran, Michele Endean, Lauren Erickson, Elizabeth Folden, Della Foster, Steven Funke, Delores Garcia, Diana Gilbreath, Jenna Gillespie, Frank Gomez II, Haydee Gomez, Laura Gonzales-Reyderos, Barbara Gordin, Graciela Guardado, Karla Guzman, Gina Hall, Katie Hamilton, Shannon Hanks-Grandia, Patricia Harris, Courtney Hazim, Angelica Hernandez, Veronica Hernandez, Elsa Hery, Heidi Hetzer, Karen Holguin, Troy Holland, Lorena Huizar, Kevin Ibanez, Patricia Ivins, Patricia Jenkins, Clorie Jimmerson, Terri Jonhnson, Carol Judson, Steven Kalapaca, Erica King, Jennifer Kral, Natalie Lewis, Candra Loftis, Raquel Lule, Jana Luna, Stephen Magee, Nora Manuel, Deborah McCain, Monica McDonald, Catherine McNair, Autumn Mena-Khellafi, Emily Mensik, Mitzi Moreland-Bodon, Jennifer, Moretta, Laura Morrill, Melody Morton, Timothy Mullane, Kristine Mundt, Donald New, Louisa Nies, Eva Ocegueda, Sarah Parker, Katrina Patterson, Kenneth Payne III, Nancy Payne Melissa Pazoas-Garcia, Jacqueline Pendery, Charlene Peterson, Tina Pham, Kelly Potter, Maureen Powers, Pavinee Prachachalerm, Monica Quiel, Irma Quintana-Hernandez, Jerald Quintana, Jo Ralph, Wallace Rayford, Lisa Reidy-Carrick, Michaeline Rentz, Yessica Reyes, Claudia Reynolds, Barbara Richardson, Barbara Robins, Dorothy Robinson, Brenda Rodriguez, Lisa Rollins, Own Ross, Rebecca Rossi, Michelle Russell, Debra Rybak, Karen Saldana, Melissa Sambrano, Margarita Santana, Edward Schrier, Nina Serena, Wendy Shewmake, Melanie Smith, Tami Smith, Jose Soriano, June Stampley, Gabirela Thies, Michael Toomey, Dianne Torres, Maureen Trainer, Meghan Turner, Jason Van Heerde, Thomas Vasta, Ramon Velasco, Amber Wade Adam Waggoner, Lindsey Wagner, Ingrid Wahjudi, Tammie Welch, Daniel Williams, Casey Woodgrift, Linda Wren and Joni Wright.

13. As a result of the reduction or discontinuation of particular kinds of service, cause exists under Education Code section 44955 to give the following employees precautionary notice that their services might not be required for the 2004-2005 school year: Michelle Autrey, Tara Bell, Alison Boggs, April Cairo, Sue Chan, Cynthia Flores, Dustin Goode, Alicia Llamas-Perez, Angela Marion, Monique Means, Roxanne Medina, Angelica Moore, Daniel O'Brien and Maria Rodriguez.

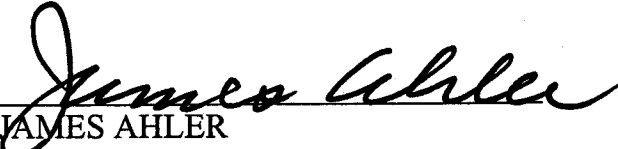
14. Legal Conclusions 12 and 13 are based on Factual Findings 1-35 and Legal Conclusions 1-11.

RECOMMENDATIONS

Notice shall be given under Education Code section 44955 to the following employees notice that their services will not be required for the 2004-2005 school year: Michael Aril, Lady Adams, Shannon Adcock, Fatima Aguirre, Isabel Alexander, Ricky Anderson, Mary Andrade, Elisa Anthony, Mary Patricio, Dirk Apollonius, Sandra Arnold, Dianne Austin, Richard Barman, Erica Buford, Tyler Brooders, Jo Anne Brooks, Karen Butler, Tami Butler, Tamara Carlson, Teresa Carrillo, Jennifer Carroll, Laurel Carter, Theresa Chandler, Tara Cigarillo, Sandra Clemons, Rachael Conner, Miguel Contreras, Patricia Conyers-Ruskauff, Billie Cox, Joaquin Cristales, Angelo Cunanan, Gazelle Dara, Robert Daughters, Ida Davila, John Deeney, Ada Diaz, Cheryl Dietz, Susan Dix, Amy Dodd, Roxie Dominguez, Clotilde Dvoran, Michele Endean, Lauren Erickson, Elizabeth Folden, Della Foster, Steven Funke, Delores Garcia, Diana Gilbreath, Jenna Gillespie, Frank Gomez II, Haydee Gomez, Laura Gonzales-Reyderos, Barbara Gordin, Graciela Guardado, Karla Guzman, Gina Hall, Katie Hamilton, Shannon Hanks-Grandia, Patricia Harris, Courtney Hazim, Angelica Hernandez, Veronica Hernandez, Elsa Hery, Heidi Hetzer, Karen Holguin, Troy Holland, Lorena Huizar, Kevin Ibanez, Patricia Ivins, Patricia Jenkins, Clorie Jimmerson, Terri Johnson, Carol Judson, Steven Kalapaca, Erica King, Jennifer Kral, Natalie Lewis, Candra Loftis, Raquel Lule, Jana Luna, Stephen Magee, Nora Manuel, Deborah McCain, Monica McDonald, Catherine McNair, Autumn Mena-Khellafi, Emily Mensik, Mitzi Moreland-Bodon, Jennifer, Moretta, Laura Morrill, Melody Morton, Timothy Mullane, Kristine Mundt, Donald New, Louisa Nies, Eva Ocegueda, Sarah Parker, Katrina Patterson, Kenneth Payne III, Nancy Payne Melissa Pazoas-Garcia, Jacqueline Pendery, Charlene Peterson, Tina Pham, Kelly Potter, Maureen Powers, Pavinee Prachachalerm, Monica Quiel, Irma Quintana-Hernandez, Jerald Quintana, Jo Ralph, Wallace Rayford, Lisa Reidy-Carrick, Michaeline Rentz, Yessica Reyes, Claudia Reynolds, Barbara Richardson, Barbara Robins, Dorothy Robinson, Brenda Rodriguez, Lisa Rollins, Own Ross, Rebecca Rossi, Michelle Russell, Debra Rybak, Karen Saldana, Melissa Sambrano, Margarita Santana, Edward Schrier, Nina Serena, Wendy Shewmake, Melanie Smith, Tami Smith, Jose Soriano, June Stampley, Gabriela Thies, Michael Toomey, Dianne Torres, Maureen Trainer, Meghan Turner, Jason Van Heerde, Thomas Vasta, Ramon Velasco, Amber Wade Adam Waggoner, Lindsey Wagner, Ingrid Wahjudi, Tammie Welch, Daniel Williams, Casey Woodgrift, Linda Wren and Joni Wright.

Precautionary notice shall be given under Education Code section 44955 to give the following employees precautionary notice that their services might not be required for the 2004-2005 school year: Michelle Autrey, Tara Bell, Alison Boggs, April Cairo, Sue Chan, Cynthia Flores, Dustin Goode, Alicia Llamas-Perez, Angela Marion, Monique Means, Roxanne Medina, Angelica Moore, Daniel O'Brien and Maria Rodriguez.

DATED: April 30, 2004.


JAMES AHLER
Administrative Law Judge
Office of Administrative Hearings