

**BEFORE THE
BOARD OF TRUSTEES
WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT
CONTRA COSTA COUNTY
STATE OF CALIFORNIA**

In the Matter of the Reduction in Force Involving:

10 CERTIFICATED EMPLOYEES, Respondents.

OAH No. 2024040020

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on April 19, 2024, by videoconference.

Attorney Kathryn E. Meola represented complainant Sylvia Greenwood, Ed.D., Director of Human Resources, Certificated, West Contra Costa Unified School District.

Attorney Clarissa Romero represented all respondents.

The matter was submitted for decision on April 19, 2024.

FACTUAL FINDINGS

1. At its meeting on February 7, 2024, the Board of Trustees (Board) of the West Contra Costa Unified School District (WCCUSD) adopted WCCUSD Resolution 2324-50. This resolution declares WCCUSD's intention at the end of the 2023–2024

academic year to reduce certificated employee services as stated in the resolution, with the total amount of reduction equivalent to 51.1 full-time employees.

2. At its meeting on March 6, 2024, the WCCUSD Board adopted WCCUSD Resolution 2324-57. This resolution declares WCCUSD's intention at the end of the 2023–2024 academic year to reduce certificated employee services as stated in the resolution, with the total amount of reduction equivalent to 23.45 full-time employees. According to Resolution 2324-57, at the time of its adoption positions equivalent to 6.6 full-time employees already were vacant. The resolution states that in addition to these vacant positions, WCCUSD will eliminate positions equivalent to 16.85 full-time employees. The reductions Resolution 2324-57 describes are in addition to the reductions described in Resolution 2324-50.

3. Acting in her official capacity as WCCUSD's Director of Human Resources, Certificated, complainant Sylvia Greenwood, Ed.D., gave timely notice in writing to numerous certificated WCCUSD employees that the WCCUSD Board proposed to release them from employment in accordance with Resolutions 2324-50 and 2324-57. Some of these notices stated that WCCUSD proposed, in lieu of terminating these persons' employment, to reassign the recipients to other positions for which they hold appropriate credentials and experience.

4. Ten of the employees to whom Greenwood directed the notices described in Finding 3 timely requested hearings on their re-employment.¹ They are:

- Brian Jacobs

¹ One other employee made a late request for hearing, but did not appear.

- Benjamin Ley
- Katherine Marroquin²
- Tigest Nealy
- Erika Nelson
- Kelly Reimer
- Teresa Reyes
- Pilar Romero
- Lorena Soto
- Hanna Tyler

5. Camille Johnson, Ed.D., WCCUSD's Interim Associate Superintendent for Human Resources, recommends that the WCCUSD Board release the respondents named in Finding 4 (as well as other employees who did not timely request hearings) from employment, after the 2023–2024 academic year, in the positions in which they have served during this academic year. Complainant and Dr. Johnson allege that WCCUSD must release these employees because WCCUSD has chosen to reduce or

² Complainant contends that her notice to Marroquin was in error, because the Education Code gives Marroquin no right to a hearing on her potential reassignment. In light of the matters stated in Finding 9, this decision assumes but does not find that Marroquin is a proper respondent in this matter.

eliminate services that they provide, or because other persons with greater seniority will displace them from their positions.

Agreements

6. Before or during the hearing, complainant reached agreements with nine respondents regarding their employment after the 2023–2024 academic year.

WITHDRAWALS OF CHALLENGES

7. Through counsel, respondents Benjamin Ley, Erika Nelson, and Lorena Soto stated at the hearing that they withdraw their challenges to complainant's proposal to discontinue their employment after the 2023–2024 academic year in the positions in which they have served this year, in reliance on assurances from complainant regarding their future employment rights.

REASSIGNMENT

8. Through counsel, respondent Teresa Reyes confirmed her agreement to accept employment after the 2023–2024 academic year in a position different from the position in which she has served this academic year. In reliance on complainant's representation that this different position would be available to her, respondent Reyes presented no further challenge to her proposed release from her 2023–2024 position.

WITHDRAWALS OF NOTICES

9. Through counsel, complainant stated at the hearing that she would not recommend to the WCCUSD Board that it give final notices to Katherine Marroquin, Tigest Nealy, Kelly Reimer, Pilar Romero, and Hanna Tyler that WCCUSD will discontinue these respondents' employment after the 2023–2024 academic year. In

reliance on this statement, none of these respondents presented further information challenging her proposed release from employment.

Challenge to Proposed Release or Reassignment

10. As to respondent Brian Jacobs, this decision addresses all challenges he made to complainant's proposal to release him from the position in which he has served during the 2023–2024 academic year. Any contentions not specifically addressed in this decision are found to be without merit and are rejected. To the extent that other challenges may have been possible but were not identified during testimony or in oral or written argument, respondent has waived those challenges.

11. WCCUSD classifies Jacobs's position as "Instructional Support Reading ELD³ Coach." Jacobs is the least senior employee in this classification.

12. Jacobs testified, credibly and without contradiction, that despite the reference to English learners in his position description, he does not work primarily with English learners. Rather, Jacobs assists educators at all of WCCUSD's nine high schools in improving how they teach literacy among all students. He plans and delivers professional development programs for classroom educators, and also works with individual teachers to improve their teaching methods.

13. WCCUSD has funded Jacobs's position with grant funds, which will expire at the end of the 2023–2024 academic year. WCCUSD has applied to renew these funds, and complainant anticipates that this application will succeed. Complainant has

³ ELD stands for English Learning Development.

not yet received confirmation that the grant funds will be available for the 2024–2025 academic year, however.

14. Complainant values Jacobs’s work and concurs with him that it benefits WCCUSD’s educators and students. If the grant funds described in Finding 13 become available, complainant intends to continue Jacobs in his current position. If they do not, complainant intends to reassign Jacobs to classroom teaching, for which he also is certificated and competent.

LEGAL CONCLUSIONS

1. Jurisdiction in this matter exists under Education Code sections 44949 and 44955. The pre-hearing notices and actions described in Findings 1 through 5 satisfy these statutes’ requirements.

2. WCCUSD, through its Board, has discretion to reduce or eliminate particular kinds of services, in the best interests of WCCUSD and its students. The Board’s exercise of this discretion as stated in Resolutions 2324-50 and 2324-57 is not arbitrary or capricious, and is not an abuse of discretion.

Respondents Whose Positions Will Continue

3. The matters stated in Findings 1 through 5 and 9 do not constitute cause under Education Code section 44949 and Resolutions 2324-50 and 2324-57 to give notice to respondents Katherine Marroquin, Tigest Nealy, Kelly Reimer, Pilar Romero, and Hanna Tyler that WCCUSD will not require their 2023–2024 academic year services after the 2023–2024 academic year.

Respondents Whose Positions Will End

4. The matters stated in Legal Conclusions 1 and 2 and in Findings 7 and 8 constitute cause under Education Code section 44949 and Resolutions 2324-50 and 2324-57 to give notice to respondents Benjamin Ley, Erika Nelson, Teresa Reyes, and Lorena Soto that WCCUSD will not require their 2023–2024 academic year services after the 2023–2024 academic year. Resolutions 2324-50 and 2324-57 confirm that the cause relates solely to the welfare of WCCUSD’s schools and of those schools’ pupils.

5. In light of the matters stated in Finding 11, complainant does not propose that WCCUSD retain anyone less senior than Jacobs to provide the services that respondent Jacobs provided during the 2023–2024 academic year.

6. Education Code section 44955, subdivision (c), requires WCCUSD to give notice to Jacobs before May 15, 2024, as to whether he will continue in his current position for the next academic year. If the grant funds identified in Finding 13 become available, WCCUSD later may rescind this notice. The uncertainty over these funds described in Findings 13 and 14 is cause, however, in light of the statutory deadline, for WCCUSD to give such notice to Jacobs.

7. The matters stated in Legal Conclusions 1, 2, and 6, and in Findings 10 through 14 constitute cause under Education Code section 44949 and Resolutions 2324-50 and 2324-57 to give notice to respondent Brian Jacobs that WCCUSD will not require his 2023–2024 academic year services after the 2023–2024 academic year. Resolutions 2324-50 and 2324-57 confirm that the cause relates solely to the welfare of WCCUSD’s schools and of those schools’ pupils.

Potential Reassignment or Reemployment

8. If WCCUSD gives notices as described in Legal Conclusions 4 and 7, those notices may require further notices regarding reassignment, or may create future contractual or statutory obligations for WCCUSD. Concerns over whether WCCUSD will respect or violate those obligations do not require resolution in this proceeding.

RECOMMENDATIONS

1. WCCUSD may give final notice to these respondents that WCCUSD will discontinue their employment after the 2023–2024 academic year in the services they have provided during this academic year:

- Brian Jacobs
- Benjamin Ley
- Erika Nelson
- Teresa Reyes
- Lorena Soto

2. WCCUSD may not give final notice to these respondents that WCCUSD will discontinue their employment after the 2023–2024 academic year in the services they have provided during this academic year:

- Katherine Marroquin
- Tigest Nealy

- Kelly Reimer
- Pilar Romero
- Hanna Tyler

DATE: 04/26/2024



JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings