

BEFORE THE GOVERNING BOARD  
GUADALUPE UNION SCHOOL DISTRICT  
COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA

In the Matter of the Layoffs Of:

Martha G. Garcia; Susana M. Mosqueda;  
Salvador Reynoso, Jr.; Sandra L. Rosas;  
Angela Soares; Patricia Velasco,

Respondents.

OAH Case No. L2008040104

**PROPOSED DECISION**

Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, heard this matter on April 30, 2008, in Guadalupe, California.

Mary L. Dowell, Attorney at Law, represented Hugo E. Lara (Lara), Superintendent of the Guadalupe Union School District (District).

Mark J. Masters, Attorney at Law, represented Martha G. Garcia (Garcia), Susana M. Mosqueda (Mosqueda), Salvador Reynoso, Jr. (Reynoso), Sandra L. Rosas (Rosas), Angela Soares (Soares), and Patricia Velasco (Velasco), collectively called Respondents.

The District has decided to reduce or discontinue certain educational services and has given Respondents notice of its intent not to reemploy them for the 2008-2009 school year. Respondents requested a hearing for a determination of whether cause exists for not reemploying them 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 Lara filed the Accusation in his official capacity.
2. Respondents are certificated employees of the District.

3. On March 11, 2008, the Board of Trustees of the District (Governing Board) adopted Resolution number 2007/2008-15, reducing K-6 Elementary School Classroom Teaching services by 6 full-time equivalent positions for the 2008-2009 school year.

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

6. Respondents thereafter timely requested a hearing to determine if there is cause for not reemploying them for the 2008-2009 school year.

7. On March 14, 2008, the District issued the Accusation, and thereafter served it on Respondents.

8. Respondents thereafter, through counsel, timely filed notices 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.<sup>1</sup>

11. The Governing Board took action to reduce or discontinue the services set forth in factual finding number 3 primarily because of the uncertainty surrounding future funding. The District estimates a revenue shortfall of approximately \$735,000 for the 2008-2009 school year. The 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.

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<sup>1</sup> All further references are to the Education Code.

13. The District retained six employees junior to some of the Respondents. Jessie Oster, who first rendered paid service as a probationary employee on February 13, 2007, was retained because she holds a credential that allows her to perform services as a school nurse. Rebecca Geisler and Julee Gay, who have seniority dates of August 11, 2006 and August 13, 2004, respectively, were retained to render special education services and hold credentials that enable them to teach the classes. Jeffrey Madrigal, hired on August 1, 2006, holds a preliminary administrative credential and works as a school principal. Desiree Dellinger and Lynda Schiff, who have seniority dates of August 13, 2004 and August 15, 2003, respectively, were retained to continue teaching in the District's middle school; they each have credentials that allow them to teach single subjects, English and Social Studies, respectively. Respondents do not possess the credentials that would allow them to provide the services of the retained certificated employees. No objection was raised to the retention of any of the six certificated employees. In any event, retaining these six individuals is appropriate as the District demonstrated the specific need for their services and the certificated employees in question have the requisite training and experience to provide the services.

14. Respondents all hold multiple subject credentials. They have the following seniority dates: August 16, 2002 (Velasco and Garcia); August 27, 2002 (Reynoso); August 15, 2003 (Mosqueda); August 13, 2004 (Rosas); and August 29, 2005 (Soares).

15. No certificated employee junior to any Respondent was retained to render a service which any 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 under sections 44949 and 44955 for the District to reduce or discontinue the particular kinds of services set forth in factual finding number 3, which cause relates solely to the welfare of the District's schools and pupils, by reason of factual finding numbers 1 through 15.

4. Cause exists to terminate the services of Respondents Garcia, Mosqueda, Reynoso, Rosas, Soares, and Velasco, by reason of factual finding numbers 1 through 15, and legal conclusion numbers 1 through 3.

ORDER

The Accusation is sustained and the District may notify Respondents Martha G. Garcia, Susana M. Mosqueda, Salvador Reynoso, Jr., Sandra L. Rosas, Angela Soares, and Patricia Velasco that their 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