

BEFORE THE GOVERNING BOARD
SHANDON JOINT UNIFIED SCHOOL DISTRICT
COUNTY OF SAN LUIS OBISPO
STATE OF CALIFORNIA

In the Matter of the Layoff Of:

Candice Hubbard,

Respondent.

OAH Case No. L2008030942

PROPOSED DECISION

Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, heard this matter on April 28, 2008, in Paso Robles, California.

Peter Carton, Attorney at Law, represented Chris Crawford (Crawford), Superintendent of the Shandon Joint Unified School District (District).

John F. Sachs, Attorney at Law, represented Candice Hubbard (Respondent).

The District has decided to reduce or discontinue certain educational services and has given Respondent notice of its intent not to reemploy her for the 2008-2009 school year. Respondent requested a hearing for a determination of whether cause exists for not reemploying her for the 2008-2009 school year.

Oral and documentary evidence was received at the hearing and the matter was submitted for decision.

FACTUAL FINDINGS

1. Superintendent Crawford filed the Accusation in his official capacity.
2. Respondent is a certificated employee of the District.
3. On March 11, 2008, the Governing Board of the District (Governing Board) adopted Resolution number 2007-08-13, reducing the following services for the 2008-2009 school year:

<u>Service</u>	<u>Full Time Equivalent Positions</u>
K-6 Elementary Self-Contained Teaching Services	1.0
Intervention Program (Elementary School)	.5
Middle/High School Classes	<u>2.0</u>
Total	3.5

4. Superintendent Crawford thereafter notified the Governing Board that he had recommended that notice be provided to Respondent that her services will not be required for the 2008-2009 school year due to the reduction of particular kinds of services.

5. On March 12, 2008, the District provided notice to Respondent that her services will not be required for the 2008-2009 school year due to the reduction of particular kinds of services.

6. On March 14, Respondent requested a hearing to determine if there is cause for not reemploying her for the 2008-2009 school year, which request was timely.

7. On March 20, 2008, the District issued the Accusation, and served it on Respondent.

8. On March 25, 2008, Respondent filed a timely notice of defense.

9. All prehearing jurisdictional requirements have been met.

10. The services set forth in factual finding number 3 are particular kinds of services which may be reduced or discontinued within the meaning of Education Code section 44955.¹

11. The Governing Board's decision to reduce the particular kinds of services is neither arbitrary nor capricious but is rather a proper exercise of the District's discretion.

12. The reduction of services set forth in factual finding number 3 is related to the welfare of the District and its pupils, and it has become necessary to decrease the number of certificated employees as determined by the Governing Board.

13. Respondent first rendered paid service for the District on August 24, 2007. She holds a special education teaching credential. Despite her obvious qualifications and enthusiasm for teaching, Respondent is the most junior probationary District certificated employee.

¹ All further references are to the Education Code.

14. No certificated employee junior to Respondent was retained to render a service for which Respondent is certificated and competent to render.

LEGAL CONCLUSIONS

1. Jurisdiction for the subject proceeding exists pursuant to sections 44949 and 44955, by reason of factual finding numbers 1 through 9.

2. The services listed in factual finding number 3 are determined to be particular kinds of services within the meaning of section 44955, by reason of factual finding numbers 3 and 10.

3. Cause exists to reduce the number of certificated employees of the District by 3.5 full-time-equivalent positions due to the reduction of the services described in factual finding number 3, by reason of factual finding numbers 3 and 10.

4. Cause for the reduction of the services set forth in factual finding number 3 relates to the welfare of the District's schools and pupils within the meaning of section 44949, by reason of actual finding numbers 1 through 14, and legal conclusion numbers 1 through 3.

5. Cause exists to terminate the services of Respondent Candice Hubbard, by reason of factual finding numbers 1 through 14, and legal conclusion numbers 1 through 4.

ORDER

The Accusation is sustained and the District may notify Respondent Candice Hubbard that her services will not be needed during the 2008-2009 school year due to the reduction of particular kinds of services.

DATED: _____

SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings