

BEFORE THE GOVERNING BOARD  
SAN MIGUEL JOINT UNION SCHOOL DISTRICT  
COUNTY OF SAN LUIS OBISPO  
STATE OF CALIFORNIA

In the Matter of the Layoffs Of:

Aleea Brooks; Melissa Cooper;  
Amy Haverstock; Ken Lockwood;  
and Anna Mumford,

Respondents.

OAH Case No. L2008030987

**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 Dean Smith (Smith), Superintendent of the San Miguel Joint Union School District (District).

John F. Sachs, Attorney at Law, represented Aleea Brooks (Brooks), Melissa Cooper (Cooper), Amy Haverstock (Haverstock), Ken Lockwood (Lockwood), and Anna Mumford (Mumford), 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 Smith filed the Accusation in his official capacity.
2. Respondents are certificated employees of the District.

3. On February 27, 2008, the Governing Board of the District (Governing Board) adopted Resolution number 08-05, reducing the following services for the 2008-2009 school year:

<u>Service</u>	<u>Full Time Equivalent Positions</u>
K-8 Music Teacher	0.5
K-6 Regular Education (self-contained classroom)	3.0
7-8 Block Scheduling	1.0
Reading Teacher	<u>.6</u>
Total	5.1

4. Superintendent Smith thereafter 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 Brooks, Cooper, Haverstock, and Lockwood, and on March 14, 2008, the District provided notice to Respondent Mumford, 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 requested a hearing to determine if there is cause for not reemploying them for the 2008-2009 school year. All hearing requests were timely filed.

7. On or about April 1, 2008, the District issued the Accusation, and served it on Respondents.

8. Respondents filed timely 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 State funding. 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.

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

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. The District retained one employee, Stephanie Schofield (Schofield), who is junior to Respondents Brooks, Cooper, Lockwood, and Mumford. Schofield has a credential that authorizes her to teach special education, and is employed to provide special education services. No objection was raised to her retention. In any event, retaining Schofield is appropriate as the District demonstrated the specific need for her services and she has the requisite training and experience.

14. Respondent Haverstock was first hired in a probationary capacity on August 27, 2007. She holds a preliminary multiple subject credential.

15. Respondent Mumford's seniority date is August 24, 2006. She holds a clear multiple subject credential, a clear single subject credential (home economics), and a Crosscultural, Language and Academic Development (CLAD) certification. She has a Master's degree and has been teaching since 2001. During the 2007-2008 school year, Respondent Mumford developed and staffed the District's community day school, a program for at-risk students. The District anticipates applying for continued funding for the program.

16. Respondents Brooks, Cooper, and Lockwood have the same first date of paid service in a probationary capacity, August 24, 2006. All three hold preliminary multiple subject credentials, and Respondent Cooper also holds a CLAD certificate and an authorization in agriculture. Respondent Lockwood has a Master's degree and additional post-graduate units. Respondent Copper is working on obtaining a single subject credential (science), a goal she may achieve as early as September 2008.

17. No certificated employee junior to any Respondent was retained to render a service for 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 to reduce the number of certificated employees of the District by 5.1 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 factual finding numbers 1 through 17, and legal conclusion numbers 1 through 3.

5. Cause exists to terminate the services of Respondents Aleea Brooks, Melissa Cooper, Amy Haverstock, Ken Lockwood, and Anna Mumford, by reason of factual finding numbers 1 through 17, and legal conclusion numbers 1 through 4.

#### ORDER

The Accusation is sustained and the District may notify Respondents Aleea Brooks, Melissa Cooper, Amy Haverstock, Ken Lockwood, and Anna Mumford 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