

BEFORE THE
GOVERNING BOARD
OCEANSIDE UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Employment Status of:

OAH No. L2005020356

Christian Broyles, April Cohen, Alison
Gibbens, Jill Myers, Deborah Reynolds,
Patricia Richards, Janice Roche and Kristina
Sanchez,

Respondents.

PROPOSED DECISION

Stephen E. Hjelt, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Oceanside, California on April 19, 2005.

Kelly R. Angell, Attorney at Law, of Stutz, Artiano, Shinoff & Holtz represented the Oceanside Unified School District.

John Y. Vanderpool, Attorney at Law, of Tosdal, Smith, Steiner & Wax, represented respondents Alison Gibbens and Janice Roche.

No appearance was made by or on behalf of respondents Christian Broyles, April Cohen, Jill Myers, Deborah Reynolds, Patricia Richards and Kristina Sanchez.

The matter was submitted on April 19, 2005.

FACTUAL FINDINGS

1. Joseph Farley, Deputy Superintendent with the Oceanside Unified School District, made and filed the Accusations in his official capacity as such public officer of the Oceanside Unified School District.

2. Respondents are certificated District employees.

3. On March 14, 2005, in accordance with Education Code sections 44949 and 44955, the Deputy Superintendent notified the Governing Board of the District (the Board) and Respondents in writing of the Deputy Superintendent's recommendation that Respondents be notified that their services would not be required for the ensuing school year. The Deputy Superintendent stated the reasons for the recommendation. The recommendation that Respondents be terminated from employment was not related to their competency as teachers.

4. On or before March 15, 2005, a notice of termination was delivered to each Respondent, either by personal delivery or by depositing the notice of termination in the United States registered mail, postage prepaid and addressed to the Respondent's last known address.

The written notices of termination specifically stated that Respondents' services would not be required for the ensuing year. Each notice set forth the reasons for the recommendation.

Each notice advised Respondents of their right to a hearing, that each Respondent had to deliver a request for a hearing in writing to the person sending the notice of termination by April 4, 2005, which was more than seven days after the notice of termination was served, and that the failure to request a hearing would constitute the waiver of the right to a hearing.

5. Each appearing Respondent timely filed a written request for a hearing to determine if there was cause for not reemploying that Respondent for the ensuing year.

6. Accusations were timely served on Respondents thereafter. Each Respondent appearing in this matter filed a timely Notice of Defense. All prehearing jurisdictional requirements were met.

7. The Board took action to reduce or discontinue the following particular kinds of services for the 2005-2006 school year:

<u>Particular Kind of Service</u>	<u>Full-Time Equivalent</u>
Teacher-Kindergarten	30 FTE
Teacher-Elementary (grades 1-6)	16 FTE
Teacher-Home Economics	2 FTE
Teacher-Physical Education	3 FTE
Teacher-Industrial Technology	1 FTE
Teacher-Math	1 FTE
Principal on Special Assignment	0.6 FTE
Coordinator	1 FTE

The proposed reductions total 54.6 full-time equivalent (FTE) positions.

8. The services were "particular kinds of services" that could be reduced or discontinued within the meaning of Education Code section 44955. The Board's decision to reduce or discontinue these particular kinds of services was not arbitrary or capricious, but constituted a proper exercise of discretion.

9. The reduction or discontinuation of particular kinds of services related to the welfare of the District and its pupils. The reduction or discontinuation of particular kinds of services was necessary to decrease the number of certificated employees of the District as determined by the Board.

10. The Board considered all known attrition, resignations, retirements and requests for transfer in determining the actual number of necessary layoff notices to be delivered to its employees.

11. No certificated employee junior to any Respondent was retained to perform any services which any Respondent was certificated and competent to render.

12. Much of the language in this Decision is couched in what could be described as "legalese." The Decision uses legal terms such as "particular kinds of service" and "full-time equivalent." The "legalese" defines a comprehensive body of law that can be as confusing and complex as the terms of art used in this Decision. However, when one gets past the legalese, this case revolves around a set of questions that must be answered. The questions focus on trying to balance two conflicting sets of needs and goals. The first need is that of the School District. The District must act in a fiscally prudent fashion and risks being placed in involuntary receivership should it fail to make prudent decisions to balance its financial books. The second need is that of teachers, generally and specifically, Respondents, in this case. Teachers are our unsung heroes who nurture, challenge, and stimulate our young students. They deserve the full protection of the law in trying to retain their hard-earned employment.

13. The layoff system is predicated on seniority. That means quite simply that the last hired generally is the first laid off. It is often, lamentably, the most energetic and best trained young teacher who gets the pink layoff slip. When that unfortunate bit of bad news must be delivered, the law requires that such an affected teacher be accorded an opportunity to contest the decision. The law also requires that such bad news be delivered by a date that will allow such a teacher the maximum opportunity to find other employment.

14. The laws, both statutory and decisional, in the teacher layoff cases demand that a school district strictly comply with a variety of notice requirements or be deemed to have involuntarily rehired the teacher in question. The law also demands that the school district make these difficult decisions based on a well thought out and clearly articulated set of factors that all relate solely to the well-being of the students of the district. Teacher layoff hearings are required so that a District can be put to the test and an independent judgment made about the layoff choices it proposes. Sometimes a District might seek to use the layoff

process to punish a disfavored teacher or reward the less worthy. These hearings exist to allow an affected teacher to have such a claim heard and determined.

15. In this case, the evidence and the reasonable inferences that flow from it, strongly support a finding that the Oceanside Unified School District has acted appropriately and with due caution in taking the steps it took. Serious financial problems face the district both because of lessened funding from the Legislature as well as a larger than anticipated reduction in the number of students in the District. In order to balance the budget, the District thought long and hard about where and how much to cut. None of the scenarios were terribly appealing. However, the layoffs that have been proposed were well thought out and are consistent with the District's mandate to promote the welfare of the District and its students.

LEGAL CONCLUSIONS

1. Jurisdiction in this matter exists under Education Code sections 44949 and 44955. All notices and jurisdictional requirements contained in those sections were satisfied.

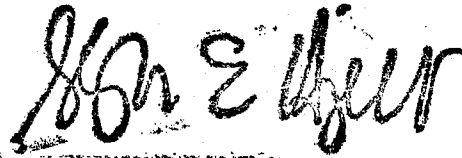
2. Cause exists under Education Code sections 44949 and 44955 for the Oceanside Unified School District to reduce or discontinue particular kinds of services. The cause for the reduction or discontinuation of particular kinds of services related solely to the welfare of the schools and the pupils thereof. A preponderance of the evidence sustained the charges set forth in the Accusation. It is recommended that the Board give Respondents notice before May 15, 2005, that their services will no longer be required by the District.

3. Cause exists under Education Code sections 44949 and 44955 for the Oceanside Unified School District to reduce or discontinue particular kinds of services. The cause for the reduction or discontinuation of particular kinds of services related solely to the welfare of the schools and the pupils thereof.

ORDER

The Accusations served on the Respondents Christian Broyles, April Cohen, Alison Gibbens, Jill Myers, Deborah Reynolds, Patricia Richards, Janice Roche and Kristina Sanchez are sustained. Notice shall be given to Respondents before May 15, 2005, that their services will not be required because of the reduction or discontinuation of particular services as indicated.

DATED: 4/21/05



STEPHEN E. HJELT
Administrative Law Judge
Office of Administrative Hearings