

SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT

Minutes of a Special Meeting of the Board of Education  
Community Room  
Board of Education Building  
777 North F Street  
San Bernardino, California

**MINUTES  
ADOPTED  
6/5/12**

May 10, 2012

4:00 p.m.

Present: President Barbara Flores; Vice President Michael Gallo; Board Members Margaret Hill, Judi Penman, and Bobbie Perong; Interim Superintendent Yolanda Ortega; Assistant Superintendent Harold Vollkommer. Minutes recorded by Administrative Assistant Jennifer Owens.

Absent: Board Members Lynda Savage and Danny Tillman, Associate Superintendent/Chief Administrative Officer Mel Albiso; Chief Business and Financial Officer Mohammad Islam; Chief Academic Officer Eliseo Davalos; and Assistant Superintendents Kennon Mitchell and John Peukert.

**SESSION ONE - Opening**

**1.0 - Opening**

**1.1 - Call to Order**

President Flores called the meeting to order at 4:00 p.m.

**1.2 - Pledge of Allegiance to the Flag**

The meeting was opened with the Pledge of Allegiance to the Flag of the United States of America.

**SESSION TWO – Other Matters Brought By Citizens**

**2.0 - Other Matters Brought by Citizens**

Malissa Esquibel, Muscoy Elementary School teacher, stated that this is the fourth year she has received a layoff notice. Ms. Esquibel asked the Board to consider the ramifications and stated that it is unkind because they know a large number teachers have retired. Harold Vollkommer stated that it is a matter of timing. This allows the Board flexibility to adopt or modify the Administrative Law Judge's decision. Then they create the layoff list and the notices have to be sent out on Monday, May 14. Yolanda Ortega stated that the timeline is set for us. Ms. Esquibel stated that it is expensive to send out the notices.

Joyella Beuler stated that she has received a layoff notice for three years. Ms. Beuler asked the Board to take into account the number of retirements and save some of their jobs.

Rebecca Harper, SBTA President, reported that this is why 50 percent of teachers leave the profession after five years. It is hard for them to continue to go through this process.

Retirements and resignations will mitigate some of the layoffs. Some teachers take the SERP to be altruistic and help with the layoff situations.

Karol Mosebay, San Bernardino resident, asked the Board to do what is best for everyone.

### **SESSION THREE – Action Items**

#### **3.0 - Action Items**

##### **3.1 - Adoption of Resolution Terminating Services of Certificated Employees as a Result of Reduction or Discontinuation of Particular Kinds of Services (Acting Upon Proposed Decision of Administrative Law Judge)**

No action was taken.

### **SESSION FOUR – Closed Session**

#### **4.0 - Closed Session**

As provided by law, the Board met in Closed Session for consideration of the following:

##### **Consideration of ALJ's Proposed Decision in Case No. 2012030803 Pursuant to Government Code Section 54957 and/or 54956.9(a)**

### **SESSION FIVE – Open Session**

#### **5.0 - Action Taken from Closed Session**

##### **5.1 - Adoption of Resolution Terminating Services of Certificated Employees as a Result of Reduction or Discontinuation of Particular Kinds of Services (Acting Upon Proposed Decision of Administrative Law Judge)**

Upon motion by Member Penman, seconded by Member Perong, and approved by the affirmative vote of Members Flores, Gallo, Hill, Penman, Perong, and Savage (Noes: None), the following was adopted:

WHEREAS, on March 6, 2012, pursuant to the Superintendent's recommendation, this Board adopted a Resolution to reduce or discontinue 251 full-time equivalent certificated teaching positions not later than the beginning of the 2012-13 school year, as set forth therein;

WHEREAS, the particular kind of services to be reduced or discontinued as set forth in the Resolution are determined to be particular kinds of services within the meaning of Education Code section 44955;

Board of Education Minutes  
May 10, 2012

WHEREAS, the particular kinds of services referenced in the Resolution will be reduced or discontinued within the meaning of Education Code section 44955 not later than the beginning of the 2012-13 school year;

WHEREAS, on March 14, 2012, the Superintendent served notice to this Board that as a result of the reduction or elimination of 251 certificated positions, 229 certificated employees would receive notice that their services will not be required for the ensuing 2012-13 school year, pursuant to Education Code sections 44949;

WHEREAS, on or before March 15, 2012, the Superintendent's designee served notice on 248 certificated employees that it has been recommended that their services will not be required for the ensuing 2012-13 school year, pursuant to Education Code sections 44949 and 44955, 229 of those notices were regular layoff notice and 19 of those notices were precautionary notices;

WHEREAS, the notices served upon the 248 certificated employees advised them that they may request a hearing to determine if there was cause for not reemploying them for the ensuing 2012-13 school year, and that if they failed to timely request a hearing, that failure shall constitute a waiver of their right to a hearing in accordance with Education Code section 44949;

WHEREAS, ninety four (94) certificated employees did not timely request a hearing and consequently waived their rights to a hearing; one hundred fifty four (154) certificated employees timely requested a hearing, and they are Respondents in OAH Case No. 2012030803; accordingly an evidentiary hearing was held on April 16, 2012, pursuant to Education Code sections 44955 and 44949 before an Administrative Law Judge;

WHEREAS, prior to hearing, the District dismissed the accusations against Respondents Jennifer Cals Southern, Cynthia Camper, Vanessa Johns-King, James Soward, and Roxanne Williams;

WHEREAS, during the April 16, 2012 hearing, the District dismissed the accusations against Dean Bagnell, Vance Bee, Sabrina Billings, Tira Bunn, Fransicus Combs, Mary De Guzman, Yosan Hailemariam, Elizabeth Lipsey, Oana Matei, Manuela Moreno, Lori Paluzzi, Marlan Parker, Rachael Payan, Ashley Quinn, Erica Shuss, and Scott Smith;

WHEREAS, before and during the April 16, 2012 hearing, the precautionary notices served on, Esther Barajas, Alba Boren, John Cooper, Erica Cordova, Matthew Delano, Alicia Edmonds, Irene Esqueda, Jaime Hose, Shawn Ponsler, Jessica Potter, Jesse Romero, Victoria Reza, and Kayla Schrock were converted to regular layoff notices;

WHEREAS, after the layoff hearing, the District dismissed the accusations against Cham Chao and Grace Elizabeth Schmidt;

WHEREAS, on April 23, 2012, the Administrative Law Judge submitted a proposed decision related to those proceedings which was received by the District on April 27, 2012;

Board of Education Minutes  
May 10, 2012

WHEREAS, this Board has received and considered the proposed decision of the Administrative Law Judge, a copy of which is attached hereto, and any arguments submitted by or on behalf of the parties regarding that proposed decision;

WHEREAS, the proposed decision endorsed the layoff with respect to the 224 certificated employees named in the Final Layoff List attached hereto;

WHEREAS, Education Code section 44949, subdivision (c) (3), provides that this Board shall make the final determination as to the sufficiency of the cause and disposition of the layoff;

WHEREAS, Education Code section 44955, subdivision (c), requires final Board action and notifications to affected employees no later than May 14, 2012, unless that date is extended within a hearing pursuant to Education Code section 44949, subdivision (e);

WHEREAS, the services of no permanent or other employee are being terminated while any probationary employee or any other employee with less seniority is being retained to render a service which the permanent or other employee is certificated and competent to render, within the meaning of, and except as permitted by, Education Code section 44955; the individuals whose employment is being terminated are not certificated and competent (within the meaning of, and except as permitted by, Education Code section 44955) to render the service being performed by any employee with less seniority who is being retained;

WHEREAS, the jurisdictional and statutory prerequisites have been satisfied as to the layoff of the 224 certificated employees named in the Final Layoff List, attached hereto as Exhibit A, to the extent required by law; sufficient cause exists for such employee's termination of employment after consideration of facts including but not limited to the employee's seniority, competency, and scope of credentials; and that cause relates to the welfare of the schools and the pupils thereof within the meaning of Education Code section 44949, subdivision (c)(3), to the extent that provision applies; and

WHEREAS, reemployment rights pursuant to Education Code section 44956 and/or 44957, shall be provided to the employees whose services are terminated as a result of this layoff.

NOW, THEREFORE, BE IT RESOLVED that this Board accepts the Proposed Decision of the Administrative Law Judge and adopts as its own that Proposed Decision issued in OAH Case No. 2012030803;

BE IT FURTHER RESOLVED that the employment of the 224 certificated employees named in the Final Layoff List attached hereto is hereby terminated effective upon the close of the current school year (i.e., the end of such employee's last working day prior to July 1, 2012);

BE IT FURTHER RESOLVED that this decision is effective immediately and that the affected certificated employees shall be given appropriate final layoff notice by the Superintendent or designee of the termination of their services, with said notice to be given on or before May 14, 2012, in the manner prescribed by law; and finally

BE IT FURTHER RESOLVED that reemployment rights shall be afforded to the affected employees in accordance with and to the extent applicable by the Education Code, if and when reemployment is available.

**SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT**

**2011-2012 FINAL CERTIFICATED LAYOFF LIST**

The Following Certificated Employees Will Receive a Final Layoff Notice:

1	Agha, Farah
2	Alas-Negri, Marisela
3	Alba, Maribel
4	Alcantar, Esmeralda
5	Amaya, Clarissa
6	Anderson, Brianna
7	Angulo, Elizabeth
8	Applegate, Valerie
9	Arreola, Fiorella A
10	Arrington, Thomas
11	Arroyo, Nancy
12	Baker, Cordell
13	Barajas, Esther
14	Barbu, Diana
15	Barron, Maria Aurora C
16	Berst II, Mark Allen
17	Beuler, Joyella Jane
18	Blacksher, Francine
19	Blacksher, Kristina
20	Boren, Alba Leticia
21	Bothum, Andrea
22	Bradbury, Edith
23	Brito, Liliana
24	Brothers, Danielle N
25	Brown, Eboni
26	Brown, Nicole R
27	Brown, Norma
28	Budnik, Chris
29	Cachu, Laura
30	Camargo, Veronica C.

36	Chea, Stacy
37	Chen, Susan
38	Chen, Thelma
39	Clobes, Rob J
40	Cobos, David
41	Coffman, Allison
42	Coleman, Damon
43	Cooney, Melody
44	Cooper, John
45	Cordova, Erika
46	Corral Cabral, Janett
47	Corsaro, Alyshea
48	Cowley, Sharon M
49	Craig, Sally Z
50	D'Alessandro, Alicia J.
51	Datema, Jodi
52	Dean, Cassandra
53	Dean, Kristen M
54	Delano, Matthew
55	DeLaTorre, Jorge E
56	Delucio, Gabriella
57	Denniston, Crystal
58	Diaz, Cathleen
59	Dorame, Eric
60	Dorame, Susan G
61	Doswell, Quinton
62	Dotson-Kelly, Erin
63	Dotson, Charlitha J.
64	Downing, Stephanie
65	Dragna, Desiree M

Board of Education Minutes  
 May 10, 2012

31	Campbell, Kimberly Leanne
32	Carney, Amber
33	Carson, Wendi
34	Casanova, Belinda
35	Chavez, Patricia

66	Duag, Elaine
67	Duran, Samuel
68	Eaton, Martha
69	Edmonds, Alicia
70	Elida Ceja

71	Ellison, Kelleigh
72	Enciso, Diana
73	Escalante Butterfield, Angel
74	Escareno, Donna J
75	Esparza, Robyn
76	Esquedea, Irene
77	Esquibel, Malissa
78	Estrada, Stephanie
79	Estrella, Briana J
80	Fletcher, Stephanie
81	Garcia, Diana
82	Garcia, Helen
83	Garner, Jessica
84	Glass, Daisy
85	Gomez, Paloma
86	Gonzalez, Erika
87	Gordon, Laura
88	Grajeda, Marie
89	Gueringer, Ronnie J
90	Guerrero, Yadira
91	Gutierrez, Heidi
92	Gutierrez, Mayra
93	Guzman, Liset
94	Hall, Aaron M
95	Hammer, JoAnn
96	Harnden, Joshua
97	Hernandez-Duarte, Norma
98	Herrin, Keiana
99	Hicken, Neil R
100	Higuera, Sonia
101	Hilburn, Deanna
102	Hill Jackson, Talena
103	Hill, Justin

106	Hudson-Cousins, Shakirah Nar
107	Huerta, Marisela
108	Hunter, Marcia
109	Islam, Silvee
110	Jamieson, Amanda
111	Jimenez-Garcia, Maria
112	Jimenez, Guadalupe
113	Juarez, Ileana
114	Kohler, Christopher H
115	Kojder, Megan
116	Krant, Guy G
117	Kuld, Gregory
118	Ladson, Nicole D
119	Lambert, Martha A
120	Lawson, Meredith
121	Lemos, Whittney
122	Liu, Amber
123	Lopez, Diana
124	Lopez, Elizabeth
125	Lopez, Yvette Yamille
126	Luchsinger, Leah M
127	Luna, Felicia
128	Luong, Thach
129	Macias, Julia
130	Maluenda, Janelle
131	Manansala, Edward Callera
132	Manjarrez, Amanda
133	Mao, Elisa
134	Maraj, Vijay
135	Marshall, Renita
136	Martin, Marrina R
137	McElroy, Aurora V
138	McGee, Arlene

Board of Education Minutes  
 May 10, 2012

104	Hollington, Colleen
105	Hose, Jamie

139	Meaca, Marisol
140	Medina, Edwin J

141	Melendez, Suyapa
142	Mena Lisella, Nancy
143	Mendoza, Nora
144	Merino, Kevin Anthony
145	Moneta, Katie
146	Moore, Megan
147	Mora, Viridiana
148	Moreno, Denise
149	Morrison, Mary T
150	Muller, Thomas St. Francis
151	Murrillo, Albert
152	Navarro, Diana
153	Neuscheler, Scott Thomas
154	Ortega, Paulette
155	Oyas, Charles
156	Palaszewski, Meghan
157	Palhegyi, Margaret
158	Parks, Candace
159	Parrish, Janet
160	Patterson, Richard H
161	Pehl, Adriana
162	Pepe, John
163	Perez, Dennis B
164	Perez, Jeannette
165	Perryman, Adrian
166	Pinon, Enriqueta
167	Ponsler, Shawn
168	Potter, Jessica
169	Quezada, Rosalinda Vera
170	Quintero, Yeraldin
171	Raef, Teresa
172	Ramirez, Melissa Yong
173	Ramirez, Veronica
174	Renoir, Eugene
175	Reyes, Nancy V

176	Reza, Victoria
177	Rios, Erika
178	Robles, Rebecca Alexandra
179	Rodriguez, Sonia
180	Romero, Jesse
181	Ruffin, Cameron
182	Ruiz, Stefanie
183	Salcido, Denise
184	Samano, Erika Aguilera
185	San Angelo, Phillip Anthony
186	Sanchez, Sam
187	Sanz, Lizette
188	Sargent, Kimbre
189	Sassaman, Sandra
190	Schmidt, Amy
191	Schrock, Kayla
192	Scott, Patricia
193	Simko, Rebecca
194	Skinner, Christopher
195	Smith, Kelsey
196	Smith, Kevin K
197	Smith, Vanee
198	Solis, Jessica M
199	Sorrell, LaTonya
200	Spooner, Kimberlee
201	Stanton, Chelse
202	Sweetnam, Heidi
203	Tabler, Joeleinn J
204	Thomas, Erica Kim
205	Thompson, NaChe
206	Tonn, Sierra Diane
207	Torres, Oscar
208	Turner, Susan
209	Vasquez, Deborah
210	Verduzco, Georgina

Board of Education Minutes  
May 10, 2012

211	Veronick, Sara
212	Villalobos, Maria
213	Wagner, Christina V
214	Walters, Kelly
215	Warren, Bonnie S. A.
216	White, Christopher
217	Wilkerson, Marcus
218	Williams, Erika
219	Williams, Nyesha Danielle
220	Wolfe, Mona L
221	Yates, Jennifer Lynn
222	Younglove, Gina
223	Zavala, Agustin
224	Zavala, Cynthia

BEFORE THE  
BOARD OF EDUCATION  
SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT  
STATE OF CALIFORNIA

In the Matter of the Reduction in Force  
Involving the Respondents Identified in  
Appendix A.

OAH No. 2012030803

**PROPOSED DECISION**

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on April 16, 2012, in San Bernardino, California.

Todd Robbins and David Robinette, Atkinson, Andelson, Loya, Ruud & Romo, represented San Bernardino City Unified School District (District).

Carlos Perez and Angela Serranzano, Reich, Adell, & Cvitan, represented 187 respondents identified in Exhibit A (Exhibit 20).<sup>1</sup>

Respondent Guy Krant appeared and represented himself.

No appearance was made by or on behalf of respondents Nancy Arroyo, Desiree Dragna, and Jennifer Yates.

Both before and during the hearing the accusations served on Dane Bagnell, Vance Bee, Sabrina Billings, Tira Bunn, Jennifer Cals Southern, Cynthia Camper, Franciscus Combs, Mary De Guzman, Yosan Hailemariam, Vanessa Johns-King, Elizabeth Lipsey, Oana Matei, Manuela Moreno, Lori Paluzzi, Marlan Parker, Rachel Payan, Ashley Quinn, Erika Shuss, Scott Smith, James Soward, and Roxanne Williams were withdrawn and their layoff notices rescinded.

Oral and documentary evidence was received and the matter was submitted on April 16, 2012.

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<sup>1</sup> Mr. Perez acknowledged on the record that he represented all persons present at the hearing except for Mr. Krant.

## FACTUAL FINDINGS

### *Jurisdiction*

1. Harold J. Vollkommer, Ed.D., made and filed the accusation in his official capacity as the District's Assistant Superintendent, Human Resources.
2. Respondents are identified on Appendix A, attached hereto and by this reference incorporated herein. All respondents are certificated employees of the District.
3. On March 6, 2012, the Board of Education of the San Bernardino City Unified School District (Board) adopted a resolution which reduced particular kinds of services and directed the superintendent to give appropriate notices to certificated employees whose positions would be affected by the action. The resolution identified 251 FTEs to be reduced.

### *EL Authorization Skip*

4. In the resolution the Board "determined that due to a significant population of English language learners with specialized educational needs, a specific and compelling need exists to employ and retain certificated employees who have formal (not emergency) authorization to teach English Learner ("EL") students, as determined by the California Commission on Teacher Credentialing, and the special training and experience that comes" from having that authorization.
5. The resolution specifically noted that the "failure to staff a classroom containing one or more EL students with a certificated employee possessing an appropriate EL authorization is 'misassignment' subject to sanction by the County Superintendent of Schools." The resolution referenced laws pertaining to EL students and noted that the district's needs and its students' needs "should not and cannot be adequately served by concentrating EL students in particular classrooms in such a manner as to lessen the need for certificated employees with EL authorizations." The Board further determined that "EL authorizations are not required for school counselors, nurses, psychologists."
6. The resolution authorized the Board to deviate from the seniority list, i.e. "skip," if necessary pursuant to Education Code section 44955(d), those employees with appropriate EL authorizations. Under Education Code section 44955, subdivision (d)(1), a District may skip a junior teacher being retained for specified reasons. (*Bledsoe v. Biggs Unified School District* (2008) 170 Cal.App.4th 127, 131.) Junior teachers may be given retention priority over senior teachers only if the junior teachers possess superior skills or capabilities which their more senior counterparts lack. (*Santa Clara Federation of Teachers, Local 2393, v. Governing Board of Santa Clara Unified School District* (1981) 116 Cal.App.3d 831, 842-843.) A junior employee possessing special competence can be retained over a senior employee lacking such competence. (*Alexander v. Delano Joint Union High School District* (1983) 139 Cal.App.3d 567.)

Board of Education Minutes  
May 10, 2012

7. Dr. Vollkommer testified that thirty-four percent of students in the District are English language learners, making it necessary to offer them bilingual education. His testimony established that the needs of the District required it to skip the certificated employees with an EL authorization.

*Bump Analysis*

8. The Board also implemented a bump analysis to determine which employees could bump into a position being held by a junior employee. The resolution defined “competency” pursuant to Education Code section 44955, subdivision (b), for the purposes of bumping as “(1) possession of a valid credential in the relevant subject matter area; (2) for bumping a holder of a Single Subject credential in a departmentalized course in grades 7-12, an equivalent Single Subject credential authorizing service in all grades 7-12; (3) ‘highly qualified’ status under the No Child Left Behind Act in the area to be assigned (if required by the position); and (4) an appropriate (not emergency) EL authorization (if required by the position).”

*Layoff Determinations*

9. Consistent with the Board’s Resolution, the District identified certificated employees for layoff. The decision to reduce or discontinue a particular kind of service is matter reserved to the district’s discretion and is not subject to second-guessing in this proceeding. (*Rutherford v. Board of Trustees of Bellflower Unified School District* (1976) 64 Cal.App.3d 167.) A school district’s decision to reduce a particular kind of service must not be fraudulent, arbitrary or capricious. (*San Jose Teachers Association v. Allen* (1983) 144 Cal. App. 3d 627, 637.)

10. The District considered attrition, resignations, retirements and requests for transfer in determining the actual number of necessary layoff notices to be delivered to its employees. No evidence was presented that any known positively assured attrition was not considered. The District must issue final layoff notices before May 15, and when it does so it will take into account any additional attrition that has occurred. After that, further attrition will allow the District to rehire laid off employees. A question arose during the hearing regarding the vacancies created by the attrition which has occurred since March 15, but the district is not required to consider those vacancies for purposes of this hearing. (*San Jose Teachers Association v. Allen* (1983) 144 Cal. App. 3d 627.)

11. On or before March 15, 2012, the District timely served on Respondents a written notice that the Superintendent had recommended that their services would be terminated at the close of the current school year. The reasons for the recommendation were set forth in these preliminary layoff notices.

12. The District also issued precautionary layoff notices to ensure that it could reduce its force in sufficient numbers as ordered by the Governing Board. There was nothing improper in the District taking this precaution.

Board of Education Minutes  
May 10, 2012

13. An accusation was served on each respondent. No evidence was introduced demonstrating that all prehearing jurisdictional requirements were not met.

*Respondent Guy Krant's EL Issue*

14. Krant challenged the District's use of EL authorization as it applied to him. Krant asserted that he has been unable to obtain that authorization because of his learning disability. Krant and his wife both testified in this hearing and explained that his learning disability affects his ability to process information requiring him to spend more time to learn new information. Krant requested he not be laid off and that the District provide him with more time to obtain his EL authorization.

Official Notice is taken of the Board's 2010 and 2011 layoff decisions. In 2010 the Board noted that in "January 2009 the District was informed by the California Department of Education that it failed to meet 'Adequate Yearly Progress' and failed to meet the '100 percent Highly Qualified Teacher requirement for three consecutive years as mandated by NCLB'" which resulted in the District being "placed into Level C of the Compliance, Monitoring, Interventions, and Sanctions Program for the 2008-2009 school year." Owing to that non-compliance report and the fact that one-third of the District's students were EL students, the District "established the need for EL employees in the District." Additionally, the Board determined that "the district adopted a policy in 2007 advising teachers of the need for EL training and its value to the district" and "even took the further step of sending letters in late summer 2009 to all employees who were not EL certified advising them to get that certification as it was most likely going to be used as a skipping criteria. The district even went so far as to allow teachers right up until the day before the hearing to submit proof of having obtained that certification, even going so far as to go to the local university the Saturday before the hearing so that those employees who completed the training on that day could submit proof at that location, without having to drive to the district's offices to submit proof. The evidence clearly established that the district went "above and beyond" to advise employees of the importance of the EL certification and provided them with ample opportunity to obtain it. The evidence did not establish that the district's competency criteria were arbitrary or capricious. (*San Jose Teachers Association v. Allen* (1983) 144 Cal. App. 3d 627, 637.)"

In 2011 the Board determined that Mr. Krant's layoff notice should be rescinded because he had "been diligent in his effort to comply with the requirement that he obtain EL authorization" and would have obtained his authorization "had not been for his dyslexia." The Board concluded that because "of his dyslexia, he needs additional time to obtain it." Further, the Board held that "the district must make a reasonable accommodation in an attempt to enable Mr. Krant to maintain his position as an art teacher. Mr. Krant has multiple learning disabilities. They constitute an impairment that substantially limits one or more of his major life activities. He requires much more time than most people require to complete tasks involving memory, assimilating information, and responding to information. He has a long record of this impairment." Moreover, the Board determined that Mr. Krant was "prepared to engage in an interactive and cooperative process with the district to determine

Board of Education Minutes  
May 10, 2012

appropriate accommodations” and that the “law contemplates an interactive and cooperative process to determine appropriate accommodations.”

The evidence introduced in this hearing regarding Mr. Krant’s attempts after last year’s hearing to obtain his EL authorization demonstrated that essentially Mr. Krant waited for the District to contact him and advise him of what accommodations it would provide. He did little if anything to participate in the process yet was on clear notice that his job was at risk. The testimony of Mr. Krant and his wife established that they now blamed his assignment of an art history class as another reason that he did not have enough time to take the exam, yet he never advised the District or his principal until just shortly before this year’s layoff notices were served that he needed additional accommodations. Given the clear notice from the District about the importance of an EL authorization and that it would likely be used as a skipping criterion, no reasonable justification was offered by Mr. Krant why he sat back and did almost nothing since May 2011 to obtain his EL authorization. Given that he was well aware that his position was subject to layoff, the evidence established that he should have taken an active role in the process and that the District did not “drop the ball” as Mr. Krant asserted. Moreover, Mr. Krant’s testimony demonstrated that he passively sat back and waited. He expected the District to actively pursue the matter with him and that was an unreasonable expectation. Mr. Krant was afforded ample time to obtain his EL authorization and no reasonable explanation for his failure to do so was offered at this hearing.

*Precautionary Layoff Issues*

15. The District issued precautionary layoff notices to ensure that it could reduce its force in sufficient numbers as ordered by the Board. There was nothing improper in the District taking this precaution. Given the notices that were withdrawn, some of the employees who initially received a precautionary layoff notice are now being placed on the district’s final layoff notice list while others had their notices rescinded.

*Thomas Arrington’s Credential Issue*

16. Thomas Arrington holds a Single Subject Industrial Arts/Technology credential which entitles him to teach a variety of industrial arts courses. He teaches a certified automotive repair course at San Bernardino High School. He asserted that another teacher with the same credential but more seniority is bumping him, but that that teacher is a drafting instructor. Mr. Arrington asserted that one “does not take their car to a draftsman for repairs” and that his experience in the industry has resulted in the course receiving national certification which it will no longer have if he is released. While all that may be true, the Legislature did not discriminate between the types of courses that one with an Industrial Arts/Technology credential can teach and the District properly bumped the other employee into Mr. Arrington’s position.

*Precautionary Layoff Issues*

17. The District issued precautionary layoff notices to ensure that it could reduce its force in sufficient numbers as ordered by the Board. There was nothing improper in the District taking this precaution. Given the notices that were withdrawn, some of the employees who initially received a precautionary layoff notice are now being placed on the district's final layoff notice list while others had their notices rescinded.

*Final Layoff List*

18. The District is not retaining any employee with less seniority to perform a service that any respondent is certificated and competent to render.

LEGAL CONCLUSIONS

1. Jurisdiction for this proceeding exists pursuant to sections 44949 and 44955, and all notices and other requirements of those sections have been provided as required.

2. A district may reduce services within the meaning of section 44955, subdivision (b), "either by determining that a certain type of service to students shall not, thereafter, be performed at all by anyone, or it may 'reduce services' by determining that proffered services shall be reduced in extent because fewer employees are made available to deal with the pupils involved." (*Rutherford v. Board of Trustees* (1976) 64 Cal.App.3d 167, 178-179.)

3. The decision to reduce or discontinue a particular kind of service is matter reserved to the district's discretion and is not subject to second-guessing in this proceeding. (*Rutherford v. Board of Trustees of Bellflower Unified School District* (1976) 64 Cal.App.3d 167.)

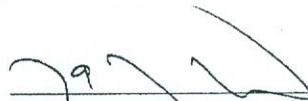
4. Because of the reduction of particular kinds of services, cause exists pursuant to Education Code section 44955 to give notice to respondents that their services will not be required for the 2012-2013 school year. The cause relates solely to the financial welfare of the schools and the pupils thereof within the meaning of Education Code section 44949. The District has identified the certificated employees who are providing the particular kinds of services that the Board directed be reduced or discontinued. It is recommended that the Board give respondents notice before May 15, 2012, that their services will not be required by the District for the school year 2012-13.

Board of Education Minutes  
May 10, 2012

RECOMMENDATION

It is recommended that the Board give notice to the respondents whose names are set forth below that their employment will be terminated at the close of the current school year and that their services will not be needed for the 2012-2013 school year.

DATED: April 23, 2012

  
\_\_\_\_\_  
MARY AGNES MATYSZEWSKI  
Administrative Law Judge  
Office of Administrative Hearings

Appendix A

RESPONDENTS

The following certificated personnel will receive a layoff notice:

1	Agha, Farah
2	Alas-Negri, Marisela
3	Alba, Maribel
4	Alcantar, Esmeralda
5	Amaya, Clarissa
6	Anderson, Brianna
7	Angulo, Elizabeth
8	Applegate, Valerie
9	Arreola, Fiorella A
10	Arrington, Thomas
11	Arroyo, Nancy
12	Baker, Cordell
13	Barajas, Esther
14	Barbu, Diana
15	Barron, Maria Aurora C
16	Berst II, Mark Allen
17	Beuler, Joyella Jane
18	Blacksher, Francine
19	Blacksher, Kristina
20	Boren, Alba Leticia
21	Bothum, Andrea
22	Bradbury, Edith
23	Brito, Liliana
24	Brothers, Danielle N
25	Brown, Eboni
26	Brown, Nicole R
27	Brown, Norma
28	Budnik, Chris
29	Cachu, Laura
30	Camargo, Veronica C.
31	Campbell, Kimberly Leanne
32	Carney, Amber
33	Carson, Wendi
34	Casanova, Belinda

36	Chavez, Patricia
37	Chea, Stacy
38	Chen, Susan
39	Chen, Thelma
40	Clobes, Rob J
41	Cobos, David
42	Coffman, Allison
43	Coleman, Damon
44	Cooney, Melody
45	Cooper, John
46	Cordova, Erika
47	Corral Cabral, Janett
48	Corsaro, Alyshea
49	Cowley, Sharon M
50	Craig, Sally Z
51	D'Alessandro, Alicia J.
52	Datema, Jodi
53	Dean, Cassandra
54	Dean, Kristen M
55	Delano, Matthew
56	DeLaTorre, Jorge E
57	Delucio, Gabriella
58	Denniston, Crystal
59	Diaz, Cathleen
60	Dorame, Eric
61	Dorame, Susan G
62	Doswell, Quinton
63	Dotson-Kelly, Erin
64	Dotson, Charlitha J.
65	Downing, Stephanie
66	Dragna, Desiree M
67	Duag, Elaine
68	Duran, Samuel
69	Eaton, Martha

Board of Education Minutes  
 May 10, 2012

35	Chao, Cham
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71	Elida Ceja
72	Ellison, Kelleigh
73	Enciso, Diana
74	Escalante Butterfield, Angel
75	Escareno, Donna J
76	Esparza, Robyn
77	Esquedea, Irene
78	Esquibel, Malissa
79	Estrada, Stephanie
80	Estrella, Briana J
81	Fletcher, Stephanie
82	Garcia, Diana
83	Garcia, Helen
84	Garner, Jessica
85	Glass, Daisy
86	Gomez, Paloma
87	Gonzalez, Erika
88	Gordon, Laura
89	Grajeda, Marie
90	Gueringer, Ronnie J
91	Guerrero, Yadira
92	Gutierrez, Heidi
93	Gutierrez, Mayra
94	Guzman, Liset
95	Hall, Aaron M
96	Hammer, JoAnn
97	Harnden, Joshua
98	Hernandez-Duarte, Norma
99	Herrin, Keiana
100	Hicken, Neil R
101	Higuera, Sonia
102	Hilburn, Deanna
103	Hill Jackson, Talena
104	Hill, Justin
105	Hollington, Colleen

70	Edmonds, Alicia
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106	Hose, Jamie
107	Hudson-Cousins, Shakirah Nar
108	Huerta, Marisela
109	Hunter, Marcia
110	Islam, Silvee
111	Jamieson, Amanda
112	Jimenez-Garcia, Maria
113	Jimenez, Guadalupe
114	Juarez, Ileana
115	Kohler, Christopher H
116	Kojder, Megan
117	Krant, Guy G
118	Kuld, Gregory
119	Ladson, Nicole D
120	Lambert, Martha A
121	Lawson, Meredith
122	Lemos, Whittney
123	Liu, Amber
124	Lopez, Diana
125	Lopez, Elizabeth
126	Lopez, Yvette Yamille
127	Luchsinger, Leah M
128	Luna, Felicia
129	Luong, Thach
130	Macias, Julia
131	Maluenda, Janelle
132	Manansala, Edward Callera
133	Manjarrez, Amanda
134	Mao, Elisa
135	Maraj, Vijay
136	Marshall, Renita
137	Martin, Marrina R
138	McElroy, Aurora V
139	McGee, Arlene
140	Meaca, Marisol

Board of Education Minutes  
 May 10, 2012

141	Medina, Edwin J
142	Melendez, Suyapa
143	Mena Lisella, Nancy
144	Mendoza, Nora
145	Merino, Kevin Anthony
146	Moneta, Katie
147	Moore, Megan
148	Mora, Viridiana
149	Moreno, Denise
150	Morrison, Mary T
151	Muller, Thomas St. Francis
152	Murrillo, Albert
153	Navarro, Diana
154	Neuscheler, Scott Thomas
155	Ortega, Paulette
156	Oyas, Charles
157	Palaszewski, Meghan
158	Palhegyi, Margaret
159	Parker, Marlan L
160	Parks, Candace
161	Parrish, Janet
162	Patterson, Richard H
163	Pehl, Adriana
164	Pepe, John
165	Perez, Dennis B
166	Perez, Jeannette
167	Perryman, Adrian
168	Pinon, Enriqueta
169	Ponsler, Shawn
170	Potter, Jessica
171	Quezada, Rosalinda Vera
172	Quintero, Yeraldin
173	Raef, Teresa
174	Ramirez, Melissa Yong
175	Ramirez, Veronica

176	Renoir, Eugene
177	Reyes, Nancy V
178	Reza, Victoria
179	Rios, Erika
180	Robles, Rebecca Alexandra
181	Rodriguez, Sonia
182	Romero, Jesse
183	Ruffin, Cameron
184	Ruiz, Stefanie
185	Salcido, Denise
186	Samano, Erika Aguilera
187	San Angelo, Phillip Anthony
188	Sanchez, Sam
189	Sanz, Lizette
190	Sargent, Kimbre
191	Sassaman, Sandra
192	Schmidt, Amy
193	Schrock, Kayla
194	Scott, Patricia
195	Simko, Rebecca
196	Skinner, Christopher
197	Smith, Kelsey
198	Smith, Kevin K
199	Smith, Vanee
200	Solis, Jessica M
201	Sorrell, LaTonya
202	Spooner, Kimberlee
203	Stanton, Chelse
204	Sweetnam, Heidi
205	Tabler, Joeleinn J
206	Thomas, Erica Kim
207	Thompson, NaChe
208	Tonn, Sierra Diane
209	Torres, Oscar
210	Turner, Susan

Board of Education Minutes  
May 10, 2012

211	Vasquez, Deborah
212	Verduzco, Georgina
213	Veronick, Sara
214	Villalobos, Maria
215	Wagner, Christina V
216	Walters, Kelly
217	Warren, Bonnie S. A.
218	White, Christopher
219	Wilkerson, Marcus
220	Williams, Erika
221	Williams, Nyesha Danielle
222	Wolfe, Mona L
223	Yates, Jennifer Lynn
224	Younglove, Gina
225	Zavala, Agustin
226	Zavala, Cynthia

**SESSION SIX - Closing**

**6.0 - Adjournment**

By the affirmative vote of the members, the meeting was adjourned at 5:00 p.m.

The next regular meeting of the Board of Education of the San Bernardino City Unified School District will be held on Tuesday, May 15, 2012, at 5:30 p.m. in the Community Room of the Board of Education Building, 777 North F Street, San Bernardino.