

**BEFORE THE
BOARD OF TRUSTEES
COMPTON COMMUNITY COLLEGE DISTRICT**

In the Matter of the Termination/Nonre-Employment of All Certificated/Academic Educational Employees Serving in the Compton Community College District.

OAH No. L2006030585

PROPOSED DECISION

The hearing in the above-captioned matter was held on June 1, 2006, at Compton, California, before Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings. Complainant Jamillah Moore, Ed.D., was represented by Stephen K. Matson and Urrea C. Jones, Jr., Jones & Matson. Respondents were represented by Mr. Lawrence Rosenzweig, with the exception of Respondent Carrol G. Fisher, who was represented by Robert Louis Fisher.

Evidence was received, the case argued, and the matter submitted for decision on the hearing date. Respondent Fisher's Brief is identified as Exhibit A, and the Brief on Behalf of Respondents, submitted by Mr. Rosenzweig, is identified as Exhibit B. The Brief filed by the Compton Community College District in Response to Ms. Fisher's Brief is identified as Exhibit 18.

Because the parties had agreed to a continuance of the hearing, the deadlines in this proceeding were extended by 36 days, a matter confirmed by a stipulation of the parties at this hearing.

The Administrative Law Judge (ALJ) hereby makes his factual findings, legal conclusions, and orders, as follows.

FACTUAL FINDINGS

1. Jamillah Moore, Ed.D., filed the Accusation¹ in the above-captioned matter in her official capacity as Interim Superintendent/President of the Compton Community College District (District) in her official capacity.

¹ The term "accusation" refers to a type of pleading utilized under the Administrative Procedure Act, Government Code 11503. It should be made clear that the Respondents are not "accused" in the every-day sense of that word,

2. At the times these proceedings were instituted, the District employed 253 certificated/academic educational employees (the employees). Those persons are identified in Exhibit 1, which is attached hereto and incorporated by reference.²

3. (A) On or about July 15, 2005, the Chancellor of the California Community Colleges, Marshall E. Drummond, issued Executive Order number 2005-01 (Executive Order). By the Executive Order, the Chancellor suspended the authority of the District's Board of Trustees (Board), and the Chancellor appointed a Special Trustee (Trustee), who was authorized to assume the rights, duties, and powers of the Board, "to the full extent necessary" to govern the Compton Community College. (Ex. 16, p. 3, ¶ 4.) The Trustee was further authorized to use the Board as an advisory body, at the Trustee's sole discretion, and the Board was deprived of the authority to call meetings without the Trustee's approval.

(B) The stated purpose of the Executive Order was to establish the fiscal integrity of the District and its college. The Executive Order was authorized by Education Code section 71093, a statute enacted as urgency legislation and made effective in July 2004. In enacting the statute the legislature found and declared that the District "has failed to maintain fiscal integrity and warrants a conclusion that the district is unable to manage its own recovery." (Stats. 2004, Ch. 139, §1, subd.(a).) The legislature further declared that section 71093 must become effective immediately so as to preserve the fiscal integrity of the District, which was deemed "in immediate jeopardy." (*Id.*, at § 5.)

4. On or about March 3, 2006, Superintendent Moore gave the Board written notice of her recommendation that each of the employees be notified that their services were not going to be required for the 2006-2007 school year. The reason for the recommendation was that there would be a reduction or discontinuance of a particular kind of service.

5. On or about April 26, 2006, the District made a Resolution to Reduce or Discontinue Particular Types of Services. That Resolution was ostensibly a Board resolution, although only one Board member took action on the matter. However, Thomas Henry, the Trustee appointed by the Chancellor, approved the action. By the Resolution, some 73 types of services were to be discontinued. These included every type of course, from Allied Health and Anatomy to Welding and Women's Studies. Further, all services provided by the educational administrators were to be discontinued as well. The reasons stated for the termination of services included loss of state and federal funding, the loss of the College's accreditation, and impending closure of the District.

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unless it can be said they are accused of not having the right to retain their jobs where the District may need to stop providing academic services.

² The exhibit lists 254 names, but the parties agreed that one person had been listed twice, Mr. Villalobos, who is listed as number 236 and 237.

6. Superintendent Moore gave written notice to each of the employees that she had made her recommendation to the Board, as required by section 87743 of the Education Code.³ This notice also informed the employees that they had the right to request a hearing so as to determine if cause existed not to reemploy the employee receiving the notices.

7. One hundred and forty seven employees requested a hearing, and the Accusation was served upon them. One hundred forty five persons filed a notice of defense. It should be noted that in some instances a person filed a notice of defense when that person had not filed a request for hearing; in other instances persons who had requested a hearing did not file a notice of defense; it is inferred that all employees were served with the Accusation.

8. The District is reducing particular kinds of services in that it is eliminating all educational services for the 2006-2007 school year. This reduction in particular kinds of services is being taken because the College has lost its accreditation and is in financial distress. The District has appealed from the decision whereby its accreditation removed, but there can be no certainty of the outcome of that proceeding, which may not be resolved until the end of June, 2006. Prudence requires the District to take the action to lay off employees given the loss of accreditation and financial problems facing the District.

9. Respondents point to pending legislation that may help to revive the College. That legislation, AB 318, would allow the College to "partner" with another community college which is fully accredited. In this situation the College would become an "educational center" under the aegis of the partnering institution. The District would be authorized by law to assign current employees, or to re-employ former personnel, to provide educational services or supports to students. However, under the proposed bill, the District would have no obligation to assign or re-employ its former administrative or supervisory personnel. The partner district would have the primary right to direct activities under any partner contract.

10. The bill in question, Assembly Bill 318, has not been adopted by the Legislature nor approved by the Governor as of the date of the hearing in this matter. Nor had the ALJ received any notice from the parties that Assembly Bill 318 had been adopted as of the date when this proposed decision issued. It would be speculative to find that the bill will be enacted into law.

11. In all the circumstances, it must be found that particular kinds of services are being eliminated, to the extent of all services, and that the District may proceed to reduce its teaching force and other positions as a result. The cause for not reemploying the employees and respondents herein relates solely to the welfare of the district and the students.

12. The District's decision to discontinue services or to reduce them is not arbitrary or capricious, and was a proper exercise of discretion, given all of the facts and circumstances of the case.

³ All statutory citations are to the California Education Code unless otherwise noted.

13. No seniority list was generated in this case, in that the decision not to reemploy staff is a decision to eliminate all positions. In light of the intent to terminate all staff, no tenured employee is being terminated while any probationary employee, or employee with less seniority is retained.

LEGAL CONCLUSIONS

1. Jurisdiction was established to proceed in this matter pursuant to sections 87740 and 87743, based on Factual Findings 1 through 8.

2. Cause exists to terminate all employees of the District, due to a reduction in services, pursuant to sections 87740 and 87743, based on Factual Findings 1 through 13. In this process, no probationary employees will be retained in favor of tenured employees, and no junior employees will be retained in favor of those with more seniority.

3. (A) Respondents object that the Board has not acted and will not act, and that Board action is a statutory requirement set forth in section 87740. They go on to assert that the Trustee is the person taking the steps normally required of the Board under sections 87740 and 87743, a violation of the statutory scheme laid out for the reduction in force in the community colleges.

(B) Section 71093 is more than a statute of general application; it specifically wrested control of the District from the Board and placed it in the hands of the Chancellor and the Board of Governors of the California Community Colleges. Section 71093, subdivision (c), specifically authorized the appointment of a special trustee to manage the District, and the Chancellor was authorized to delegate all of the powers held by the Board to the special trustee, and to thereby fully divest the Board of its authority.

(C) As set forth in Factual Findings 3(A) and (B), the law has divested the Board of its authority, and that authority has been vested in the Trustee. It can not be maintained that in light of the Chancellor's Executive Order number 2005-01 that the Board any longer has authority to act in these manners. Likewise, for purposes of statutory construction, in the case of the District, all references in sections 87740 and 87743 must be read so as to effectively substitute the term "special trustee" for "governing board." As a matter of law, at this time the Trustee effectively is the Board, and he may proceed to take the steps to lay off credentialed and educational personnel.

4. (A) Respondent Fisher asserts that the notices given to the Respondents, including Ms. Fisher, did not specify what services are going to be eliminated, and that the notice is therefore defective.

(B) However, the cases interpreting the statutes have made clear that such specificity is not necessary; it is enough that the notice states that there is going to be a

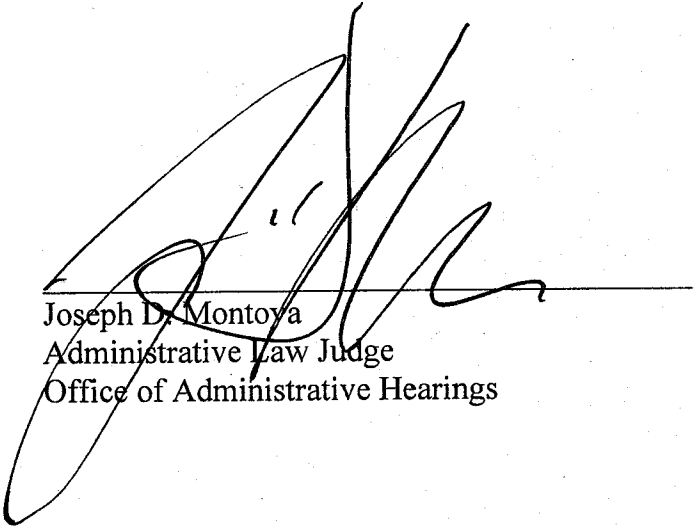
reduction in services. (See *Santa Clara Federation of Teachers v. Governing Board* (1981) 116 Cal.App.3d 831, 841.) Therefore, the objection to the sufficiency of the notices must be overruled, and motion to dismiss must be denied.

5. The District may lay off all of its certificated and academic educational employees.

ORDER

1. The Accusation is sustained as against all 253 employees listed on Exhibit 1 hereto. The District may notify the employees that their services will not be needed in the 2006-2007 school year due to the discontinuance of services.

June 12, 2006



Joseph D. Montoya
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATED EMPLOYEES
MARCH 7, 2006

- 1 Abbassi, Ali
- 2 Adeva, Angelita
- 3 Aguilar, Carmela
- 4 Ahmad, Manzoor
- 5 Akers, Davitt Charles
- 6 Alexander, Thomas E
- 7 Allen, Jennell
- 8 Allotey, Stan
- 9 Alpern, Ronny
- 10 Antler, Abram
- 11 Archuleta, Irma
- 12 Arroyo, Celia
- 13 Arroyo, Silvia
- 14 Baca, Jorge
- 15 Badalian, Raymond
- 16 Bailes, Loretta
- 17 Bava, Jose
- 18 Bennett, Erica H.
- 19 Benson, Eugene
- 20 Bentley, Walter
- 21 Berck, David
- 22 Bergeron, Gerald E
- 23 Bernaudo, Jose
- 24 Biffle, Lamar T.
- 25 Bledsoe, Douglas
- 26 Boatwright, Eddie
- 27 Booker, D'shaun A
- 28 Boroudjerdi, Mohammad
- 29 Boyd, Damon
- 30 Boyd, Robert
- 31 Briscoe, Joyce
- 32 Brown, Patsy
- 33 Budak, Yavuz
- 34 Bunting, Ikaweba

CERTIFICATED EMPLOYEES
MARCH 7, 2006

35 Butler, Linda
36 Butler, Robert
37 Caldwell, Richard B
38 Callegari, Tommie J
39 Carlock, Jeanette
40 Caveness, Allen
41 Chancy, Che
42 Chang, Joseph K.
43 Chen, Hsuan Brian
44 Cherry, Albert
45 Cherry, Deborah L.
46 **Chou, Chiung Sally**
47 Clark, Leonard
48 Clarke, Faith
49 Clarke, Donald D.
50 Claybrook, Maurice
51 Colazas, Xenophon C
52 Coleman, Horace
53 Collins, Diane
54 Collins, Joyce C.
55 Conn, Bradfield
56 Cormier, Cheryl
57 Cortez-Perez, Aurora
58 Cotton, Wilbur P
59 Crosbie, Ivan
60 Curry, Keith
61 Cushenberry, H. Frances
62 Dandridge Bostic, Hyacinth V
63 Darnton III, Robert
64 De la Cruz, Nancy
65 DeSilva, Vernell
66 Diaz-Brown, William
67 Dickerson, Carmen R.
68 Edwards, Shirley
69 Estrada, Harvey

CERTIFICATED EMPLOYEES
MARCH 7, 2006

70 Evans, Jerome
71 Fisher, Carroll
72 Flemming, Arthur
73 Flor, Paul
74 French-Preston, Essie
75 Garcia, Annaruth
76 Garrett, Curtis
77 Ghafelebashi, Mohammad M.
78 Glaze, Esther R.
79 Glezer, Phillip
80 Goolsby, Kevin
81 Gordon, Timothy J.
82 Grant, Millicent
83 Green, Heather
84 Hall, Avery
85 Hall, Reginald
86 Halligan, Christopher
87 Harris, Raymond A.
88 Hathman, Hilda R.
89 Hawkins, Roberta A.
90 Haynes, Vanessa
91 Hewett, Eugene
92 Hoffman, August
93 Hogan, Nicholas S.
94 Horstmann, Peter
95 Howard, Tasha
96 Huete, Roxana
97 Jackson, Broderick
98 Jinbo, Janelle S.
99 Johnson, Eric S.
100 Johnson, Michael
101 Johnson, Renee
102 Joiner, Robert
103 Jolly, Jeff
104 Karunatileka, Parakrama

CERTIFICATED EMPLOYEES
MARCH 7, 2006

105 Katsuk, Olga
106 Keig, William
107 Khalilzadeh, Mohammad
108 Khashayar, Kamyar
109 Khawaja, Zianddin
110 Klonecky, Loretta B
111 Ku, Evelyn
112 Kunarak, Sanya
113 Lakatos, Catherine
114 Lamm, Frederick
115 Largaespada, Carlos
116 Lazar, Shemiran
117 Leonard, Chester L
118 Lewis, Joseph
119 Livingston, Rose
120 Lizarraga, Hector J.
121 Loderhose, Lisa
122 Lopez, Vinicio
123 Lyles, Cornelia
124 Macareno, Mario
125 Madrid, George
126 Magedman, Michael S.
127 Maradiaga, Axa
128 Martinez, Elizabeth
129 Martino, Samuel
130 Martins, Alfred O.
131 Maruyama, David
132 Mc Donald, Cordell
133 Mc Neil, Tracey S.
134 McLaughlin, Patrick
135 McPatchell, David
136 Mehdizadeh, Nasrollah
137 Mejia, Carlos
138 Mendoza, Ladislao
139 Middlebrook, Willie

MARCH 7, 2006

140 Mitchell, Darnell
141 Mitu, Zenaida
142 Mobley, Maxine
143 Moina-Egeren, Andres
144 Moore, Billie
145 Morgan, Robert
146 Morris, Wanda
147 Most, Rosemary A.
148 Murray, Rodney
149 My, Alexander
150 Myles, Standiford
151 Namazi, Abbas
152 Natividad, Maria
153 Niang, Babacar
154 Norton, Thomas
155 Odanaka, Michael
156 O'Guynn, Valarie
157 Onwudiwe, Hyginus I
158 Osanyinpeju, Abiodun
159 Page, Rita
160 Panski, Saul
161 Parker, Norma
162 Parker, Farah D.
163 Pascua, Arnel
164 Phillips, Marjeritta
165 Pinto, Cristo D.
166 Pitt, Tina
167 Pittman, Lowerence J
168 Porter, LeRoy
169 Porter, Daphne T
170 Potter, Keschia
171 Powell, Darnaine
172 Powell, Renae L
173 Pratt, Estina

CERTIFICATED EMPLOYEES
MARCH 7, 2006

174 Quinones, Juan
175 Radcliffe, Kendahl L
176 Ransfer, Anthony G.
177 Ratcliff, Priscilla
178 Reddy, Bhaskara
179 Rice, Darrick L.
180 Rios, Vincente R.
181 Rivera-Mitu, Eliza
182 Roach, Donald
183 Roach, Ruth A.
184 Roberts, Venus I.
185 Rodriguez, Raymond M
186 Roleder, Garry
187 Rooks, Robert
188 Roshanaei, Alireza
189 Ross, Dovard
190 Ross, Diane M.
191 Ruiz, Raul
192 Rydalch, Tommy
193 Saghafi, Majid
194 Sahebame, Mohsen
195 Sanborn, Errol R.
196 Sandvik, Carol
197 Sanneh, Lamin
198 Sareen, Sudeepa
199 Sasser, Rachelle
200 Schieb, Jerusha
201 Scranton, Sandra
202 Shabaka, Macheo
203 Shaikh, Mohomad
204 Shannon, Mark
205 Sharifian-Attar, Mohammad
206 Shigg, Cheryl

CERTIFICATED EMPLOYEES
MARCH 7, 2006

207 Shirvanian, Razmic
208 Simmons, Meta
209 Smith, Darwin L
210 Sonido, Eleanor
211 Stevens, Carlys
212 Stewart, Ella
213 Subramanian, Thamizche
214 Sweeney, Elizabeth
215 Tavakkoli, Mohamad
216 Taylor, Loetta
217 Taylor, Frances
218 Taylor, Leo
219 Terrell, Mildred
220 Thomas, Shirley
221 Threadgill, Cheryl
222 Toles, Wesley E
223 Towhidlow, Mark
224 Tucker, Gina M
225 Tung, Faith
226 Turner, Albert
227 Turner, Curlean
228 Uch, Mandeda R
229 Udensi, Augusta
230 Uribe, Diego
231 Valdry, Andree
232 Van Niel, Pieter
233 Van Vooren, Marie
234 Vanish, Clark G.
235 Vaughn, Dexter
236 Villalobos, Jose
237 Villalobos, Jose
238 Wallano, Eyob
239 Ward, Carolyn
240 Washington, Riley

MARCH 7, 2006

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