

**BEFORE THE GOVERNING BOARD
OF THE
SOUTH PASADENA UNIFIED SCHOOL DISTRICT**

IN THE MATTER OF THE ACCUSATIONS)
AGAINST:)

OAH NO. L2006030482

MARYANN NIELSON, PATTI SCHINDLER)
RONALD BURANASAKORN, KRISTIN)
BARKHUST, JOANNE KHELLA, DARA)
LOFTIS, DIANE SHIRES, CHRISTINE MA,)
and REIKO IKKANDA)

Respondents.)

PROPOSED DECISION

Humberto Flores, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on April 12, 2006, at the offices of the South Pasadena Unified School District, South Pasadena, California.

Warren Kinsler, Attorney at Law, represented the South Pasadena Unified School District.

Michael Feinberg, Attorney at Law, represented the Respondents.

Evidence was received and the matter was submitted for decision.

SUMMARY

The Board of Trustees (Board) of the South Pasadena Unified School District (District) decided to reduce or discontinue particular kinds of services provided by certificated personnel for the 2006-2007 school year for budgetary reasons. The decision was not related to the competency and dedication of the teachers whose services were proposed to be reduced or eliminated.

District staff carried out the Board's decision by using a selection process involving review of credentials and seniority, "bumping," and breaking ties between employees with the same first dates of paid service. The selection process complied with Education Code requirements.

FACTUAL FINDINGS

1. Dr. Kenneth Moffett, the Interim Superintendent of the District, filed the Accusations in his official capacity.

2. Respondents are certificated employees of the District.

3. On or about March 13, 2006, Dr. Moffett recommended that the Governing Board adopt a resolution to reduce or discontinue particular kinds of services for the 2006-2007 school year. Dr. Moffett recommended the reduction and/or elimination of 8.8 full-time-equivalency (FTE) certificated employees as follows:

Reduce Middle School Social Studies Teaching Services	1.0 FTE
Reduce High School Social Studies Teaching Services	2.0 FTE
Reduce Middle School English Teaching Services	1.0 FTE
Reduce High School English Teaching Services	4.0 FTE
Discontinue Middle School Home Arts Teaching Services	.8 FTE

4. On March 13, 2006, the Board adopted Resolution No. 2005-2006-14, to discontinue or reduce the particular kinds of services as set forth in Factual Finding 3. The Board further determined that based on the discontinuance or reduction of services, it would be necessary to decrease the number of certified employees at the close of the present school year by a corresponding number of full-time equivalent positions. The Board also directed the Interim Superintendent to notify the employees affected by the Board's resolution.

5. On March 14, 2006, Dr. Moffett notified Respondents in writing that it had been recommended their services would not be required for the next school year. The mailing included the reasons for the notification. Respondents made timely requests for hearing.

6. The Superintendent made and filed Accusations against each of the employees who requested a hearing.

7. Notices of Defense were timely filed by all of the employees who appeared for the hearing. All prehearing jurisdictional requirements were met.

8. The reduction or discontinuation of the particular kinds of services set forth in Factual Finding 3, related to the welfare of the District and its pupils.

9. The Board considered attrition, including resignations, retirements and requests for leave, in determining the necessary layoff notices to be delivered to employees.

10. The District maintains a Seniority List which contains employees' seniority dates (the first date of paid service in a probationary position), current assignments and locations, advanced degrees, credentials, and authorizations.

11. No junior certificated employee is being retained to perform services which a more senior employee subject to layoff is certificated and competent to render.

12. The evidence established that respondent's are all outstanding teachers. However, the District has projected a budget deficit for the ensuing school year. The District anticipates of revenue shortage of \$860,000.00.

LEGAL CONCLUSIONS

1. All notices and other requirements of Education Code sections 44949 and 44955 were met. Therefore, jurisdiction was established for this proceeding as to all Respondents.

2. Cause was established as required by Education Code section 44955 to reduce the number of certificated employees due to the reduction or discontinuation of particular kinds of services. The Board's decisions to reduce or eliminate the identified services were neither arbitrary nor capricious. The decisions relate solely to the welfare of the District's schools and the pupils within the meaning of Education Code section 44949.

3. No junior certificated employee is being retained to perform services which a more senior employee subject to layoff is certificated and competent to render.

ORDER

Notice may be given to Respondents Maryann Nielson, Patti Schindler, Ronald Buranasakorn, Kristin Barkust, Joanne Khella, Dara Loftis, Diane Shires, Christine Ma and Reiko Ikkanda, that their services will not be required for the 2006-2007 school year.

Dated: May 1, 2006

Humberto Flores
HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

**BEFORE THE GOVERNING BOARD OF THE
NORTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT**

In the Matter of the Accusation against

WILLIAM BALDWIN,

Respondent.

OAH No. L2006031023

PROPOSED DECISION

Daniel Juárez, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on May 4, 2006, in Anaheim, California.

Jacqueline D. Dewarr, Attorney at Law, Law Offices of Margaret A. Chidester & Associates, represented the North Orange County Community College District (the District).

Carlos R. Perez, Attorney at Law, Reich, Adell, Crost & Cvitan, represented William Baldwin (Respondent). Respondent also appeared.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on May 4, 2006.

The hearing was originally to be held on April 19, 2006. A continuance was granted and the hearing was, thereafter, held on May 4, 2006, 15 days later. Consequently, pursuant to Education Code section 87740, subdivision (i), the date on which the proposed decision must be submitted to the District is extended for a period of time equal to the continuance. Therefore, the deadline to submit the proposed decision to the District was extended from May 7, 2006, to May 22, 2006. Similarly, the District's deadline to provide notice to Respondent, pursuant to Education Code section 87740, subdivisions (e) and (h), was extended from May 15, 2006 to May 30, 2006.

FACTUAL FINDINGS

1. On March 1, 2006, the District sent Respondent a letter informing him that, pursuant to a resolution by the District's Board of Trustees, Respondent's services as an instructor would no longer be required as of the 2006-2007 academic year. On April 8, 2006, Respondent requested a hearing, in response to the District's March 1, 2006 letter. On March 29, 2006, Jeffrey O. Horsley, Vice Chancellor, Human Resources, signed the Accusation, in his official capacity, on behalf of the District. On March 30, 2006, Respondent signed a Notice of Defense, in response to the Accusation, and this action ensued.

2. On February 28, 2006, the District's Board of Trustees adopted, signed, and approved "Resolution No. 05/06-11 Regarding a Reduction or Discontinuance of Particular Kinds of Service." (Exhibit 1.) That resolution ordered the reduction or discontinuance of one full-time equivalent (FTE) computer science instructor position (probationary or permanent faculty employee), pursuant to Education Code sections 87740 and 87743. It was this resolution that the District referred to in its March 1, 2006 letter to Respondent. As part of its resolution, the District's Board of Trustees exempted from that reduction, instructors who possessed the qualifications and experience to teach Computer Information Systems (CIS), currently assigned to instruct such courses in the 2006-2007 academic year.

3. CIS is a distinct discipline from computer science. In overly simplistic terms, computer science involves, among other things, software programming, whereas CIS involves the usage of software applications and network installation. Therefore, an instructor's background and experience in computer science is not necessarily adequate experience to teach CIS, and conversely, an instructor's background and experience in CIS is not necessarily adequate experience to teach computer science.

4. In June 1990, community college districts changed the way they qualify instructors to teach various disciplines. Prior to 1990, the Board of Governors of California Community Colleges issued credentials that related to specified disciplines; instructors were thereby qualified to teach courses within the credentialed discipline. After June 1990, the law required the Board of Governors of California Community Colleges to establish defined minimum qualifications to teach within a discipline. (Ed. Code § 87356, subd. (a); Cal. Code Regs., tit. 5, § 53410.) Now, the District follows the established minimum qualifications and honors previously issued credentials with which to designate instructors to teach particular disciplines. To honor a credential for purposes of teaching a discipline, however, the District requires the credential to be named exactly as the discipline in which the instructor proposes to teach. If the credential is distinctly named from the discipline (and the instructor does not otherwise meet the minimum qualifications), the instructor must request an equivalency determination through the equivalency process. The Legislature provided for an equivalency process, a process whereby community colleges can employ instructors who do not meet the minimum qualifications. (See, Ed. Code § 87359.) In that process, if an instructor proves that he or she possesses qualifications that, while distinct, are equivalent to the regulatory minimum qualifications, then a community college's equivalency committee may approve that instructor to teach the sought-after discipline.

5. The Board of Governors of California Community Colleges identified computer science as a discipline that requires, as minimum qualifications, that the instructor have a master's degree in computer science or computer engineering, or various other combinations of master's and bachelor's degrees in related disciplines. CIS, however, is a discipline in which a master's degree is not generally expected or available. The minimum qualifications to teach CIS are, that the instructor have any bachelor's degree and two years of professional experience directly related to CIS, or an associate's degree and six years of professional experience directly related to CIS. The professional experience should be in areas like "computer network installation, microcomputer technology, [and] computer

applications.” (Exhibit 3.) If an instructor does not possess these minimum qualifications, the District can review an instructor’s experience through the equivalency process.

6. Respondent holds a bachelor of arts degree in business administration, and a master of science degree in software engineering. Furthermore, since November 1988, he holds a credential in Computer and Related Technologies. The credential is valid for life.

7. The District hired Respondent as a full-time instructor in August 1999. Since then, he has taught, mainly, computer science courses at Cypress College. Respondent has also taught computer science at several other schools, including Fullerton College, another college within the North Orange County Community College District. In addition to computer science courses, he has taught CIS and mathematics courses at various schools, including Cypress College. In the fall 1996 and spring 1997 semesters, Respondent taught a CIS course at Fullerton College called “Introduction to Personal Computer Applications” that included instruction on how to use Microsoft Office 4.3. (Exhibit 11-B.) Respondent also taught another CIS course at Fullerton College, in the fall 1991, and spring 1992 semesters. Respondent taught CIS courses at three other colleges between 1990 and 1995. Since the fall 2002 semester, he has taught, mainly, computer science classes, when teaching within the North Orange County Community College District. The District values Respondent as an instructor, and its decision to lay him off is not related to his competency or dedication.

8. For several years, student enrollment in computer science has been declining within the North Orange County Community College District. The decline in enrollment has been such that the District concluded it had to reduce one FTE computer science instructor position. The District reviewed the seniority list of computer science instructors when deciding whom it needed to lay off.

9. Respondent is senior to one faculty member on the computer science discipline seniority list. The District hired the junior faculty member on the same day as Respondent. However, when the District hires two or more employees on the same day, it draws names by lottery to establish seniority. Using this process, the District designated Respondent as the senior faculty member between the two. Though Respondent is senior to this other faculty member, the District found the junior faculty member to possess the necessary qualifications to teach CIS, in addition to computer science. The junior faculty member is on the CIS seniority list but Respondent is not. Respondent, therefore, faces lay-off by the District instead of the junior faculty member.

10. In approximately June 2004, noting that Respondent did not have the requisite background to teach in the CIS discipline, and in accordance with the collective bargaining agreement between the District and faculty, the District proposed a retraining program to Respondent that would provide him the necessary skills to be qualified to teach in the CIS discipline. Respondent reviewed the proposal, but after a series of communications between Respondent and District personnel, from June 2004 through a date uncertain in 2005, Respondent thereafter refused the retraining program. The District made Respondent aware

that, pursuant to the collective bargaining agreement, Respondent's failure to undertake retraining could "culminate in loss of employment with the District." (Exhibits 2 & 10-B.) Respondent found the proposal unfair and excessive when he considered his CIS experience. He argued that he had taught several of the courses in the proposed training program for well over a decade, and therefore he did not require retraining in those subjects. He also argued that the retraining program would require him to take computer courses that were not taught at Cypress College where he was faculty, and therefore, those courses were, for him, unnecessary. Nonetheless, the District reasserted its retraining proposal, and Respondent still refused to enroll.

11. On or about September 26, 2003, Respondent had submitted an application to the District for equivalency in CIS. He submitted, among other things, his résumé, inclusive of his work history, a list of all the courses he taught, including CIS courses, and a copy of his teaching credential in Computer and Related Technologies. Thereafter, the District's equivalency committee reviewed Respondent's application, and denied it. When it reviews an application, the District's committee personnel note data, regarding Respondent, on the cover sheet. Respondent's cover sheet has a space to list credentials. Respondent's cover sheet shows no credential and, instead, is blank. Respondent noted his credential on his equivalency application in response to question five of the application, and on page two of his included résumé. District personnel wrote the word "denied" on the cover sheet, with the date of November 3, 2003. (Exhibit 11-B.) Among other things, Respondent noted, in his application, that he had "taught CIS classes at five different schools covering about thirty different classes for a total of about one hundred sections." (*Ibid.*) Respondent noted his related work experience with a third party hardware service company as a "Region Operations Administrator" from February 1988 to April 1989, and "Field Administrative Specialist" from October 1982 to February 1988. (*Ibid.*)

12. Respondent argued that the District's equivalency committee should have approved his equivalency application; had it done so, he argued, and due to his seniority, he would not be subject to lay-off. Specifically, Respondent argued that the District's equivalency committee failed to consider his overall teaching experience, including the CIS courses he taught, it failed to consider his Computer and Related Technologies credential, and it failed to consider his work history. Respondent asserted that his teaching experience, particularly the CIS courses within the North Orange County Community College District, showed adequate familiarity with the CIS discipline. He further asserted that his work history showed sufficient vocational background with CIS-related skills. Lastly, Respondent asserted that his credential is broad enough in scope to cover the computer science and CIS disciplines. Respondent further argued that the omission of his credentials on his application cover sheet proved the District failed to consider it. Respondent's arguments fail. (*See, Legal Conclusions 17-19, post.*)

13. The District's equivalency committee considered Respondent's complete application. The committee looked more closely at Respondent's work experience than his teaching experience because, for the CIS discipline, it valued vocational experience more than academic experience. The District admitted that it was an administrative oversight to

have allowed Respondent to teach CIS within the North Orange County Community College District without approving his equivalency beforehand. In looking at Respondent's work history, it did not find his experience to be sufficiently relevant to the CIS discipline, nor did it find his work history to be sufficiently recent. The committee did not find Respondent's credential relevant to the CIS discipline.

14. After learning of the District equivalency committee's denial, Respondent attempted to resubmit his equivalency application. He redrafted his résumé, further describing his work experience, in a way he believed showed sufficient vocational background to cause the committee to approve his application. The committee did not reconvene to reconsider Respondent's redrafted résumé, as part of a subsequent application. The District informed Respondent that it would only reconsider an equivalency application if the applicant had new and different information than what he had previously submitted. The committee did not find Respondent's redrafted résumé to provide new and different information. Respondent sought a way to appeal the committee's original equivalency denial; however, the committee informed him that there was no right of appeal. Respondent argued that the denial of an equivalency determination appeal was a violation of Respondent's rights in this matter; it was not. (*See*, Legal Conclusion 20, *post*.)

LEGAL CONCLUSIONS

1. Cause exists to sustain the District's action to reduce or discontinue, at the close of the 2005-2006 academic year, one full-time equivalent computer science instructor position, specifically the position held by Respondent William Baldwin, pursuant to Education Code sections 87740 and 87743, as set forth in Factual Findings 1-14, and Legal Conclusions 2-21.

2. Education Code section 87740 states, in pertinent part:

[¶] . . . [¶]

(b) The employee may request a hearing to determine if there is cause for not reemploying him or her for the ensuing year.

(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 the Government Code and the governing board shall have all the power granted to an agency in that chapter, except that all of the following shall apply:

[¶] . . . [¶]

(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 colleges and the students thereof. . . [C]opies 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.

[¶] . . . [¶]

(i) 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 subdivisions (c), (d), (e) and (h) that occur on or after the date of granting the continuance shall be extended for a period of time equal to the continuance.

3. Education Code section 87743 states, in pertinent part:

[¶] . . . [¶]

Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, or 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 either of these conditions to decrease the number of tenured employees in the district, the governing board may terminate the services of not more than a corresponding percentage of the employees of the district, tenured as well as probationary, at the close of the school year. However, the services of no tenured employee may be terminated under this section while any probationary employee, or any other employee with less seniority, is retained to render a service in a faculty service area in which the records of the district maintained pursuant to Section 87743.4 reflect that the tenured employee possesses the minimum qualifications prescribed by the board of governors and is competent to serve under district competency criteria.

4. The parties satisfied all notice and jurisdictional requirements to establish jurisdiction, pursuant to Education Code sections 87740 and 87743.

5. The decline in enrollment in the District's computer science discipline is an appropriate reason for the District to reduce or discontinue the particular kind of service at issue in this matter. (Ed. Code § 87743.) The reduction or discontinuance of services relates solely to the welfare of the District, and its campuses and students.

6. The District properly reviewed its computer science seniority list to decide whom it must seek to lay-off. The evidence supported the District's conclusion that

Respondent was not qualified to teach CIS courses, as laid out below. The California Supreme Court has given due deference to school districts' determinations related to teacher competency and qualifications in lay-offs like the instant case. The state's high court has described those determinations by schools as, "'discretionary decisions' which are within the 'special competence' of the school districts." (*Duax v. Kern Community College District* (1987) 196 Cal. App. 3d 555, 565 [citing *Martin v. Kentfield School District* (1983) 35 Cal.3d 294, 299].) Thus, the determinations regarding Respondent's qualifications, here, are given due deference. The District is an appropriate entity to assess Respondent's skills and experience vis-à-vis its needs in CIS instruction. Though it provided for some deference to districts, the *Duax* Court nonetheless set parameters to that deference, noting that schools' definitions of competency were reasonable when they considered "the skills and qualifications of the teacher threatened with layoff." (*Duax, supra*, 196 Cal.App.3d at page 565.) Here, the evidence established that the District adequately considered Respondent's skills and qualifications.

7. To prevail in this matter, Respondent needed to prove that he was qualified to teach in the CIS discipline in one of three ways: 1) by virtue of his credential, 2) because he met the minimum qualifications, as set forth in regulation, or 3) by establishing equivalent qualifications through the equivalency process. Respondent failed to do so. The evidence, as a whole, supported the District's conclusion that Respondent is not qualified to teach in the CIS discipline. Therefore, the District acted properly in seeking to lay-off Respondent, even though it will retain the services of an instructor who is junior, in seniority, to Respondent.

Respondent's Credential

8. Education Code section 87355 states, in pertinent part:

Notwithstanding Section 87356, every person authorized to serve as a community college instructor . . . under a credential shall retain the right to serve under the terms of that credential, and, for that purpose, shall be deemed to possess the minimum qualifications specified for every discipline or service covered by the credential until the expiration of that credential. The board of governors shall adopt regulations as necessary to implement this requirement.

9. Education Code section 87356, subdivision (a) states, in pertinent part:

(a) The board of governors shall adopt regulations to establish and maintain the minimum qualifications for service as a faculty member teaching credit instruction

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10. Respondent's credential is not in CIS, but is entitled, "Computer and Related Technologies." Respondent retains the right to serve as an instructor "under the terms of that credential, and for that purpose," and he is deemed to possess the minimum qualifications for disciplines "covered by the credential." (Ed. Code § 87355.) While Respondent argued that his broadly titled credential established his qualifications to teach CIS courses, the District proved a sufficient distinction between the subject matters covered by a "Computer and Related Technologies" credential, and CIS, as a discipline. More specifically, the evidence proved a reasonable distinction between computer science, as an academic discipline focused on developing software, and, in contrast, CIS, as a vocationally focused discipline, emphasizing the use of software applications, microcomputers, and the installation of networks. At hearing, Respondent highlighted a community college credential guide that, he asserted, proved his credential was meant to cover virtually all computer-related instruction, including CIS. (Exhibit 11-D). The evidence, however, proved the guide unreliable. Respondent did not prove the guide's age, and the guide's wording supported the District's contention that the guide was outdated and was more relevant, perhaps, closer in time to when Respondent was initially credentialed (1988). While it may have been the case that the State's credentialing entity intended to give Respondent's credential significant breadth, the established distinction between computer science and CIS was sufficient to minimize the relevance of Respondent's credential, for this purpose. Thus, Respondent's credential is not sufficient to qualify him to teach CIS courses.

The Minimum Qualifications Analysis

11. California Code of Regulations, title 5, section 53410, states, in pertinent part:

The minimum qualifications for service as a community college faculty member teaching any credit course . . . shall be satisfied by meeting any one of the following requirements:

(a) Possession of a master's degree, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(b) Possession of a master's degree, or equivalent foreign degree, in a discipline reasonably related to the faculty member's assignment and possession of a bachelor's degree, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(c) For faculty assigned to teach courses in disciplines where the master's degree is not generally expected or available, which are, generally, disciplines in specialized technical, trade, or industrial fields, either of the following:

(1) Possession of a bachelor's degree, or equivalent foreign degree, plus two years of professional experience, directly related to the faculty member's assignment.

12. California Code of Regulations, title 5, section 53404, states, in pertinent part:

As used in this Subchapter, "professional experience" includes teaching experience. "Occupational experience" does not include teaching experience.

13. Respondent did not prove he met the minimum qualifications, pursuant to California Code of Regulations, title 5, section 53410. To teach in the CIS discipline, where a master's degree is not generally expected or available, Respondent needed to show that he possessed any bachelor's degree, and two years of professional experience, directly related to CIS. Respondent has a bachelor's degree, but the evidence did not establish that he possessed two years of professional experience directly related to CIS.

14 Respondent's work experience showed he was a "Regional Operations Administrator" for 14 months. Respondent, however, did not prove his work history demonstrated CIS-related experience. The District's CIS faculty did not find his résumé (or even his redrafted résumé) convincing of CIS-related skills. Of his work history that was on point, the District found Respondent's experience neither sufficiently relevant nor recent to qualify him for CIS instruction. Moreover, even if his experience was sufficiently related, his 14 months of experience do not meet the two-year regulatory requirement. Respondent did not prove that his other work experience demonstrated CIS-related experience, either. Lastly, even considering that professional experience includes teaching experience (Cal. Code Regs., tit. 5, § 53404), the District considered Respondent's teaching experience as part of its equivalency review, and did not find it adequate to qualify him to teach CIS courses. Thus, Respondent did not meet the minimum qualifications, as set forth in regulation.

The Equivalency Process

15. Education Code section 87359 states, in pertinent part:

The board of governors shall adopt regulations setting forth a process authorizing local governing boards to employ faculty members . . . who do not meet the applicable minimum qualifications specified in the regulations adopted by the board of governors pursuant to section 87356. Unless and until amended pursuant to the process described in Section 87357, the regulations shall require all of the following:

(a) No one may be hired to serve as a community college faculty member . . . under the authority granted by the regulations unless the governing board determines that he or she possesses qualifications that are at least equivalent to the minimum qualifications specified in regulations of the board of governors adopted pursuant to Section 87356. The criteria used by the governing board in making the determination shall be reflected in the governing board's action employing the individual.

(b) The process, as well as criteria and standards by which the governing board reaches its determinations regarding faculty members, shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine that each individual faculty member employed under the authority granted by the regulations possesses qualifications that are at least equivalent to the applicable minimum qualifications specified in regulations adopted by the board of governors.

16. The evidence proved that the District considered Respondent's complete equivalency application, including his credential, teaching experience, and work experience, and found his background inadequate for CIS equivalency.

17. Respondent's argument that the District failed to consider his credential, by virtue of its omission on his application's cover sheet (*see*, Factual Finding 12, *ante*), or otherwise, is negated by the fact that Respondent, himself, noted his credential in two other places on his application. (*See*, Factual Finding 11, *ante*.) There was no evidence that the District's equivalency committee ignored or overlooked Respondent's complete application. Furthermore, the totality of the evidence established that Respondent's credential is not sufficient to establish Respondent's qualification to teach CIS courses.

18. Respondent did not prove that his teaching experience qualified him for CIS equivalency. His CIS teaching experience with the North Orange County Community College District was between nine and 15 years ago. The District's evidence established that Respondent's teaching experience was not sufficiently recent to find it adequate. Additionally, Respondent did not prove that the CIS field remained sufficiently static, to deem his earlier teaching experience equivalent, for the District's instructional needs. Education Code section 87359, subdivision (a) provides a basis for Respondent to reasonably believe the District had tacitly qualified him to teach CIS, by allowing him to teach CIS courses in the past. The District, however, admitted that its previous allowance was an administrative oversight. Such an administrative error, of a significant number of years ago, should not be the basis on which to qualify Respondent for CIS instruction, when the District has, after methodical consideration, appropriately determined he does not so qualify. To do so, would compound one error with a second error. The District reasonably concluded that his teaching experience was inadequate, and the evidence did not sufficiently controvert that conclusion.

19. Respondent's argument that the District failed to consider his work experience, when assessing his equivalency application fails, as set forth in Legal Conclusion 14, *ante*.

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20. Respondent's argument that the District denied him a right to appeal its equivalency decision is without merit. Nothing in the law provides for an appeal right regarding the equivalency process provided in Education Code section 87359. Moreover, the evidence supported the District's determination that his application did not provide new or different information, sufficient to merit reconsideration.

21. The evidence regarding the District's retraining proposal is not relevant to this matter, other than to note that, had Respondent agreed to retrain, as the District proposed, (including those courses he asserted to have already mastered), indications are that the District may not have taken this action against him; a consequence of which he was aware.

ORDER

The Accusation served on Respondent, William Baldwin, is sustained. Notice shall be given to Respondent, William Baldwin, before May 30, 2006, that his services will be terminated at the close of the 2005-2006 academic year.

DATED: May 19, 2006

DANIEL JUAREZ
Administrative Law Judge
Office of Administrative Hearings