

BEFORE THE
GOVERNING BOARD OF THE
SAN FRANCISCO UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

89.5 FULL TIME EQUIVALENT
CERTIFICATED EMPLOYEES

OAH No. N2006030099

Respondents.

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in San Francisco, California, on April 24, 2006.

Melanie A. Petersen, Shareholder, Lozano Smith, Attorneys at Law, represented the San Francisco Unified School District.

Stewart Weinberg, Attorney at Law, Weinberg, Roger & Rosenfeld, represented respondents.

The matter was submitted on April 24, 2006.

FACTUAL FINDINGS

1. Layoff notices were rescinded for thirteen certificated employees whose names appear on Exhibit # 5.

2. Orla O'Keeffe made this accusation in her official capacity as the Chief Administrative Officer of the San Francisco Unified School District of San Francisco County, State of California.

3. Each of the Respondents listed on Exhibit B, attached to the Accusation in this matter, was at all times and now, is a certificated employees of the District.

4. On February 28, 2006, the Governing Board of the San Francisco Unified School District adopted the criteria for establishing the order of termination among respondents who have the same date of first rendering paid service to the district and the

order of termination among respondents. However, it was not necessary to use this tie breaking criteria for purposes of the 2006/2007 school year layoffs.

5. On February 28, 2006, the Governing Board of the San Francisco Unified School District adopted resolution 62-28S02, directing the Chief Administrative Officer to give notices to certificated employees that their services would not be needed for the 2006/2007 school year.

6. On March 15, 2006, the Chief Administrative Officer gave written notice to the Governing Board of the Superintendent's recommendation that notice be given to respondents that their services would not be required for the ensuing year, 2006/2007, and stating the reasons.

7. On March 15, 2006, respondents were served in the manner required by law with written notice that it had been recommended that notice be given to them that their services would not be required for the ensuing school year, 2006/2007, and stating the reasons.

8. Each respondent, within the time limit specified by law, requested a hearing to determine if there is cause for not reemploying the respondent for the ensuing school year.

9. The original particular kinds of services were listed in Exhibit 2 and consisted of a reduction of 89.5 Full Time Equivalent (FTE) positions. This reduction included 50 FTE in administrative services and 39.5 in instructional services. This number was reduced to a total of 54 FTE as reflected in Exhibit 4. This new reduction includes 21.40 FTE for administrative services and 32.60 FTE in instructional services. These services are to be reduced or discontinued no later than the beginning of the 2006/2007 school year.

10. By reason of the reduction and discontinuance of particular kinds of services, cause exists under Education Code section 44949 and 44955 for not reemploying respondents for the 2006/2007 school year.

11. No permanent or probationary certificated employee with less seniority is being retained to render a service that respondents, or any of them, are certificated and competent to render.

12. The cause for not reemploying respondents relates solely to the welfare of the schools and the pupils of the district.

13. One teacher, Wendy Berkelman, was called to testify about her contracts of employment for several different school years. Her testimony does not impact this layoff hearing in any way.

LEGAL CONCLUSIONS

1. Except as otherwise adjusted by the District, jurisdiction in this matter exists under Education Code sections 44949 and 44955. All notices and jurisdictional requirements contained in those sections were satisfied.

2. Cause exists under Education Code sections 44949 and 44944 for the San Francisco Unified School District to reduce and/or discontinue 54 FTE particular kinds of services as set forth in Finding 9, above. The case for the reductions and /or discontinuance of particular kinds of services relates solely to the welfare of the schools and pupils in the district. A preponderance of the evidence sustained the matters set forth in the Accusation. It is recommended that the Governing Board notice the appropriate employees before May 15, 2006, that their services are no longer required by the district for the 2006/2007 school year.

ORDER

Notice shall be given in reverse order of seniority based on the 54 FTE particular kinds of services to the appropriate employees that their services will not be required for the 2006/2007 school year.

DATED: May 3, 2006

Ruth S. Astle
RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings