

BEFORE THE
GOVERNING BOARD OF THE
GROSSMONT UNION HIGH SCHOOL DISTRICT
SAN DIEGO COUNTY, CALIFORNIA

In the Matter of the Reduction in
Force Proceeding Involving the
Employees Subject to Governing
Board Resolution Nos. 2011-35 and
2011-36,

Respondents.

OAH No. 2011030925

PROPOSED DECISION

James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in El Cajon, California, on April 27, 2011.

William A. Dietrich, Attorney at Law, and John Rajcic, Attorney at Law, represented the Grossmont Union High School District.

Fern M. Steiner, Attorney at Law, represented respondents.

The matter was submitted on April 27, 2011.

FACTUAL FINDINGS

The Grossmont Union High School District

1. The Grossmont Union High School District is located in eastern San Diego County. It serves approximately 21,000 ninth through 12th grade students living in the cities of El Cajon, La Mesa, Lemon Grove, and Santee and in the unincorporated communities of Alpine, Casa de Oro, Crest, Dehesa, Dulzura, Jamul, Lakeside, Mount Helix, Rancho San Diego, and Spring Valley. Approximately 15 percent of the student body is composed of English Language Learners. The District maintains nine comprehensive high schools and one alternative high school where instructional services are provided.

The District employs more than 1,000 certificated employees. The District currently has an annual budget of approximately \$185 million. About 85 percent of the District's budget funds employee salaries and benefits.

2. The District is governed by an elected five-member Board of Education. Ralf Swenson is the District Superintendent and the Board's Chief Executive Officer. Steve Sonnich is an Associate Administrator and the District's Chief Personnel Officer. Jeannette Liljestrom is an Executive Secretary who, among other matters, maintains the District's seniority list.

The Fiscal Crisis

3. After Proposition 13 was implemented in 1978, public schools have obtained financing primarily from the State of California. A school district cannot determine the level of state funding it will receive until the state budget is chaptered, an event that is supposed to occur each year in late June. Before then, a school district's governing board, which has the duty to produce a balanced budget and to file an annual budget with the County Department of Education, is required to take steps to ensure that financial ends will meet if the worst-case financial scenario develops.

California's recent economic problems have had a crippling impact on the Grossmont Union High School District and other public school districts. If the District is unable to meet its financial obligations, a "negative" certification can be assigned that would allow the San Diego County Office of Education to intervene and take over the District's operations.

With regard to the budget for the 2011-12 school year, the District anticipates there will be a \$19 million deficit; it anticipates a \$23 million deficit for the 2012-13 school year.

Categorical Funding – Temporary Employees

4. The District receives categorical funding from the state and federal agencies for particular programs and for students with special needs, such as those provided through Special Education. In addition to being aimed at certain programs or populations, categorical funding usually comes with restrictions on how the funds can be spent.

Quality Education Investment Act (QEIA) funding for high risk schools, California School Age Family (Cal Safe) funding for students who are parents, and Project Shield funding for at-risk students are examples of categorical funding the District receives. The continuation of categorical funding is not guaranteed. The District utilizes the services of certificated employees to staff categorically funded programs. The District categorizes these employees as "temporary" employees.

The District's Response

5. In response to the anticipated budgetary shortfall for the 2011-12 school year, District administrators reviewed the various programs it was providing

and considered staffing issues involving classified staff, administrative staff, and certificated staff. District administrators determined that its level of staffing could be reduced or eliminated throughout the District, including the reduction of certificated staff. Based on current projections regarding the budget, District staff recommended to the Governing Board that it adopt a resolution authorizing the reduction and/or elimination of particular kinds of services and a reduction of certificated staff in accordance with Education Code sections 44949 and 44955. In all, it was recommended that 65.43 full time equivalent (FTE) positions be eliminated.

6. On March 8, 2011, Superintendent Swenson provided the following written recommendation to the Governing Board.

RECOMMENDATION: I recommend that the Board of Education approve at its regular meeting on March 10, 2010, a Resolution authorizing the reduction and/or elimination of particular kinds of services and a reduction of certificated staff in accordance with Education Code sections 44949 and 44955 due to financial conditions.

The services recommended for elimination are:

Administrators	3.0 FTE
Agriculture	1.0 FTE
AVID Teachers	0.4 FTE
Business Teachers	0.4 FTE
Counselors	6.0 FTE
Industrial Arts Teachers	0.4 FTE
Librarians	9.0 FTE
Life Science Teachers	1.0 FTE
Math Teachers	8.2 FTE
Instrumental Music Teachers	0.8 FTE
Physical Education Teachers	2.8 FTE
Physical Science Teachers	3.6 FTE
Social Science Teachers	3.6 FTE
Spanish Teachers	2.0 FTE

CATEGORICAL SERVICES AS FOLLOWS

AVID Teachers	0.66FTE
Business Teachers	0.33FTE
Child Development Teachers	1.2 FTE
Counselors	3.5 FTE
English Teachers	7.0 FTE
Life Science Teachers	1.33FTE
Math Teachers	5.0 FTE
Social Science Teachers	3.0 FTE

Special Studies Teachers

0.6 FTE

TOTAL CERTIFICATED POSITIONS 65.43FTE

Inclusion of categorically funded services within this Resolution is not intended to grant those individuals who are impacted any rights greater than provided by law, nor to nullify any provisions within each impacted individual's employment contract, nor to supersede any other Resolution by this Governing Board to release or otherwise terminate the services of any impacted individual.

Rationale: If certificated services are to be reduced or eliminated, the provisions of the Education Code require that such a Resolution be approved and written notice be provided to affected certificated employees by March 15. The District will consider bumping rights, retirements, nonreelection, and other attrition and give notice only those employees who, according to seniority, are appropriate for layoff.

In another written memo dated March 7, 2011, Superintendent Swenson recommended to the Governing Board that employees impacted by the recommended reduction of particular kinds of services be given notice that their services would not be required for the 2011-12 school year.

7. On March 10, 2011, following Superintendent Swenson's written recommendations, the Governing Board adopted Resolution No. 2011-36. It provides:

WHEREAS, the Governing Board of the Grossmont Union High School District has determined that it is in the best interests of the District and the welfare of the schools and the pupils thereof that the particular kinds of services set forth herein must be reduced or discontinued due to financial hardship; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Grossmont Union High School District as follows:

A. That the particular kinds of services set forth below be reduced or eliminated commencing in the 2011-2012 school year:

Administrators	3.0 FTE
Agriculture	1.0 FTE
AVID Teachers	0.4 FTE
Business Teachers	0.4 FTE
Counselors	6.0 FTE
Industrial Arts Teachers	0.4 FTE
Librarians	9.0 FTE
Life Science Teachers	1.0 FTE
Math Teachers	8.2 FTE
Instrumental Music Teachers	0.8 FTE
Physical Education Teachers	2.8 FTE
Physical Science Teachers	3.6 FTE
Social Science Teachers	3.6 FTE
Spanish Teachers	2.0 FTE

CATEGORICAL SERVICES AS FOLLOWS

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English Teachers	7.0 FTE
Life Science Teachers	1.33FTE
Math Teachers	5.0 FTE
Social Science Teachers	3.0 FTE
<u>Special Studies Teachers</u>	<u>0.6 FTE</u>

TOTAL CERTIFICATED POSITIONS 65.43FTE

**Inclusion of categorically funded services within this Resolution is not intended to grant those individuals who are impacted any rights greater than provided by law, nor to nullify any provisions within each impacted individual's employment contract, nor to supersede any other Resolution by this Governing Board to release or otherwise terminate the services of any impacted individual.*

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

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

D. That “competency” as described in Education Code section 44955(b) for the purposes of bumping shall necessarily include: (1) possession of a valid credential in the relevant subject matter area; (2) "highly qualified" status under the No Child Left Behind Act in the position into which the employee is bumping; (3) an appropriate EL authorization (if required by the position) (fn. 1: For employees serving in positions identified for layoff that do not require an FL authorization, competency Criteria 3 shall not apply); and (4) with respect to specialty positions such as JROTC Instructor or Curriculum Specialist, at least one (1) full year of experience in the position or assignment within the last three (3) years.

E. That, as between certificated employees with the same seniority date, the order of termination shall be determined solely by Board-adopted criteria.

F. That the District Superintendent or designee is directed to initiate layoff procedures and give appropriate notice pursuant to Education Code sections 44955 and 44949.

PASSED AND ADOPTED this 10th day of March, 2011, by the Governing Board of the Grossmont Union High School District of San Diego County, California.

8. Resolution No. 2011-36 did not contain a “skipping” provision under Education Code section 44944, subdivision (d)(1).

9. The Governing Board also adopted Resolution 2011-35, which set forth criteria for resolving ties in seniority related to certificated layoffs. Resolution No. 2011-35 was adopted in accordance with Education Code section 44955, subdivision (b), and required that the criteria be applied in order based on information on file on March 1, 2011, one step at a time until the tie was broken. A copy of the resolution is attached hereto as Appendix A.

Generally speaking, for tie-breaking purposes priority was given in descending order for possession of an EL authorization, possession of a clear or preliminary single subject credential, possession of a supplemental authorization, AVID training and assignment, the total number of credentials held, the total number of supplementary authorizations in different subject areas, possession of a doctoral degree, possession of a master's degree, persons holding specialized assignments, and, finally, a lottery. Priority was given within many of the categories; for instance, in the area of possession of an authorization to teach English Language Learners, an individual holding a BCLAD authorization was given priority over a person holding a CLAD authorization; in the area of clear and preliminary single subject credentials, a person holding a Special Education credential was given priority over (in descending order) employees holding credentials in Math, English, Science, Foreign Language, Visual and Performing Arts, Social Science, and Physical Education.

The enactment of Resolution No. 2011-35 was in the best interest of the District and the students.

The Particular Kinds of Services

10. The kinds of services identified in Resolution No. 2011-36 were services that could be reduced lawfully under the Education Code. The Governing Board's adoption of Resolution No. 2011-36 was neither arbitrary nor capricious; its adoption was well within the Governing Board's discretion. No particular kind of service was lowered to a level below that mandated by state or federal law. Resolution No. 2011-36 was related solely to the economic crisis and the Governing Board's duty to balance the budget. It was not related to declining enrollment.

The District's Seniority List

11. The District maintains a seniority list, a constantly evolving document that is updated as new certificated employees are hired and as other employees retire, resign, or otherwise become separated from service with the District. The seniority list is a spreadsheet that is organized from the District's most senior certificated employee to the most recently hired certificated employee. The list contains each employee's seniority number, name, position (e.g., teacher, vice principal, etc.), FTE position, seniority date (the employee's first paid date of probationary service), the employee's status (permanent or probationary), the subject being taught, the employee's credential(s), the employee's English Language Learner certification, a tie-breaking value for employees who provided service on the same first day, the school site where current services are being provided, and the employee's credentials on file with the District. The District provided employees with a grace period to obtain EL authorization.

The Issuance of Preliminary Layoff Notices

12. Using the District's seniority list, Resolution No. 2011-36, and the tie-breaking criteria, Ms. Liljestrom and others began the painstaking process of identifying

those certificated employees who should receive preliminary layoff notices and those who should not. Ms. Liljestrom personally spent at least 360 hours reviewing the seniority list to ensure it was correct, making certain bumping criteria were properly applied, and preparing a list of employees who were impacted by the Governing Board's resolution. Ms. Liljestrom was assisted by others in the effort.

13. Before March 15, 2011, the District served 61 employees with a preliminary layoff notices and/or precautionary layoff notices, an accusation package (which contained a notice of recommendation that services will not be required and stated that a request for a hearing had to be filed no later than March 31, 2011), a notice of accusation, an accusation, a blank request for hearing and notice of defense, a list of all individuals who were being served with the preliminary and precautionary layoff notices, copies of Resolution No. 2011-35 and Resolution No. 2011-36, and copies of required provisions of the Education Code and the Government Code.

14. All prehearing jurisdictional requirements were met.

The Administrative Hearing

15. On April 27, 2011, the record in the reduction in force proceeding was opened. Jurisdictional documents were introduced. The caption was amended. Opening statements were not provided. Sworn testimony was taken and documentary evidence was received. Associate Administrator Sonnich testified about the District, its funding, the financial crisis in California and its impact on the District's budget and operations, the manner in which the District recommended the elimination of particular kinds of services, the Governing Board's enactment of the resolutions, the tie-breaking criteria, how natural attrition resulted in the need to serve fewer preliminary and precautionary notices than the number of FTE positions that were being eliminated, and a request that the administrative law judge adopt the District's position that credentialed employees who were providing services in categorically funded programs were temporary employees. Associate Administrator Sonnich established how documentation regarding credentials and employee seniority was maintained by the District office, how an employee's first date of probationary service constituted the basis for determining employee seniority, how ties were broken for employees who rendered service in a probationary capacity on the same day, and the process that was used to identify those employees who should and should not receive preliminary layoff notices. Her testimony established that the three administrators who were being reassigned to teaching positions were tenured and were not subject to layoff in this proceeding. Her testimony established that two employees – Anthony Garcia and Brianne Jones – received both preliminary and precautionary notices because they held at least two positions that were not funded entirely by categorical aid. Ms. Liljestrom explained how a junior employee could not be displaced by a senior employee who was not credentialed or competent to assume the junior employee's position. On direct and cross-examination, Ms. Liljestrom showed how specific employees had the credentials and qualifications to assume the positions being held by more junior employees.

16. Melanie Stanley (seniority number 976) holds a seniority date of November 30, 2009. She is a probationary employee. She holds a single subject credential in Agriculture (“Ag”) and a single subject credential as an Agricultural Specialist. Ms. Stanley left a credentialed position elsewhere for employment in the District, where her grandfather served in the Ag program.

Ms. Stanley is the least senior of the three Ag teachers within the District. She received a preliminary layoff notice because Resolution No. 2011-36 called for the reduction of 1.0 FTE in Agriculture.

Ms. Stanley spoke enthusiastically about the District’s Agriculture program at El Capitan High School, the only Ag program in the District. Ms. Stanley currently teaches 180 Ag students, most of whom are freshmen. Ms. Stanley’s testimony established that the Ag program at El Capitan is flourishing and has yielded numerous statewide awards. Many high school students who major in Ag go on to study Agriculture at two or four year colleges, and many other Ag majors are hired directly out of high school into their field of study.

Ms. Stanley expressed concern that the elimination of one FTE in Agriculture would have a devastating impact on incoming students and the District’s Agriculture program in general. She did not think that eliminating one FTE in Agriculture was in the best interest of the District or its students. Ms. Stanley’s sincerity, her passion for teaching, and her commitment to her students is highly commendable. However, her argument is properly addressed to the Governing Board. For the purpose of the present administrative proceeding, the board’s decision to eliminate the 1.0 FTE in Agriculture was neither arbitrary nor capricious, but constituted a proper exercise of its discretion.

The Reduction in Force Proceeding

17. The enactment of Resolution No. 2011-36 was the result of a budgetary crisis, not a decline in attendance; it was enacted in good faith; it was in the best interest of the District and its students. The District complied with all jurisdictional requirements. The District used seniority, credentials, and competence as the basis for “bumping” junior employees, and the District retained the services of more senior, competent, and appropriately credentialed employees to provide services currently being provided by more junior employees. The District’s tie-breaking criteria were applied in an appropriate and evenhanded manner, and the application of those criteria was in the best interest of the District and its students. The district correctly assigned temporary status to certificated employees who were employed in categorically funded positions.

LEGAL CONCLUSIONS

Statutory Authority - Reduction in Force Proceedings

1. Education Code section 44949 provides in part:

(a) No later than March 15 and before an employee is given notice by the governing board that his or her services will not be required for the ensuing year for the reasons specified in Section 44955, the governing board and the employee shall be given written notice by the superintendent of the district or his or her designee . . . that it has been recommended that the notice be given to the employee, and stating the reasons therefor.

. . .

(b) The employee may request a hearing to determine if there is cause for not reemploying him or her for the ensuing year. A request for a hearing shall be in writing and shall be delivered to the person who sent the notice pursuant to subdivision (a), on or before a date specified in that subdivision, which shall not be less than seven days after the date on which the notice is served upon the employee. If an employee fails to request a hearing on or before the date specified, his or her failure to do so shall constitute his or her waiver of his or her right to a hearing . . .

(c) In the event a hearing is requested by the employee, the proceeding shall be conducted and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the governing board shall have all the power granted to an agency therein, except that all of the following shall apply:

(1) The respondent shall file his or her notice of defense, if any, within five days after service upon him or her of the accusation and he or she shall be notified of this five-day period for filing in the accusation.

(2) The discovery authorized by Section 11507.6 of the Government Code shall be available only if request is made therefor within 15 days after service of the accusation, and the notice required by Section 11505 of the Government Code shall so indicate.

(3) The hearing shall be conducted by an administrative law judge who shall prepare a proposed decision, containing findings of fact and a determination

as to whether the charges sustained by the evidence are related to the welfare of the schools and the pupils thereof. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the administrative law judge shall be binding on the governing board. Nonsubstantive procedural errors committed by the school district or governing board of the school district shall not constitute cause for dismissing the charges unless the errors are prejudicial errors. Copies of the proposed decision shall be submitted to the governing board and to the employee on or before May 7 of the year in which the proceeding is commenced. All expenses of the hearing, including the cost of the administrative law judge, shall be paid by the governing board from the district funds . . .

(d) Any notice or request shall be deemed sufficient when it is delivered in person to the employee to whom it is directed, or when it is deposited in the United States registered mail, postage prepaid and addressed to the last known address of the employee. . . .

(e) If after request for hearing pursuant to subdivision (b) any continuance is granted pursuant to Section 11524 of the Government Code, the dates prescribed in subdivision (c) which occur on or after the date of granting the continuance and the date prescribed in subdivision (c) of Section 44955 which occurs after the date of granting the continuance shall be extended for a period of time equal to the continuance.

2. Education Code section 44955 provides in part:

(a) No permanent employee shall be deprived of his or her position for causes other than those specified . . . and no probationary employee shall be deprived of his or her position for cause other than as specified . . .

(b) Whenever . . . a particular kind of service is to be reduced or discontinued not later than the beginning of

the following school year . . . and when in the opinion of the governing board of the district it shall have become necessary by reason of any of these conditions to decrease the number of permanent employees in the district, the governing board may terminate the services of not more than a corresponding percentage of the certificated employees of the district, permanent as well as probationary, at the close of the school year. Except as otherwise provided by statute, the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to render . . .

As between employees who first rendered paid service to the district on the same date, the governing board shall determine the order of termination solely on the basis of needs of the district and the students thereof. Upon the request of any employee whose order of termination is so determined, the governing board shall furnish in writing no later than five days prior to the commencement of the hearing held in accordance with Section 44949, a statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking each employee relative to the other employees in the group. This requirement that the governing board provide, on request, a written statement of reasons for determining the order of termination shall not be interpreted to give affected employees any legal right or interest that would not exist without such a requirement.

(c) Notice of such termination of services shall be given before the 15th of May in the manner prescribed in Section 44949, and services of such employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 44844 and 44845. In the event that a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 44949, he or she shall be deemed reemployed for the ensuing school year.

The governing board shall make assignments and reassignments in such a manner that employees shall be

retained to render any service which their seniority and qualifications entitle them to render. However, prior to assigning or reassigning any certificated employee to teach a subject which he or she has not previously taught, and for which he or she does not have a teaching credential or which is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

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

(1) The district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services, which others with more seniority do not possess.

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

Jurisdiction

3. Jurisdiction in this matter exists under Education Code sections 44949 and 44955. All notices and jurisdictional requirements contained in those sections were satisfied as to all respondents.

The Reduction of Particular Kinds of Services

4. A school board may determine whether a particular kind of service should be reduced or discontinued, and it cannot be concluded that the governing board acted unfairly or improperly simply because it made a decision it was empowered to make. (*Rutherford v. Board of Trustees* (1976) 64 Cal.App.3d 167, 174.) A school board's decision to reduce or discontinue a particular kind of service need not be tied in with any statistical computation. It is within the discretion of a school board to determine the amount by which it will reduce or discontinue a particular kind of service as long as the school 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.)

Competence

5. The Education Code leaves to a school board's discretion the determination of whether an employee must also be competent to be employed in a vacant position in addition to possessing seniority. The term "competent" relates to an individual's specific skills or qualifications, including academic background, training, credentials, and experience, but it does not include evidence related to on-the-job performance. (*Forker v. Board of Trustees* (1984) 160 Cal.App.3d 13, 18-19.)

Categorically Funded Employees

6. A categorically funded project need not involve the creation of special classes divorced from the normal curriculum, but may augment the curriculum in whatever manner is specified in the particular program. The defining characteristics are that the program be financed outside the base revenue limit with the funds designated for a use specified by the particular program. (*Zalac v. Governing Board of the Ferndale Unified School District* (2002) 98 Cal.App.4th 838, 848.) In *Bakersfield Elementary Teachers Association v. Bakersfield City School District* (2006) 145 Cal.App.4th 1260, 1281, the appellate court observed that in addition to "short term temporary teachers" and "long term replacement teachers" there was a third employee group comprising "persons employed in categorically funded programs or in programs operated by a district under contract." These employees "may be dismissed without the formalities required for probationary and permanent employees in the event the program expires or is terminated, and their service does not account toward acquiring permanent status unless they are employed the following year in a probationary position." (*Id.*, at p. 1286.) This logic applies to employees serving in categorically funded programs whose continued funding is, at best, uncertain.

7. Under Education Code sections 44949 and 44955, an administrative law judge lacks jurisdiction to reclassify employees in a layoff proceeding. If a school district has misclassified a categorically funded employee, the power to compel the school district to reclassify and reinstate that employee rests with the Superior Court, as was done in *California Teachers Assn. v. Vallejo City Unified School District* (2007) 149 Cal.App. 4th 135.

Information Filed with the County Superintendent after March 15, 2011

8. A credential recorded with the County Superintendent after March 15 cannot be used by a teacher to assert bumping or reassignment rights. The practical reason for this rule is that layoff notices must be given, if at all, by March 15 of any school year to effect a reduction in teaching staff for the ensuing school year. Should a teacher be allowed to present a certificate to the governing board after March 15 and thereby obligate the board to continue to employ that teacher, the board would by that date be precluded from serving a layoff notice to a junior teacher. This circumstance would result in the board being forced to retain an extra teacher on staff when the entire purpose of the layoff procedure is to allow the

reduction of staff positions because there are fewer services being offered. (*Duax v. Kern Community College Dist.* (1987) 196 Cal.App.3d 555, 567-568.)

Cause Exists to Affirm the District's Decision to Release the Services of Categorically Funded Certificated Employees

9. As a result of the Governing Board's lawful reduction of particular kinds of services, cause exists to affirm the District's decision to release the services of those categorically funded credentialed employees who are identified hereafter who are providing the particular kinds of services referred to in Resolution No. 2011-36.

Cause Exists to Give Notice to Certain Employees

10. As a result of the Governing Board's lawful reduction of particular kinds of service, cause exists under the Education Code for the District to give final notice to those respondents who are identified hereafter that their employment will be terminated at the close of the current school year and that their services will not be needed by the district for the 2011-2012 school year.

Determination

11. The charges set forth in the Accusation were sustained by the preponderance of the evidence. The adoption of Resolution No. 2011-36 was related to the welfare of the District and its pupils. The District made necessary assignments and reassignments in such a manner to ensure that no permanent or probationary employee with less seniority than any employee identified hereafter is being retained to render a service that the identified employees are certificated and competent to render.

RECOMMENDATIONS

It is recommended that the Governing Board of the Grossmont Union High School District release from employment at the end of the 2011-12 school year the following certificated employees who serve in categorically funded programs: Leroy Alicea; Amy Amerling; Michelle Clark-Caldwell; Michelle Ditomaso; Tara Egipto; Travis Engstrand; Pamela Flagg; Michael French; Anthony Garcia; Dalia Gonzalez; Annika Goodin; Cleophus Harris, Jr.; Sophia Jacoub; Eric Jesperson; Brine Jones; Valerie Kipper; Martha Largent; Jose Lucero; Erica Luster; Matthew McGlenn; Marguerite Rohmer; Carma Sanchez; Leena Somo; Matthew Udvarhelyi; and Marilynn Sue Walker.

It is recommended that the Governing Board of the Grossmont Union High School District issue final notices to the following certificated employees: Elizabeth Ayres; Jason Babineau; Kelsey Beeman; Lauren Boaz; Adam Bovie; Melissa Drake; Michael Falconer; Anthony Garcia; Joseph Grisafi; Cody Jenkins; Jesus Jimenez; Brianne Jones; Esther Kang; Holly Knudson; Tyler Ludwig; Jennifer Mascari; Dustin Millsap; Julie Obanion; Jordana Onstot; Stephanie Pagano; Stephanie Palechek; Courtney Pate; Michelle Patten; Stephanie Picon; Robert Pyle; Rebecca Short; Brian Smith; Melanie Stanley; Robert Stirling;

Guadalupe Sturgeon; Danille Underwood; Valerija Vitkauskas; Christina Wilde; Nicholas Williams; and David Yang.

Dated: April 29, 2011

JAMES AHLER
Administrative Law Judge
Office of Administrative Hearings