

BEFORE THE
GOVERNING BOARD
CHAWANAKEE UNIFIED SCHOOL DISTRICT
COUNTY OF MADERA
STATE OF CALIFORNIA

In the Matter of the Layoffs Of:

Shandon Allen and Other
Certificated Employees of the
Chawanakee Unified School District,

Respondents.

Case No. L2010040210

PROPOSED DECISION

Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, heard this matter on April 22, 2010, in O'Neals, California.

Bryan G. Martin, Attorney at Law, represented Stephen Foster, Ed.D. (Foster), Superintendent, Chawanakee Unified School District (District).

James F. McBrearty, Attorney at Law, represented Shandon Allen, Nicole Bush, Stephanie Ferguson, Kirstin Pincus, Michelle Piotrowski, and Gwen Reyes, collectively referred to as Respondents.¹

The District has decided to reduce or discontinue certain educational services and has given Respondents and other certificated employees of the District notice of its intent not to reemploy them for the 2010-2011 school year. Respondents requested a hearing for a determination of whether cause exists for not reemploying them for the 2010-2011 school year.

Oral and documentary evidence, and evidence by oral stipulation on the record, was received at the hearing, and the matter was submitted for decision.

FACTUAL FINDINGS

1. Superintendent Foster filed the Accusations in his official capacity.

¹ During the hearing, the District withdrew the accusation against Respondent Piotrowski, thus retaining her for the 2010-2011 school year.

2. Respondents are certificated employees of the District.

3. On March 4, 2010, the Governing Board of the District (Governing Board) adopted Resolution No. 15-2009/2010, reducing or discontinuing the following services for the 2010-2011 school year:

<u>Service</u>	<u>FTE² Positions</u>
Teaching Positions at Chawanakee Academy	3.68
Teaching Position at North Fork Elementary School	1.00
Teaching Positions at Spring Valley Elementary School	2.49
Teaching Position at Mountain Oaks High School	.29
Teaching Position at Manzanita Community Day School	1.00
Teaching Position at Cougar Springs Community Day School	1.00
District Reading Positions	<u>1.50</u>
Total	10.96

4. On March 8, 2010, Superintendent Foster notified the Governing Board that he had recommended that notice be provided to Respondents that their services will not be required for the 2010-2011 school year due to the reduction of particular kinds of services.

5. On or about March 10, 2010, the District provided notice to Respondents that their services will not be required for the 2010-2011 school year due to the reduction of particular kinds of services.

6. Respondents timely requested a hearing to determine if there is cause for not reemploying them for the 2010-2011 school year.

7. On or about March 31, 2010, the District issued the Accusations, and served them on Respondents.

8. Respondents thereafter 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 within the meaning of Education Code³ section 44955.

² Full-time equivalent position.

³ All further references are to the Education Code.

11. The Governing Board took action to reduce the services set forth in factual finding number 3 because of the anticipated decline in State funding. The decision to reduce or discontinue the particular kinds of services is neither arbitrary nor capricious but is rather a proper exercise of the District's discretion.

12. Despite the service cuts and reductions, the District plans to maintain services at State-mandated levels. Respondents objected to the enrollment projections on which the District relied, and asserted that the layoffs will cause services to fall below mandated levels. The District established that its calculations were reasonable, and the evidence presented by Respondents, which consisted of enrollment projections derived by site administrators, is insufficient to establish that the services will actually fall below mandated levels. In any event, Superintendent Foster testified that if its projections were wrong and more students than anticipated enroll in District schools for the 2010-2011 school year, the District will employ the necessary certificated employees to ensure that teaching services remain above State-mandated levels.

13. The reduction or discontinuance of services set forth in factual finding number 3, in the context of the anticipated decline in revenue, 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.

14. 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 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 14.

4. Cause exists to terminate the services of Respondents Shandon Allen, Nicole Bush, Stephanie Ferguson, Kirstin Pincus, and Gwen Reyes, by reason of factual finding numbers 1 through 14 and legal conclusion numbers 1 through 3.

ORDER

The Accusations are sustained and the District may notify the Respondents Shandon Allen, Nicole Bush, Stephanie Ferguson, Kirstin Pincus, and Gwen Reyes that their services will not be needed during the 2010-2011 school year due to the reduction of particular kinds of services.

DATED: _____

SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings