

BEFORE THE
GOVERNING BOARD OF THE
OCEANSIDE UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusation for Lay-Off
of Certificated Employees against:

37 CERTIFICATED EMPLOYEES OF THE
OCEANSIDE UNIFIED SCHOOL
DISTRICT,

Respondents.

OAH No. 2008030438

PROPOSED DECISION

Administrative Law Judge Greer D. Knopf, State of California, Office of
Administrative Hearings, heard this matter in Oceanside, California, on April 8, 2008.

Kelly R. Minnehan, attorney at law, represented complainant Oceanside Unified
School District.

Jon Y. Vanderpool, attorney at law, represented all 37 respondents.

The matter was submitted on April 8, 2008.

FACTUAL FINDINGS

1. Luis Ibarra, the Associate Superintendent of Human Resources (the Associate
Superintendent) of the Oceanside Unified District, made and filed the accusations dated
March 21, 2008 in his official capacity as the Associate Superintendent, Human Resources,
Oceanside Unified School District. The accusations were filed against the 37 respondents
(respondents) identified in Attachment A attached hereto and incorporated herein.

2. The respondents are all certificated employees of the Oceanside Unified
School District (the District).

3. In March 2008, in accordance with Education Code sections 44949 and 44955,
the Associate Superintendent, acting on behalf of the Superintendent, notified the Governing

Board of the District (the Governing Board) in writing of his recommendation to reduce or discontinue services for the ensuing school year. The Associate Superintendent stated the reasons for the recommendation. The Associate Superintendent recommended the reduction of particular kinds of services for the 2008-2009 school year.

4. On March 11, 2008, the Governing Board adopted Resolution No. 18 determining that it is necessary to reduce particular kinds of services at the end of the current school year. The Governing Board determined that the particular kinds of services that must be reduced for the 2008-2009 school year were the following full-time equivalent (FTE) positions:

<u>Particular Kinds of Services</u>	<u>Number of FTE Positions</u>
Teacher-Kindergarten (Class size Reduction/Option 2)	28 FTE's
Teacher-Elementary (Grades 1-6)	14 FTE's
Teacher-Middle School Core (Grades 6 and 7)	8 FTE's
Teacher-Art	1 FTE
Teacher-EL Coaches	7 FTE's
Teacher-Physical Education	5 FTE's
Teacher-English (Secondary Grades)	6 FTE's
Teacher-History (Secondary Grades)	4 FTE's
Teacher-Business	2 FTE's
Teacher-Science (9 th Grade)	1 FTE's
Program Specialist	3 FTE's
Principal	2 FTE's
Elementary Assistant Principal	1 FTE's

The reductions adopted by the governing Board's resolution totaled 82 FTE positions.

5. The Board further determined in Resolution No. 18 that it would be necessary to retain certificated employees who possess special training and competency that other certificated employees with more seniority might not possess. Those specialized teachers include those with a Supplemental Authorization in Dance issued by the California Commission on Teacher Credentialing and those who are designated as "Highly Qualified" in the No Child Left Behind program for three or more of the core subjects of science, English, math or social studies.

6. The Governing Board directed the Superintendent or his designee to determine which employees' services would not be required for the 2008-2009 school year as a result of the reduction of these particular kinds of services. The Board further directed the Superintendent or his designee to send the appropriate notices to all certificated employees of the District who would be laid off as a result of the reduction of these particular kinds of services.

7. Subsequent to the action, the Board took on March 11, 2008 to reduce services by 82 FTE positions, the District continued to evaluate personnel needs in the District. Since the Board's action, after taking into consideration upcoming positively assured attrition, resignations, and retirements, the District has now determined it can meet its fiscal needs by reducing services by a total of 72 FTE positions for the 2008-2009 school year. To accomplish this reduction of services, the District needed to give final notices of termination to the 72 certificated employees, 37 of whom are respondents in this proceeding.

8. On or before March 15, 2008, the District timely served a written notice on each of the respondents herein that the Superintendent of the District had recommended not to re-employ them in the upcoming 2008-2009 school year. The written notice notified respondents that his or her services would not be required for the upcoming 2008-2009 school year. The written notice to respondents set forth the reasons for the recommendation. The recommendation that respondents be terminated from employment was not related to their competency as teachers.

9. Some certificated employees given written notice that they would not be re-employed for the ensuing school year did not file a Request for Hearing. However, each of the 37 respondents named herein timely filed a written Request for Hearing to determine if there is cause for not reemploying them for the 2008-2009 school year.

10. Subsequently, the District filed and then timely served the Accusation for Lay-Off of Certificated Employees, a Notice to Respondent, a blank Notice of Defense form, and relevant Education Code and Government Code sections, upon each of the 37 respondents herein who had timely requested a hearing in this matter. Each of the 37 respondents herein filed a timely Notice of Defense. Some individual certificated employees failed to file a timely Notice of Defense and the District declined to waive this time requirement as to those employees. All pre-hearing jurisdictional requirements were met.

11. The services the Governing Board addressed in Resolution No. 18 are "particular kinds of services" that can be reduced or discontinued within the meaning of Education Code section 44955. The Governing Board's decision to reduce or discontinue these particular kinds of services was not arbitrary or capricious, but constituted a proper and reasonable exercise of its discretion. The Board's action was taken after extensive input and evaluation from administrative staff, members of the public, and the teachers in the District. The Governing Board's decision to make these cuts was the result of long and difficult deliberation and consideration of the necessary cuts in the District's budget for the ensuing school year. The Board's action to reduce services is a proper exercise of its discretion to address the need for budget cuts for the 2008-2009 school year.

12. The reduction or discontinuation of particular kinds of services relates solely to the welfare of the District and its pupils. The District clearly recognizes the high level of dedication and service these respondents have given to the District, but it faces extremely difficult financial times due to proposed state budget cuts. While it may not be desirable to cut back staff and in some cases increase class size, if the District does not make these reductions, it is facing the possibility of financial ruin. In no event will these reductions result in an increase in class size that is more than is permitted by law. The reduction or discontinuation of particular kinds of services was necessary to decrease the number of certificated employees of the District as determined by the Board. The Board considered all known attrition, resignations, retirements and requests for transfer in determining the actual number of necessary layoff notices to be delivered to its employees.

13. No certificated employee junior to any respondent is being retained to perform any services which any respondent is certificated and competent to render.

LEGAL CONCLUSIONS

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

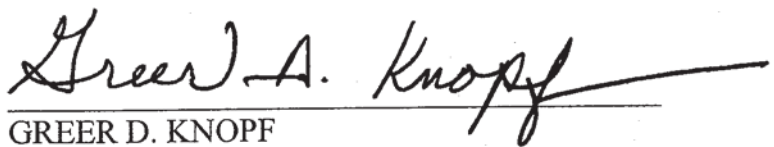
2. Cause exists under Education Code sections 44949 and 44955 for the Oceanside Unified School District to reduce particular kinds of services. The cause for the reduction of particular kinds of services is related solely to the welfare of the schools and the pupils thereof. A preponderance of the evidence sustained the charges set forth in the accusations herein. Therefore, cause exists for the Board to give respondents notice before May 15, 2008, that their services will no longer be required by the District for the 2008-2009 school year.

ORDER

The accusations served on respondents herein are sustained and notice shall be given to the 37 respondents listed in Attachment A before May 15, 2008 that their services will not be required in the next school year because of the reduction of particular services as indicated.

DATED: _____

4/16/08



GREER D. KNOPF

Administrative Law Judge

Office of Administrative Hearings

Teacher – Sign In
Oceanside Unified School District -March 2008

	FIRST	LAST	RESPONDENT SIGN-IN
1.	MYA	ANDERSON	
2.	CARLY	BOULAN	
3.	JEFFREY T.	BRANDOW	
4.	LISA MARIE	CALVERT	
5.	CYNTHIA	COSCUNA	
6.	KELSEY	EWALD	
7.	WILLIAM	HALLER	
8.	CASEY	HERNANDEZ	
9.	ATHENA	KOESTER	
10.	ROBERTA	LINDGREN	
11.	PATRICIA	LYON	
12.	CHRISTIANNE	MOEN	
13.	MELISSA	MONROE	
14.	MELISSA	MOORE	
15.	JENNIFER	NELSON	
16.	AMANDA	OLEA	
17.	RASHELL	PARKHURST	
18.	DAVID	REESE	
19.	MARA	REESE	
20.	PATRICIA	RICHARDS	
21.	JANICE	ROCHE	
22.	CALLIE	RUIZ	
23.	TRACY	SALGADO	
24.	LANI	SCHILLER	
25.	MARJORIE	SCHLOSSER	
26.	ELLIE	SISSON	
27.	KORTNI	STAFFORD	
28.	CHRISTINA	SWELLAND	
29.	EVELYN	THOMAS	
30.	THERESA MARIE	THOMPSON	
31.	JENNIFER	VOCI	
32.	KATHLEEN	WHITE	
33.	SARAH	WILEY	
34.	SHAUNA	WILSON	
35.	JEANELL	WORRELL	
36.	KENNETH	WRIGHT, II	
37.	JENNA	YEZARSKI	