

BEFORE THE GOVERNING BOARD OF THE  
TRAVIS UNIFIED SCHOOL DISTRICT

In the Matter of the Non-Reemployment of  
21.5 Full Time Equivalent (FTE) Certificated  
Employees

OAH No. 2008030494

**PROPOSED DECISION**

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Fairfield, California, on April 21, 2008.

Lawrence M. Schoenke, Attorney at Law, Miller Brown & Dannis, 71 Stevenson Street, Nineteenth Floor, San Francisco, California, represented the Travis Unified School District.

David Weintraub, Attorney at Law, Beeson, Taylor & Bodine, 1404 Franklin Street, Fifth Floor, Oakland, California 94612, represented respondents.

The matter was deemed submitted for decision on April 21, 2008.

**FACTUAL FINDINGS**

1. On March 4, 2008, the governing board of the Travis Unified School District adopted Resolution No. 2007-08-28, in which the board resolved to reduce or eliminate the following particular kinds of services no later than the beginning of the 2008-2009 school year and directed the superintendent or his designee to send appropriate notice to employees whose positions might be lost by virtue of this action:

PARTICULAR KINDS OF SERVICES	NUMBER OF FULL TIME EQUIVALENT POSITIONS
1. Elementary Teaching Positions (Multiple Subjects)	3.0
2. Grade 3 Class Size Reduction (Multiple Subjects)	5.0
3. Elementary P.E. Teachers	2.25

4. Health Teacher working in Elementary Prep	1.0
5. Music Teachers (Various Assignments)	1.0
6. Reader's Theater Teacher working in Elementary Prep	1.0
7. Middle School Literacy Lab	1.0
8. High School English (9 <sup>th</sup> Grade Class Size Reduction)	1.4
9. High School Math (9 <sup>th</sup> Grade Class Size Reduction)	0.8
10. Cisco Academy	0.2
11. Art	0.6
12. Elementary Assistant Principal	1.0
13. Categorical Programs	
Elementary Intervention (0.75 FTE)	
Title I/Gate (1.0 FTE)	3.25
Title I (0.5)	
BTSA/Title I (1.0 FTE)	
<b>TOTAL FULL TIME EQUIVALENTS</b>	<b>21.5</b>

2. On or about March 10, 2008, the superintendent gave written notice to 22 employees that, pursuant to Education Code sections 44949 and 44955, it was being recommended that their services would be reduced or eliminated at the close of the 2007-2008 school year. Ten employees – Eileen Coll-Gieg, Craig Dauch, Natasha Flint-Moore, Maranda Hanson, Andrew Jackman, Michael Lindberg, Sandra Medlin, Wilbert Perry, Christina Petersen, and Sandra Wade – filed timely requests for hearing and were then served with accusation packets. The district subsequently withdrew the notices sent to Eileen Coll-Gieg and Maranda Hanson, leaving eight respondents in this proceeding.

3. The reductions have been recommended based upon a variety of budgetary considerations: there is a declining enrollment at the elementary level; there is some overstaffing at the secondary level; there are some secondary classes with very low enrollment; there is overstaffing in the elementary prep program (teachers covering classes during classroom teachers' prep periods); there is an expected reduction in funding in some categorical programs, which would lead to greater encroachment on the general fund since even at the present level the categorical funds received do not always cover the full costs of the programs; and a school currently on a four-track year-round program is being converted to a single-track program. The reductions are in the interest of the schools and their students.

4. No junior employee is being retained to render a service that any of the respondents are certificated and competent to provide.



5. Wilbert Perry is a 1.0 FTE Industrial Technology teacher at Vanden High School. He teaches the 0.2 FTE Cisco Academy course that is being eliminated. (At the secondary level, each class equals 0.2 FTE.) Perry maintains this course should not be eliminated because it provides a unique opportunity to prepare students for certification in a very lucrative field. Vanden is the only high school in the area that offers this course. When the district began the program seven years ago, it paid to have Perry trained to teach the program and it made an investment in computer hardware. Just last year, \$30,000 was spent to upgrade the hardware used in the program. Perry contends it is not in the interest of the students to discontinue the Cisco Academy course.

While Perry's concerns are recognized, district governing boards are given wide discretion in managing their budgets and determining what courses to offer. While elimination of the Cisco Academy course may well have a negative impact on some students, when viewed in the broad picture of budgetary concerns (this is one of the courses with very low enrollment), it cannot be found that the board abused its discretion in recommending this reduction.

6. Respondents assert that, by its terms, Resolution No. 2007-08-28 does not authorize the termination of employees until the end of the 2008-2009 school year. The resolution provides, in part:

WHEREAS, the Governing Board of the Travis Unified School District has determined that it shall be necessary to decrease the following programs of the District no later than the beginning of the 2008-2009 school year; and

WHEREAS, it shall be necessary to terminate at the end of the 2008-2009 school year the employment of certain certificated employees of the District as a result of the elimination of the programs; . . .

[¶]

THEREFORE, BE IT RESOLVED by the Governing Board of the Travis Unified School District that the following services shall be reduced or eliminated no later than the beginning of the 2008-2009 school year . . . .

Viewed in the context of the entire resolution, the reference in the second "whereas" paragraph to the 2008-2009 school year is clearly a typographical error. The reference should have been to the 2007-2008 school year. Respondents' assertion is without merit.

7. Any other contentions made by respondents at the hearing that were not discussed above are found to be without merit.

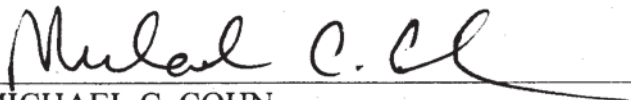
### LEGAL CONCLUSIONS

Cause for the elimination of 21.5 FTE positions exists in accordance with Education Code sections 44949 and 44955. Cause further exists to give respondents notice that, to the extent shown in the layoff notices sent them, their services will not be required for the 2008-2009 school year. This cause relates to the welfare of the schools and the pupils thereof within the meaning of Education Code section 44949.

### ORDER

Notice may be given respondents that, to the extent shown in the layoff notices sent them, their services will not be required for the 2008-2009 school year.

DATED: April 28, 2008

  
MICHAEL C. COHN  
Administrative Law Judge  
Office of Administrative Hearings