

**San Bernardino City Unified School District**

Minutes of a Regular Meeting of the Board of Education

**MINUTES  
ADOPTED  
5/17/11**

Community Room  
Board of Education Building  
777 North F Street  
San Bernardino, California

May 3, 2011

5:30 p.m.

Present: President Danny Tillman; Vice President Barbara Flores; Board Members Louise Ayala, Teresa Parra Craig, Judi Penman, Lynda Savage, and Elsa Valdez; Superintendent Arturo Delgado; Chief Business and Financial Officer Mohammad Islam, Associate Superintendent/ Chief Administrative Officer Mel Albiso; Assistant Superintendents, Yolanda Ortega, John Peukert, and Harold Vollkommer; Jim Dilday, Interim Assistant Superintendent; and Superintendent's Assistant Phyllis Gronek. Minutes recorded by Administrative Assistant Jennifer Owens.

**SESSION ONE - Opening**

**1.0 - Opening**

**1.1 - Call to Order**

President Tillman called the meeting to order at 5:30 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 - Special Presentations**

**2.0 - Special Presentations**

**2.1 - Recognition of Asian/Pacific-American Heritage Month**

Upon motion by Member Savage, seconded by Member Parra Craig, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Savage, Tillman, and Valdez (Noes: None; Absent for Vote: Penman), the following was adopted:

**WHEREAS** during the month of May 2011, the San Bernardino City Unified School District joins others in California and the United States in celebrating the contributions of Asian/Pacific-Americans; and

**WHEREAS** this observance allows us to consider the valuable contributions of Asian/Pacific-Americans to the growth and development of our great state and nation in the areas of agriculture, business, government, industry, literature, science, and the fine arts; and

**WHEREAS** the Board of Education of the San Bernardino City Unified School District serves many Asian/Pacific-American students and recognizes the cultural diversities among the different Asian/Pacific-American groups, including Bengali, Burmese, Cambodian, Chinese, Filipino, Hawaiian, Hmong, Indonesian, Japanese, Korean, Lao, Malayan, Okinawan, Thai, Pakistani, Vietnamese, Samoan, Asian-Indian, and others; and

**WHEREAS** the San Bernardino City Unified School District has a responsibility in promoting the knowledge and understanding that can be gained by all, regardless of race, through appropriate ceremonies and activities celebrating Asian/Pacific-American heritage;

**THEREFORE, BE IT RESOLVED** that the Board of Education of the San Bernardino City Unified School District declares May 2011 Asian/Pacific-American Heritage Month.

2.2 - Recognition of Cinco de Mayo

Upon motion by Member Savage, seconded by Member Parra Craig, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Savage, Tillman, and Valdez (Noes: None; Absent for Vote: Penman), the following was adopted:

**WHEREAS** the date May 5, 1862, marks a vital and significant time in the battle for Mexican independence; and

**WHEREAS** promoting knowledge of the importance and meaning of this date, *Cinco de Mayo*, is necessary so that our students know about the bravery and courage displayed by the Mexican people in their struggle for independence; and

**WHEREAS** all students in our community need to be aware of Mexican history and how it affects the Mexican people north of the United States/Mexico border, as well as south of the border; and

**WHEREAS** we live in a diverse community in which all groups have shared in the American dream and made the sacrifices and contributions to make America a great country; and

**WHEREAS** a special recognition of the meaning of *Cinco de Mayo* is taking place in California and nationwide this month;

**THEREFORE, BE IT RESOLVED** that the Board of Education of the San Bernardino City Unified School District declares that schools in the District acknowledge the historical importance and heroism commemorated in the celebration of *Cinco de Mayo* and further that schools recognize the impact of Mexican culture and tradition on the history and friendship between Mexico and the United States.

2.3 - Recognition of Day of the Teacher

Upon motion by Member Flores, seconded by Member Savage, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Savage, Tillman, and Valdez (Noes: None; Absent for Vote: Penman), the following was adopted:

**WHEREAS** the Board of Education of the San Bernardino City Unified School District is honored each year to participate with other school districts throughout California in declaring a day to celebrate teachers; and

**WHEREAS** countries throughout the world recognize the importance of teachers, and Mexico has set aside *Día del Maestro*, which is celebrated May 15; and

**WHEREAS** we honor the women and men who make such a vital contribution to our community and our nation by teaching, motivating, supporting, nurturing, and preparing children and youth to become productive citizens of the future; and

**WHEREAS** May 11, 2011, has been designated "The Day of the Teacher" in California, honoring the thousands of women and men who have chosen the education profession, have accepted positions in the public schools, and who are building exemplary careers in this field; and

**WHEREAS** being a good teacher goes far beyond the act of merely delivering facts and information; good teachers encourage students to learn and strive for success, develop in students lifelong skills on which the students' futures depend, and give support and guidance to children and youth during the formative years of their lives; and

**WHEREAS** additionally, May 12, 2011, has been chosen as the day to honor teachers in the San Bernardino City Unified School District, who are second-to-none in their chosen profession;

**THEREFORE, BE IT RESOLVED** that the members of the Board of Education of the San Bernardino City Unified School District, acting on behalf of the residents of the City of San Bernardino, take this opportunity to express their gratitude and appreciation to the teachers of the School District for their service, dedication, and professional excellence in providing quality education to every student in this school system; and

**BE IT FURTHER RESOLVED** that May 12, 2011, be declared a day to honor and express appreciation to all members of the teaching staff of the District schools.

2.4 - Recognition of Classified Employees Appreciation Week (May 16 - 20, 2011)

Upon motion by Member Flores, seconded by Member Tillman, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Savage, Tillman, and Valdez (Noes: None; Absent for Vote: Penman), the following was adopted:

**WHEREAS** in order for the San Bernardino City Unified School District to run efficiently and effectively, it must depend daily on the dedication and capabilities of employees in the Classified Service; and

**WHEREAS** more than 2,400 classified employees who work in various capacities ranging from instructional aides, computer technicians, and delivery drivers to library clerks and custodians, perform their duties with great pride and skill; and

**WHEREAS** classified employees work with commitment in forwarding the mission of the San Bernardino City Unified School District and thereby provide many benefits to this community, its schools, and the state of California; and

**WHEREAS** our School District joins the state of California in setting aside May 16-20, 2011, as a fitting time to honor classified employees and recognize their long and excellent service record;

**THEREFORE, BE IT RESOLVED** that the members of the Board of Education of the San Bernardino City Unified School District acknowledge the contributions of the District's classified employees and express the appreciation of the School District and the community for these important services; and

**BE IT FURTHER RESOLVED** that the Board of Education designates May 16-20, 2011, as a period of time set aside to spotlight the accomplishments of our classified employees.

2.5 - Resolution Supporting Revenue Extensions

Upon motion by Member Savage, seconded by Member Flores, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Savage, Tillman, and Valdez (Noes: None; Absent for Vote: Penman), the following was adopted:

**WHEREAS** over the last several years, K-12 education funding has taken a disproportionate amount of budget cuts; and

**WHEREAS** our schools and students are in a state of emergency until lawmakers pass a balanced budget and approve the needed revenue extensions to support education funding; and

**WHEREAS** the San Bernardino City Unified School District opposes a cuts-only state budget and supports a balanced budget with a combination of cuts and revenue extensions; and

**WHEREAS** to begin to reverse the downward funding spiral, Californians must retain the revenues that enable us to invest in our schools and students; and

**WHEREAS** the San Bernardino City Unified School District joins the California School Boards Association, Association of California School Administrators, California Teachers Association, and other members of the Education Coalition in supporting the May 9-13 Week of Action;

**THEREFORE, BE IT RESOLVED** that the Board of Education of the San Bernardino City Unified School District strongly urges legislators to take action and support the tax revenue extension plan.

### **SESSION THREE –Administrative Presentation**

#### **3.0 - Administrative Presentation**

##### **3.1 - Teacher Layoff Process – Final Notice**

Dr. Harold Vollkommer, Assistant Superintendent, Certificated Human Resources Division, gave a presentation regarding the teacher layoff process, the proposed number of final layoff notices, and the considerations related to the recall/rehire process (see page \_\_\_\_).

Board Members Barbara Flores and Teresa Parra Craig questioned the EL authorization skipping criteria. It was their understanding that the skipping criteria included BCLAD. Dr. Vollkommer stated that if that is the Board's direction for next year, it can be included, but we are too far along in the process to make that change this year.

Board Member Judi Penman arrived at 6:00 p.m.

Dr. Vollkommer reported that teachers that are laid off are recalled in reserve order. He will provide regular reports to the Board. Laid off teachers have the right to substitute teacher service and after 20 days of service, they will receive their per diem pay.

Danny Tillman asked if we can rehire teachers if there is a larger ending balance than expected. Mohammad Islam stated that ending balance funds can be prioritized by the Board. Mr. Tillman stated that because the state budget has not been passed, nothing is final yet. It is critical to talk to our legislators.

Ron Fletcher thanked the Board for providing 259 excellent substitute teachers. The substitute teachers union will welcome and support them.

John Wingo, SBTA Vice President, reported that teachers negotiated an alternative to a straight 5 percent cut and an MOU was ratified by 86 percent of the teachers. Mr. Wingo expressed his appreciation to the Board for their efforts to keep cuts away from the teachers and for Staff working collaboratively with the teachers. Mr. Wingo stated that the Statewide Week of Action is May 9-13, and invited President Tillman to speak at the rally on Friday, May 13, at the National Orange Show. Teresa Parra Craig stated that we have one of the best teacher alliances in the state. The percentage of teachers that ratified the MOU shows that they want to take care of each other. Danny Tillman thanked the teachers for their balanced 5 percent cut. Their relationship is based on trust. Dr. Delgado stated that this is difficult for everyone. We have been asked to cut \$25 million this year, which will mean fewer teaching days and fewer teachers, and we are all feeling the stress. The budget could get worse and we should take a stand that we won't make any more cuts. The Board will prioritize what cuts to restore if we get any money back. We are fortunate that our teachers realize this.

#### **SESSION FOUR - Administrative Reports**

##### **4.0 - Administrative Reports**

##### **4.1 - Williams Deciles 1-3 Schools Quarterly Report**

California Education Code section 1240 requires that the County Superintendent visit all deciles 1-3 schools (Williams monitored schools currently based on the 2009 Academic Performance Index [API]) identified in the county and report the results of his findings on a quarterly basis. Commencing with 2008-09, Education Code section 52055.740 (4) requires that the visits include Quality Education Investment Act schools (even if they are not currently identified as Williams monitored schools) as they are subject to meeting all of the Williams Settlement requirements.

The instructional materials sufficiency reviews, facilities inspections, School Accountability Report Card (SARC) reviews, and California High School Exit Examination (CAHSEE) site validation reviews (as appropriate) were conducted during the first quarter of the 2010-11 school year and the findings were reported in October 2010. The annual teacher assignment monitor and review process began November 30, 2010, and concludes by report to the California Commission on Teacher Credentialing on July 1, 2011. The final teacher assignment information will be provided in the fourth quarterly report.

There are no findings to report in the following areas:

1. Instructional Materials
2. School Facilities
3. SARC
4. Teacher Assignment

The County Superintendent's findings are as follows:

5. CAHSEE Intensive Instruction and Services

The 2010-11 Valenzuela Documentation review was conducted to determine the extent to which pupils who have not passed the CAHSEE by the end of grade 12 are informed of their eligibility to receive CAHSEE intensive instruction and services for up to two consecutive years after grade 12, and the extent to which pupils who have elected to receive services are being served for the Classes of 2009 and 2010. Through his review, he has determined that our district is in compliance with the terms of the Valenzuela Settlement Legislation.

4.2 - Budget Update

Mohammad Z. Islam, Chief Business and Financial Officer, stated that there nothing new to report.

4.3 - School Improvement Grant Update

There was no update to report.

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

**5.0 - Other Matters Brought by Citizens**

Stephen Gianni thanked the District's Special Education Department staff for teaching his daughter how to read and write. Mr. Gianni announced that she passed her driver's test.

Candace Loya announced that Congressman Joe Baca's 2011 Education Summit will be held on Tuesday, May 17, 8 a.m. to noon at the Charles and Shelby Obershaw Dining Room at Cal State University San Bernardino. The summit is free and open to the public. The reauthorization of ESEA will be discussed.

Gil Navarro, County School Board Member, reported that at yesterday's County School Board meeting, he made a motion to deny a Barstow charter school's appeal. He also moved to revoke the first charter school in the County. Mr. Navarro reported that Steve Holguin spoke on behalf of the Optimo charter school and the County Board will vote in June. Mr. Holguin stated that the San Bernardino City Unified School District Board members did not have enough information to decide on the Optimo charter petition. Mr. Navarro reported that Mayor Morris spoke on behalf of Optimo because there is a cloud over a District high school. Mr. Navarro stated that the staff at Shandin Hills Middle School is disrespectful to parents. Mr. Navarro had requested to schedule a meeting with Dr. Delgado and Shandin Hills parents, but Dr. Delgado refused to meet with them because he wants them to meet with the principal first. Mr. Navarro asked the Board to force Dr. Delgado to meet with them. Mrs. Parra Craig stated that the parents need to meet with the principal first. The principal is entitled to that.

## SESSION SIX - Reports and Comments

### **6.0 - Report by Board Members**

Elsa Valdez congratulated this year's Golden Apple recipients--James Butts, Geraldine Kruk, Marie Espinoza, and Daniel Arellano. Dr. Valdez thanked Linda Bardere for preparing the ad in *The Sun* which featured the Golden Apple honorees and the School Bell Forum that will be held on May 9, at Arroyo Valley High School.

Lynda Savage thanked Dr. Delgado for participating in the Assistance League Headdress Ball on Saturday, April 30. The proceeds are used to provide services to our students. Mrs. Savage reported that James Ramos was nominated by the District and was recognized during the San Bernardino County School Boards Association Annual Spring Awards Program on April 25.

Teresa Parra Craig recommended scheduling a meeting with key people to discuss remedies for the Assistance League volunteers who provide dental screening at our schools.

Barbara Flores thanked Jim Dilday for his response to her questions about AP courses.

Danny Tillman reported that he and Barbara Flores attended a conference in Sacramento with non-profit organizations. Mr. Tillman asked the Superintendent to schedule a Board presentation with the organizations. Dr. Delgado reported that he would like the groups to share their priorities and establish a strategic approach. He will schedule an administrative presentation for a future Board meeting. Teresa Parra Craig stated that the District has done some strategic planning and cautioned the Board to keep to that agenda. Mr. Tillman stated that the entire Board hasn't heard the organizations' priorities. We could schedule this as an introduction and Dr. Delgado can facilitate. Dr. Delgado reported that that is the intent of the San Bernardino City School Coalition Council that he is forming. We can have the organizations decide where their resources are and how their plans fit into our plans. Dr. Delgado suggested that the new council meet before giving them direction from the Board. Elsa Valdez stated that there is good mentoring available and they can collaborate to seek grant funding. Barbara Flores stated that she doesn't want to wait for Dr. Delgado to form a coalition. They need to act. Mr. Tillman stated that this will be a good starting point and he doesn't want to exclude anyone.

### **6.1 - Legislative Update**

Barbara Flores thanked Dr. Delgado for writing the letter supporting AB 815. It has passed both houses.

### **7.0 - Report by Superintendent and Staff Members**

Dr. Delgado reported that one of our parents, Abigail Medina, was selected to address the Senate Budget Committee members.

Dr. Delgado announced that this year's Management Summer Conference has been canceled. Instead, he is going to invite the principals and leadership teams from each school to attend a one-day workshop with Consuelo Kickbush. They will discuss goals and what needs to be done at the teachers' level. The workshop will be held on July 14, 2011, and the only cost will be the substitutes for year-round teachers.

Dr. Delgado reported that he recently spoke to a group in San Diego about our SIG schools. While there are some similarities, the differences that our SIG schools have are the CO-OPs, the reports to the Board, and their monthly meetings.

### **SESSION SEVEN - Legislation and Action**

#### **8.0 - Consent Items (When considered as a group, unanimous approval is advised.)**

Certain items of business require review and approval by the Board of Education. Other items are for information and review only. Therefore, the following items are grouped as a consent list for receipt and approval. When members have questions about items included in the consent calendar, these items are pulled out of the group and considered separately.

Consent items 8.17, 8.29, 8.32, and 8.43 were held for later consideration.

Upon motion by Member Savage, seconded by Member Tillman, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Penman, Savage, Tillman, and Valdez (Noes: None), the following were adopted:

#### **8.1 - Approval of Minutes**

BE IT RESOLVED that the Minutes of the Board of Education Meeting held on April 19, 2011, be approved as presented.

#### **8.2 - Payment of Master Teacher – Azusa Pacific University**

BE IT RESOLVED that the Board of Education approves payment for services as a master teacher during Fall 2010, as provided for in the Agreement with Azusa Pacific University, as follows:

Sharon Thies \$200.00

#### **8.3 - Payment of Master Teachers – National University**

BE IT RESOLVED that the Board of Education approves payment for services as master teachers during Fall 2010, as provided for in the Agreement with National University, as follows:

Delaria, Cynthia - \$150.00

Johnson, Euridici - \$150.00

8.4 - Payment of Master Teacher – University of La Verne

BE IT RESOLVED that the Board of Education approves payment for services as a master teacher during the summer 2010, as provided for in the Agreement with University of La Verne as follows:

Christian, Janice        \$200.00

8.5 - Request for Waiver of California High School Exit Exam (CAHSEE) Passage Requirement for Students with a Disability

BE IT RESOLVED that the Board of Education approves the Waiver of CAHSEE Passage Requirement for Students with a Disability.

8.6 - Acceptance of Gifts and Donations to the District

BE IT RESOLVED that the Board of Education acknowledges receipt of \$1,771.00, A Foundation For Kids; \$9,000.00, San Manuel Band of Mission Indians; \$1,000.00, Kevin Clark; and \$400, Jose Chavez.

8.7 - Business and Inservice Meetings

BE IT RESOLVED that the Board of Education approves the attendance and participation of the following individuals in scheduled business and inservice meetings:

Lidia Alvarez	To attend the 2011 California Association for Bilingual Education (CABE) Conference, in Riverside, CA, on May 25, 2011. Total cost, including meals and mileage per District guidelines, not to exceed \$580.00, will be paid from San Bernardino High School Account No. 423.
Maria Chavez	
Laura Rangel	
Hilda Rosas	
Laura Velazquez	
Maura Solano (Board Representatives)	

Abigail Medina	To attend the 2011 California Association for Bilingual Education (CABE) Conference, in Riverside, CA, on May 25, 2011. Total cost, including meals and mileage per District guidelines, not to exceed \$2,900.00, will be paid from English Learner Programs Account No. 261.
Alma Hernandez	
Celia Benitez	
Erika Delgado	
Eva Marquez	
Jose Hernandez	
Juana Vazquez	
Karina Rodriguez	
Kehaulani Martinez	
Leticia Gonzalez	

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Leticia Herrera  
Leticia Kisling  
Lilia Cisneros-Felix  
Liliana Cruz  
Liliana Lamas  
Lucia Diaz  
Lurdes Camarillo  
Maria Caloca  
Maria Gaeta  
Maria Gomez  
Maria Murillo  
Maria Padilla  
Martha Santana  
Mary Gomez  
Minerva Marin  
Myrna Fernandez  
Ruben Aceves  
Veronica Rivera  
Elizabeth Romero  
Virginia Gomez  
Erika Orozco  
Areceli Vences  
Blanca Sanchez  
(Board Representatives)

8.8 - Commercial Warrant Registers for Period from April 1, through April 15, 2011

BE IT RESOLVED that the Commercial Warrant Register for the period from April 1, through April 15, 2011, be approved.

BE IT FURTHER RESOLVED that the Board of Education authorizes James Cunningham, Accounting Services Director; David Moyes, Accounts Payable Supervisor; Derek Harris, Interim Employee Benefits Director; or Mohammad Z. Islam, Chief Business and Financial Officer, to sign disbursements.

8.9 - Payment for Course of Study Activities

BE IT RESOLVED that the Board of Education considers the following activities to be a part of the regular course of study for the 2010-11 school year and approves payment to the following:

San Bernardino County Museum for a presentation titled "Museum on the Road" on May 06, 2011. The cost, not to exceed \$131.63, will be paid from Monterey Elementary School Account No. 501.

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A Foundation for Kids for an interactive program on May 12, 2011. The cost, not to exceed \$250.00, will be paid from anonymous sponsors.

St. Mary's Ballet Folklorico of Redlands for a performance titled "Cinco de Mayo" on May 5, 2011. The cost, not to exceed \$800.00, will be paid from Bing Wong Elementary School Account No. 422.

IM INC for an assembly titled "Bullying, Violence Prevention" on May 27, 2011. The cost, not to exceed \$1,450.00, will be paid from Warm Springs Account No. 459.

Ron and Patricia Powell for a musical assembly titled "IGABA" on May 9, 2011. The cost, not to exceed \$350.00, will be paid from Martin Luther King Middle School ASB Account.

8.10 - Payment for Course of Study Activities Amendment

BE IT RESOLVED that the Board of Education approves amending the resolution of April 19, 2011, Agenda Item 9.8, Course of Study activities to read:

Golden Valley Middle School wishes to hire Thomas Johnson for a presentation titled "Tommy the Clown" on April 22, 2011. He will provide a motivational presentation for testing and rising of attendance. The cost, not to exceed \$1,200.00, will be paid from Golden Valley Middle School Account No. 422.

BE IT FURTHER RESOLVED that the Board of Education considers the following activities to be a part of the regular course of study for the 2009-10 school year and approves payment to the following:

Thomas Johnson for a presentation titled "Tommy the Clown" on April 22, 2011. The cost, not to exceed \$1,200.00, will be paid from Golden Valley Middle School Account No. 422.

8.11 - Payment for Services Rendered by Non-Classified Experts and Organizations

BE IT RESOLVED that the Board of Education approves payment to the following non-classified experts:

Sopris West Educational Services to present two days of professional development workshops, "Secondary Step-Up to Writing" to District teachers and staff, June 6-7, 2011. The fee, not to exceed \$5,000.00, will be paid from the Restricted General Fund—Title III LEP Student Subgrant, Account No. 544.

Culham Writing Company to present a professional development workshop, "Six Traits of Writing" to teachers and staff, June 3, 2011. The fee, not to exceed \$2,708.00, will be paid from the Restricted General Fund—Elementary Secondary Education Act, Account No. 501.

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Cindy Kirk of J. Taylor Education, Temecula, CA, to conduct a one-day workshop, incorporating Depth, Complexity, Content Imperatives, and Novelty into the Core Curriculum to Create Differentiated Learning Experiences to staff, May 14, 2011. The fee, not to exceed \$1,350.00, will be paid from the Restricted General Fund—Elementary Secondary Education Act, Title I, Account No. 501.

Academic and Behavior Change, Riverside, CA, to conduct three days of program observation to include interviews with all staff, job coaching, job placement, and time management, May 17-25, 2011. The fee, not to exceed \$1,200.00, will be paid from the Restricted General Fund—Department of Rehabilitation, Account No. 595.

8.12 - Federal/State/Local District Budgets and Revisions

BE IT RESOLVED that the Board of Education approves the addition of \$9,296.00 in the budgeting of revenue and expenditures for the restricted program, San Manuel Tribal Administration (219).

BE IT ALSO RESOLVED that the Board of Education approves the addition of \$500.00 in the budgeting of revenue and expenditures for the restricted program, Superintendent's Scholarship Fund (225).

BE IT FURTHER RESOLVED that the Board of Education approves the addition of \$259,478.00 in the budgeting of revenue for the restricted program, Special Education Salaries-6500 (802).

8.13 - Extended Field Trip, Arroyo Valley High School, Sequoia Camping Trip, Dunlap, California

BE IT RESOLVED that the Board of Education approves the extended field trip for 20 Arroyo Valley High School students and 4 District employees to attend Sequoia Camping Trip, in Dunlap, California, June 6, through June 10, 2011. The cost of the trip, not to exceed \$4,000.00, including meals and lodging for 20 Arroyo Valley High School students and 4 District employees, will be paid from Arroyo Valley High School Account No. 2214. Transportation provided by America's Express Rental, not to exceed \$1,500.00, will be paid from Arroyo Valley High School Account No. 2214. Names of the students are on file in the Business Services office.

8.14 - Extended Field Trip, Middle College High School, Legislative Hearing, Sacramento, California

BE IT RESOLVED that the Board of Education ratifies the extended field trip for 47 Middle College High School students, 3 volunteer chaperones, and 2 District employees to attend a Legislative Hearing, in Sacramento, California, April 26, through April 27, 2011. The cost of

the trip, not to exceed \$470.00, including meals for 47 Middle College High School students, 3 volunteer chaperones, and 2 District employees, will be paid from Alternative Programs Account No. 327. Transportation provided by Charter Bus, not to exceed \$2,509.00, will be paid from sponsorship by San Bernardino Community College District. Names of the students are on file in the Business Services office.

8.15 - Delegation of Purchasing Authority - Nutrition Services Department

BE IT RESOLVED that the Board of Education, per Education Code Section 17605, authorizes Ponciano Vidaurri, while working out of class as Nutrition Services Business Manager, and Gina Martin, Secretary III, to sign purchase orders for non-biddable supplies and services directly related to food and food products, and biddable products directly related to food and food products effective July 1, 2011, through June 30, 2012.

BE IT FURTHER RESOLVED that the Board of Education, per Education Code Section 17605, authorizes Lisa Falcone and Joanna Nord, Nutrition Services Administrative Analysts, and Becky Hickey, Nutrition Services Buyer, to sign purchase orders that cost less than \$15,000.00 for non-biddable supplies and services directly related to food and food products, and biddable products directly related to food and food products effective July 1, 2011, through June 30, 2012.

8.16 - Agreement with the All Theatrical Production Services for Lighting and Stage Services at the California Theatre for the CAPS Central Office

BE IT RESOLVED that the Board of Education approves entering into an agreement with the All Theatrical Production Services, San Bernardino, CA, for stage and lighting services at the High School After School Showcase at the California Theatre, May 11-13, 2011. The fee, not to exceed \$3,000.00, will be paid from the Restricted General Fund—After School Safety and Enrichment for Teens, Account No. 566.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign all related documents.

8.18 - Agreement with Mary Andrea Mitchell to Provide Assistance to the Adult School in Preparing TAACCCPT Proposal to the Department of Labor

BE IT RESOLVED that the Board of Education approves entering into an agreement with Mary Andrea Mitchell, Oak Hills, CA, to provide assistance in the preparation of the TAACCCPT proposal to the Department of Labor, effective May 4, through June 30, 2011. The fee, not to exceed \$10,500.00, will be paid from the Restricted General Fund—Adult Education, Account No. 130.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign all related documents.

8.19 - Agreement with the Parent Institute for Quality Education to Provide Training for Parents of District Students Enrolled at Pacific High School

BE IT RESOLVED that the Board of Education approves entering into an agreement with the Parent Institute for Quality Education, Covina, CA, to provide training for approximately 100 parents of District students enrolled at Pacific High School, effective June 9, through July 15, 2011. The Parent Institute will recruit parents by phone, provide a needs assessment session, and provide a series of weekly training sessions. The training sessions will culminate in a graduation with certificates given to parents who attend four sessions. The training will provide the skills and techniques that will enable parents to address the educational needs of their school-aged children. The cost, not to exceed \$8,000.00, will be paid from the Restricted General Fund—Elementary Secondary Education Act Title I, Account No. 501.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign all related documents.

8.20 - Agreement with Fred Pryor Seminars for an Inservice Workshop for Nutrition Services Management Staff

BE IT RESOLVED that the Board of Education approves entering into an agreement with Fred Pryor Seminars, to provide an inservice workshop on July 27, 2011, as part of Nutrition Services' continuing management staff training. The cost, not to exceed \$3,600.00, will be paid from Nutrition Services Cafeteria Account No. 92.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign said agreement.

8.21 - License Agreement with the Redevelopment Agency of the City of San Bernardino for Use of the California Room at the California Theatre for Adult School Graduation

BE IT RESOLVED that the Board of Education approves entering into a license agreement with the Redevelopment Agency of the City of San Bernardino, CA, for the use of the California Room of the California Theatre on June 1, 2011. The fee, not to exceed \$125.00, will be paid from the Restricted General Fund—Adult Education, Account No. 130.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign all related documents.

8.22 - License Agreement with the Redevelopment Agency of the City of San Bernardino for the Carousel Mall for City of Readers Festival

BE IT RESOLVED that the Board of Education approves entering into a license agreement with the Redevelopment Agency of the City of San Bernardino, San Bernardino, CA, for the City of

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Readers 15<sup>th</sup> Annual Family and Community Reading Festival at the Carousel Mall, effective May 21, 2011. There is no fee to the District.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign all related documents.

8.23 - Amendment of the Agreement with Atkinson, Andelson, Loya, Ruud and Romo to Provide Legal Services for District Issues

BE IT RESOLVED that the Board of Education approves amending the agreement with Atkinson, Andelson, Loya, Ruud and Romo, Cerritos, CA, approved by the Board on September 21, 2010, Agenda Item 10.29. The amendment is necessary to add \$200,000.00 to the original fee of \$300,000.00 for an aggregate total not to exceed \$500,000.00. The fee will be paid from the Unrestricted General Fund—Legal Fees, Account No. 077.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign all related documents.

8.24 - Amendment of the Agreement with Catapult Learning, LLC, to Provide Title IIA Professional Development Services at Five Local Private Schools

BE IT RESOLVED that the Board of Education approves amending the agreement with Catapult Learning, LLC, Philadelphia, PA, approved by the Board on July 20, 2010, Agenda Item 7.10. The amendment is necessary to increase the fee by \$12,920.00 for additional work at the five private schools: Aquinas High School, Holy Rosary Academy, Our Lady of the Assumption, St. Adelaide, and St. Anthony. The additional fee, added to the initial fee of \$21,619.75 for an aggregate total not to exceed \$34,539.75, will be paid from the Restricted General Fund, Title II Part A (Teacher Quality), Account No. 536.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign all related documents.

8.25 - Amendment of the Agreement with Gresham/Savage to Provide Legal Services for Labor, Employment, and Risk Prevention Issues

BE IT RESOLVED that the Board of Education approves amending the agreement with Gresham/Savage, Riverside, CA, approved by the Board on July 6, 2010, Agenda Item 9.34. The amendment is necessary to add \$25,000.00 to the original cost of \$100,000.00 for an aggregate total not to exceed \$125,000.00. Additional services are needed from the firm. The additional fee will be paid from the Unrestricted General Fund—Human Resources-Certificated Personnel, Account No. 077. All other terms and conditions will remain the same.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign all related documents.

8.26 - Amendment to the Facilities Use Agreement with National University

BE IT RESOLVED that the Board of Education approves amending the facilities use agreement with National University, approved by the Board on December 7, 2010, Agenda Item 11.13. The amendment is necessary to add \$5,000.00 to the initial fee due to increased use of the facilities. The additional fee of \$5,000.00, added to the initial fee of \$40,000.00 for an aggregate total not to exceed \$45,000.00, will be paid from the Restricted General Fund 01—Title II Educational Services, Account No. 538. All other terms and conditions will remain the same.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign all related documents.

8.27 - Renewal of the Agreement with Azusa Pacific University for Student Teacher Placement at District Schools

BE IT RESOLVED that the Board of Education approves renewing the agreement with Azusa Pacific University, Azusa, CA, for student teacher placement at District schools, effective July 1, 2011, through June 30, 2014. The University will provide student teacher candidates for the District to place in a teacher-learning environment under the supervision of a master teacher. The University will pay the District a Master Teacher stipend of \$200.00 at the secondary level and \$100.00 at the elementary level. There will be no cost to the District.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign all related documents.

8.28 - Bid No. 17-10, Color Paper Stock and Supplies

BE IT RESOLVED that Bid No. 17-10, Color Paper Stock and Supplies, Line Item 003 be rejected in its entirety. The District will rebid this line item.

BE IT ALSO RESOLVED that Bid No. 17-10, Color Paper Stock and Supplies, Line Items 001, 002, 004, 005, 006, 007 and 008 be awarded to the lowest responsive and responsible bidder(s) meeting District specifications, based on lowest unit prices as follows:

<u>BIDDER</u>	<u>UNIT PRICE (Per Case)</u>	<u>LINES AWARDED</u>
Office Depot San Bernardino, CA	\$ 8.14	001
Office Depot San Bernardino	\$3.86	002

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Office Depot San Bernardino	\$66.27	004
Office Depot San Bernardino	\$70.00	005
Office Depot San Bernardino	\$50.00	006
Unisource Worldwide City of Commerce, CA	\$ 3.71	007
Unisource Worldwide City of Commerce, CA	\$6.87 5pt \$6.68 4pt \$6.25 3pt \$5.56 2pt	008

BE IT FURTHER RESOLVED that the District reserves the right to purchase more than or less than the quantity indicated throughout the initial six-month term of the bid award, and all extensions, not to exceed three years total.

8.30 - Approval to Reject Bid No. NSB 2010-11-3, Nutrition Services Delivery Trucks

BE IT RESOLVED that all bids for Bid No. NSB 2010-11-3, Delivery Trucks, be rejected in their entirety, because all bids came in too high or did not meet specifications.

8.31 - Notice of Completion, Bid No. F09-14, Bing Wong Elementary School and Curtis Middle School Retention Basin Repair Project

BE IT RESOLVED that the Board of Education authorizes filing a Notice of Completion for Bid No. F09-14, Bing Wong Elementary School and Curtis Middle School Retention Basin Repair Project for the work awarded to General Contractor listed below:

General Contractor

Try Kirtley General Engineering  
Rim Forest, CA

BE IT FURTHER RESOLVED that Danny Tillman, President, Board of Education, be authorized to execute the Notice of Completion.

8.33 - Approval of Assessment Penalty on Cyrcon Builders for the Bradley, Marshall and Ramona-Alessandro Elementary Schools Modernization Projects

BE IT RESOLVED that the Board of Education approves imposing a 10% penalty in the amount of \$9,800.00 on Cyrcon Builders, General Contractor for the Bradley, Marshall and Ramona-Alessandro Elementary Schools modernization projects, per Public Contract Code Section 4104, Subletting and Subcontracting Fair Practices Act.

BE IT ALSO RESOLVED that three credit change orders, for a total amount of \$9,800.00, will be processed in the near future representing the three school sites. Signing of these change orders will constitute Cyrcon Builders' agreement to the penalty. Upon Board of Education approval of the penalty, the District will view this issue as closed and the subcontractor, Garcon Construction, Inc., will be allowed onto the three school sites.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign any documents related to the penalty.

8.35 - Expulsion of Student(s)

BE IT RESOLVED that the Board of Education accepts and adopts the recommendation and findings of the Hearing Panel, based on a review of the Panel's finding of facts and recommendations, and orders the expulsion of the following student(s) with the birth date(s) as listed below in accordance with the Board rules and regulations and in compliance with Education Code Section 48900:

\***(S)**11/5/1997    \***(S)**5/19/1995    6/25/1993            \***(S)**11/25/1994    \***(S)**7/9/1998    \*\***(S)**4/16/1995  
\***(S)**11/7/1996    \*\***(S)**1/2/1997

\*The Board does hereby order the enforcement of the expulsion suspended for a period of not more than one calendar year. The suspension of the enforcement of the expulsion order is deemed appropriate for the rehabilitation of the pupil, per Education Code section 48917.

\*\*The Board does hereby expel the pupil for a period of one semester, and does hereby order the enforcement of the expulsion suspended for the following semester, allowing him/her to be considered for re-enrollment in the district under suspended expulsion as deemed appropriate for the rehabilitation of the pupil, per Education Code section 48917.

**(S)** A stipulated expulsion is a process whereby the pupil and his/her family acknowledge responsibility for the behavior leading to the recommendation for expulsion by the school administration, and waive their right to a hearing by admitting to the facts in support of an expulsion recommendation. The pupil and his/her family stipulate the facts of the case as presented by the school, accepting one of the following consequences: \***(S)** suspended expulsion, \*\***(S)** expulsion one semester, suspended expulsion one semester, **(S)** expulsion two semesters.

8.36 - Student(s) Recommended for Suspension, but Remanded Back to School Sites or Had Suspensions Reduced, Due to Errors of Due Process, Lack of Evidence, and/or Availability of Other Means of Correction

BE IT RESOLVED that the following student(s) were recommended for suspension, but suspension is deemed inappropriate based on due process errors, insufficient evidence, and/or the availability of other means of correction in compliance with Education Code Section 48900. Therefore, although they were recommended for suspension, the suspension was reversed or modified.

7/2/1996      2/20/1996

8.37 - Student(s) Recommended for Expulsion, but Remanded Back to the School Sites Due to Errors of Due Process, Lack of Evidence and/or Availability of Other Means of Correction

BE IT RESOLVED that the following student(s) were recommended for expulsion, but expulsion is deemed inappropriate based on due process errors, insufficient evidence, and/or the availability of other means of correction in compliance with the Education Code section 48900. Therefore, although they were recommended for expulsion, the expulsion is not granted:

8.38 - Student(s) Not Recommended for Expulsion as Specified Under Education Code Section 48915 (a)

Education Code Section 48915 (a) states, "Principal or the Superintendent of the schools shall recommend a pupil's expulsion...., unless the principal or superintendent finds and so reports in writing to the governing board that expulsion is inappropriate, due to the particular circumstance, which should be set out in the report of the incident."

The student(s) identified below were found to have committed a violation of Education Code Section 48900 for which a referral for expulsion is mandated; however, the principal found that due to particular circumstances, expulsion is inappropriate:

9/6/2000

8.39 - Revocation of Suspension of Expulsion

FURTHER, in accordance with Education Code Section 48917, the Board does hereby order the expulsion of the student(s) with birth date(s) as listed:

This order revokes a previously suspended expulsion order and is recommended at this time because the student(s) violated the conditions of the suspension of the expulsion order.

8.40 - Lift of Expulsion of Student(s)

BE IT RESOLVED that the Board of Education authorizes the readmission of the following student(s), with the birth date(s) as indicated below, to schools of the San Bernardino City Unified School District in accordance with the Board rules and regulations and in compliance with the Education Code Section 48900:

8.41 - Failure to Recommend Mandatory Expulsion 48915

BE IT RESOLVED that the following school(s) have failed to adhere to Education Code Section 48915. Principals are required by Education Code to report guns, brandishing a knife, sexual assault, possession of an explosive device, and/or the sale of an illegal substance. The following school(s) have not followed this Education Code requirement:

8.42 - Petition to Expunge, Rescind, or Modify Expulsion

Education Code 48917, Section (e) states: upon satisfactory completion of the rehabilitation assignment of a pupil, the governing board shall reinstate the pupil in a school of the district and may also order the expungement of any or all records of the expulsion proceedings.

8.43 - Education Code 48213

Education Code 48213 states: that a student can be excluded from attendance pursuant to Section 120230 of the Health and Safety Code or Section 49451 of this code if a principal or his designee determines that the continued presence of the child would constitute a clear and present danger to the life, safety, and health of a pupil or school personnel. The governing board is not required to send prior notice of the exclusion to the parent or guardian of the pupil. The governing board shall send a notice of the exclusion as soon as is reasonably possible after the exclusion.

8.17 - Agreement with Dell Marketing, L.P., Utilizing the State of California Multiple Award Schedule (CMAS) Contract Number 3-94-70-0012, Purchase Computer Equipment, Software, Peripherals, and Related Services

Barbara Flores asked why no figures are included. Dr. Delgado stated that each school's order will be different based on their needs. Mohammad Islam stated that these are state approved prices. Elsa Valdez asked Staff for a report on how technology decisions are made.

Upon motion by Member Tillman, seconded by Member Parra Craig, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the Board of Education approves entering into an agreement with Dell Marketing, L.P., utilizing the California Multiple Award Schedule (CMAS), Contract Number 3-94-70-0012, for the purchase of computer equipment, software, peripherals, and related services.

The District has successfully negotiated with Dell the development of a portal allowing sites the ability to log onto Dell's Website to customize their computer equipment based on District standards and negotiated discount pricing. As a local governmental body, the District has the option of piggybacking off this contract. Prices are comparable to those that the District would receive if it were to issue its own bid. The cost will be paid by sites on an as-required basis.

BE IT ALSO RESOLVED the District reserves the right to purchase on an as-needed basis throughout term of the contract, and any extension thereafter not to exceed five years total.

BE IT FURTHER RESOLVED that the Board of Education authorizes Mohammad Z. Islam, Chief Business and Financial Officer, to sign agreements associated with this contract.

8.29 - Approval to Reject Bid No. F10-05, Classroom of the 21<sup>st</sup> Century at San Bernardino High School, Arrowview Middle School, Pacific High School, and HVAC at Arrowview Middle School

Danny Tillman asked for clarification. John Peukert stated that only one bid was received and it was very high. This is for one classroom at each of the schools.

Upon motion by Member Tillman, seconded by Member Flores, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the single bid for Bid No. F10-05, Classroom of the 21<sup>st</sup> Century at San Bernardino High School, Arrowview Middle School, Pacific High School, and HVAC at Arrowview Middle School be rejected in its entirety and will be rebid at a later time after reviewing the scope of work with the Architect of Record.

8.32 - Measure T Bond Citizen's Oversight Committee Membership

Teresa Parra Craig and Danny Tillman expressed their support for Marilyn Patterson.

Upon motion by Member Penman, seconded by Member Parra Craig, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the Board of Education ratifies the appointment of Marilyn Patterson (Tax Payers' Organization), for an initial two-year term from April 1, 2011, through March 31, 2013.

8.34 - Application for 2010-11 Fiscal Year, Deferred Maintenance Program

Barbara Flores asked for clarification on this item. Mohammad Islam stated that we are maintaining the program up to the state level of funding. There is no match from the District's

General Fund because the state is giving us flexibility this year to use the funds for other programs.

Upon motion by Member Tillman, seconded by Member Savage, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the Board of Education approves submitting to the State of California, the Annual Application for Funds, Deferred Maintenance Program, for the maximum amount of one-half of one percent of the District's general funds exclusive of any amounts budgeted for capital outlay or debt service plus the additional apportionment of one-half of one percent of the same funds.

BE IT FURTHER RESOLVED that the Board of Education authorizes Wael Elatar, Facilities/Maintenance & Operations Administrator, to sign said application.

### **9.0 - Action Items**

#### **9.1 - PARS Supplementary Retirement Plan**

Dr. Delgado pulled this item to discuss in closed session.

#### **9.2 - Personnel Report #21, Dated May 3, 2011**

Upon motion by Member Tillman, seconded by Member Savage, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Savage, Tillman, and Valdez (Noes: None; Absent for Vote: Penman), the following was adopted:

BE IT RESOLVED that the Personnel Report #21, dated May 3, 2011, be approved as presented (see page \_\_\_\_). Personnel actions included in this report are in accordance with policies of the Board of Education, the rules and regulations of the Personnel Commission, and the District's Affirmative Action Plan.

#### **9.3 - In Recognition of Deceased Employee**

Members of the audience and Board of Education observed a moment of silence for the following deceased employee:

### **JUAN ALMANZA**

**WHEREAS** Juan Almanza was a dedicated member of the classified service for the San Bernardino City Unified School District from 1952, until his retirement in 1981; and

**WHEREAS** Juan Almanza served the District as a night custodian and laborer-groundsman, taking great pride in providing clean places for students to learn and employees to work in; and he was a Korean War Veteran, and received his BA from Cal State University, San Bernardino, and in addition to working for the District, he also devoted 30 years to IRC; and

**WHEREAS** Juan Almanza was a member of Crows Motorcycle Club, American Legion 155, VFW 8737, Eagles, and Knights of Columbus 905; and

**WHEREAS** on March 8, 2011, Juan Almanza died, bringing deep sorrow to his loving family and friends; and

**WHEREAS** Juan Almanza is survived by his wife of 60 years, Rebecca; two daughters, Evelyn Daniel-Spears and Tricia Ornelas-Revetta; two sons, Robert Almanza and John Howard Almanza; a brother, Felipe Almanza; 10 grandchildren; and 2 great-great grandchildren;

**THEREFORE BE IT RESOLVED** that the Board of Education of the San Bernardino City Unified School District does take this opportunity to express its gratitude for Juan Almanza's many fine years of service to the District and its students and does extend its deepest sympathy to his family.

### **SESSION EIGHT - Closed Session**

#### **10.0 - Closed Session**

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

#### **Student Matters/Discipline**

##### **Conference with Labor Negotiator**

District Negotiator: Yolanda Ortega  
Employee Organization: San Bernardino School Police Officers Association

District Negotiator: Harold Vollkommer  
Employee Organization: California School Employees Association  
Communications Workers of America  
San Bernardino Teachers Association

District Negotiator: Arturo Delgado  
Unrepresented Employees: Assistant Superintendents  
Associate Superintendent/Chief Administrative Officer

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**Public Employee Discipline/Dismissal/Reassignment/Release Pursuant to Government Code Section 54957**

**Conference with Legal Counsel: Anticipated Litigation**

(Government Code Section 54956.9(b)(1))

Number of Cases: Three

**SESSION NINE – Open Session**

**11.0 - Action**

**9.1 - PARS Supplementary Retirement Plan**

No action was taken.

**11.1 - Resolution Regarding the Layoff of Preschool Teachers**

Upon motion by Member Tillman, seconded by Member Ayala, and approved by the affirmative vote of Members Ayala, Flores, Penman, Savage, and Tillman (Noes: Parra Craig and Valdez), the following was adopted:

WHEREAS, it is the determination of this Governing Board, in analyzing and balancing educational and service priorities, to reduce by eighteen (18) the number of full-time preschool teaching positions, so that the individuals serving within positions as preschool teachers shall be subject to layoff as permitted by Education Code section 8366;

WHEREAS, a layoff of preschool teachers is appropriate for lack of work or lack of funds within the meaning of Education Code section 8366;

1. As a result of a bona fide elimination of eighteen (18) full-time preschool teaching positions and the related services, the preschool teachers with the least length of service, i.e., who have served the shortest time within the meaning of Education Code section 8366, shall be laid off and provided appropriate notification;
2. Said elimination of eighteen (18) full-time preschool teaching positions and services and the layoff of the least senior preschool teachers shall become effective on June 30, 2011;
3. Any permanent employee laid off as a result of this Resolution shall be eligible for reemployment pursuant to Education Code section 8366;
4. The Superintendent or designee is directed to identify the appropriate individuals to be laid off and to provide appropriate notification of the layoff.

11.2 - Resolution Terminating Services Of Certificated Employees As A Result Of Reduction Or Discontinuation Of Particular Kinds Of Services (Acting On Proposed Decision Of The Administrative Law Judge)

Upon motion by Member Tillman, seconded by Member Ayala, and approved by the affirmative vote of Members Ayala, Parra Craig, Savage, and Tillman (Noes: Flores and Valdez; Abstentions: Penman), the following was adopted:

WHEREAS, on March 1, 2011, the Superintendent served notice to this Board recommending that 272 certificated teaching positions be reduced or eliminated, and that a corresponding number of certificated employees receive notice that their services will not be required for the ensuing 2011-12 school year, pursuant to Education Code sections 44949 and 44955;

WHEREAS, on March 1, 2011, this Board adopted a resolution to reduce or discontinue 272 certificated teaching positions not later than the beginning of the 2011-12 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;

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 2011-12 school year;

WHEREAS, on or before March 15, 2011, the Superintendent or the Superintendent's designee served notice to 294 certificated employees (Respondents) that it has been recommended that their services will not be required for the ensuing 2011-12 school year, pursuant to Education Code sections 44949 and 44955; 265 of those notices were regular layoff notice and 29 of those notices were precautionary notices.

WHEREAS, the notices served upon the employees advised them that they may request a hearing to determine if there was cause for not reemploying them for the ensuing 2011-12 school year, and that if they failed to timely request a hearing, that failure shall constitute a waiver of their right to a hearing;

WHEREAS, certain certificated employees (Esqueda, Hammer, Murphy, and Paulette Ortega) did not request a hearing and, pursuant to Education Code sections 44949, they therefore waived their right to a hearing; certain other employees did request a hearing, and accordingly an evidentiary hearing was scheduled for April 11, 2011, pursuant to Education Code sections 44955 and 44949 before an Administrative Law Judge;

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WHEREAS, prior to hearing, the District dismissed the accusations against Respondent Schlagel because she possessed a credential that would allow her to displace a less senior employee;

WHEREAS, at the beginning of the April 11, 2011, hearing, the District dismissed the accusations against Respondents Hue Thi Thatch, Christal Smith, Diem Tran and Danya Brown, because of defects in the service of their preliminary layoff notices;

WHEREAS, during the April 11, 2011, hearing, the District dismissed the accusations against Adriana Brenes-Rios, Tira Bunn, Kevin Burg, Dimitrios Chronopolous, Sally Craig, Victoria Danridge, Krystal Duran, Stephen Emrich, Jon Gallery, Tristan Hann, Jennifer Henao, Daniel Holley, Robert Lee Jr., Michael McCuiston, Shirley Oliver, Olivia Parker, Elva Paz, Christina Perez, Ramona Phillips, April Reding, Erika Rios, Alton Michael Smith, Kevin Smith, Hope Stewart, Joeleinn Tabler, Gina Torres, Magda Villalobos, Christine Yang, and Jessica Yi.

WHEREAS, on April 18, 2011, the Administrative Law Judge submitted a proposed decision related to those proceedings which was received by the District on April 20, 2011;

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 259 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 employees no later than May 14, 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 individuals named in the Final Layoff List, to the extent required by law; sufficient cause exists for such employees' termination of employment after consideration of facts including but not limited to the employees' seniority 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, rights to reemployment pursuant to Education Code section 44956 and/or 44957 shall be provided to the certificated 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, with the following modifications:

1. The Board rejects Factual Finding 9 on page 3 of the Proposed Decision, which states, "The district stipulated that, with respect to four respondents, there was a defect in the service of the Preliminary Layoff Notice. Those respondents are Brian Martinez, Maria Cecil Martinez-Guzman, Clynton H. Parsons, and Rachael Payan. The district further stipulated that it would not give Termination Notices to these respondents."

2. The Board concludes that the inclusion of Respondents Brian Martinez, Maria Cecil Martinez Guzman, Clynton Parsons, and Rachael Payan in Factual Finding 9 on page 3 of the Proposed Decision was a clerical error and that there was a defect in the service of the Preliminary Layoff Notices mailed to Respondents Hue Thi Thatch, Christal Smith, Diem Tran and Danya Brown and it is in fact these Respondents who will not be receiving a final layoff notice.

BE IT FURTHER RESOLVED that the employment of the 259 certificated employees named on the Final Layoff List attached hereto is hereby terminated effective upon the close of the current school year (i.e., the end of such employees' last working day prior to July 1, 2011);

BE IT FURTHER RESOLVED that this decision is effective immediately and that the 259 certificated employees named on the Final Layoff List attached hereto be given appropriate notice by the Superintendent or the Superintendent's designee(s) of the termination of their services, with said notice to be given on or before May 14, 2011, in the manner prescribed by law; and finally

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

**SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT**

**FINAL LAYOFF LIST**

The Following Certificated Employees Will Receive a Final Layoff Notice

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1. Agha, Farah
2. Aguayo, Anabel
3. Alas-Negri, Marisela
4. Alba, Maribel
5. Amador, Martha
6. Anderson, Melissa A
7. Applegate, Valerie
8. Arreola, Fiorella A
9. Arroyo, Nancy
10. Atencio, Callie
11. Back, Tiffany Moree
12. Bagnell, Annette Christine
13. Bakanec, Brett Adam
14. Ballantyne, Eugene
15. Barajas, Mayra
16. Barbu, Diana
17. Besheer, Rebecca Marie
18. Beuler, Joyella Jane
19. Black, Clinton
20. Blacksher, Francine
21. Blacksher, Kristina
22. Bogarin, Alexis R
23. Boles, Danielle
24. Boren, Alba Leticia
25. Bougetz, Jaimie Elizabeth
26. Briggs, Jason
27. Brothers, Danielle
28. Brown, Amy Rebecca
29. Brown, Eboni
30. Brown, Nicole R
31. Brown, Norma
32. Bruce, Pamela Sue
33. Bullock, Kimberly Nicole
34. Burns, Martha
35. Burns, Socorro
36. Burt, Krystle
37. Cachu, Laura
38. Calloway, Donna
39. Cals, Southern
40. Camargo, Veronica C.
41. Campbell, Kimberly Leanne
42. Carney, Amber
43. Carson, Wendi
44. Cartwright, Heidy Fong
45. Chavez, Patricia
46. Chen, Susan
47. Cobos, David
48. Cochrane, Leahanna
49. Compton, Clinton
50. Concepcion, Marissa
51. Conell, Lindsay
52. Cooney, Melody
53. Cooper, John D
54. Cordova, Erika
55. Corral Cabral, Janett
56. Cox, Keith
57. Crockett, Joelle Imauni
58. Curtis, Katherine
59. D'Alessandro, Alicia
60. Dean, Cassandra
61. Dean, Kristen M
62. Demarco, Ana Beatriz
63. Denniston, Crystal
64. Diaz, Amanda
65. Dorame, Eric
66. Downing, Stephanie
67. Drake, Stuart
68. Duag, Elaine
69. DuBois, Diane
70. Dumas, Dana
71. Duran, Samuel
72. Durant, Jacquay
73. Eck, Barbara
74. Elliott, Lindsay N
106. Hammer, JoAnn C.
107. Harrison, Lisa Marie
108. Hermosillo, Rosa Imelda
109. Hernandez, Laura

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- |                                  |                                   |
|----------------------------------|-----------------------------------|
| 75. Elmore, Nicole D             | 110. Hernandez-Guzman, Stefani Ho |
| 76. Enciso, Diana                | 111. Herrin, Keiana               |
| 77. Enriquez, Hank               | 112. Higuera, Sonia               |
| 78. Escalante Butterfield, Angel | 113. Higuera, Sonia               |
| 79. Esqueda, Irene               | 114. Hill-Jackson, Talena         |
| 80. Esquibel, Malissa            | 115. Hodges, Rosario              |
| 81. Estrada, Stephanie           | 116. Hodges, Rosario              |
| 82. Fenske, Marka Rose           | 117. Holley, Daniel M.            |
| 83. Fields, Mary B               | 118. Huerta, Marisela             |
| 84. Flansburg, Darcie Jo         | 119. Huerta, Marisela             |
| 85. Fromby, Allegra              | 120. James, Alisha                |
| 86. Garcia, Diana                | 121. Jimenez, Pete G              |
| 87. Garcia, Helen                | 122. Jimenez-Garcia, Maria        |
| 88. Garcia, Louis                | 123. Johns King, Vanessa          |
| 89. Gillespie, Mary              | 124. Jones, Jennifer              |
| 90. Girasek, Berenise            | 125. Kane, Sheena                 |
| 91. Gomez, Paloma                | 126. Kang, Grace H                |
| 92. Gonzalez, Melody             | 127. Kim, Helen                   |
| 93. Gonzalez, Stephanie          | 128. Kohler, Christopher H        |
| 94. Grajeda, Marie               | 129. Kuld, Gregory                |
| 95. Greene, Danielle             | 130. Lackie, Laura                |
| 96. Groezinger, Heather S.       | 131. Lambert, Martha A            |
| 97. Gueringer, Ronnie J          | 132. Lampert, Craig L             |
| 98. Guerrero, Yadira             | 133. Larson, Ruth                 |
| 99. Guillen, Karla               | 134. Le, Thu                      |
| 100. Gutierrez, Mayra            | 135. Lemos, Whittney              |
| 101. Gutierrez, Veronica         | 136. Lingenfelter, Tina           |
| 102. Guzman, Cynthia             | 137. Lopez, Elizabeth             |
| 103. Guzman, Liset               | 138. Lopez, Yvette Yamille        |
| 104. Haggerty, Heather           | 139. Lopez-Alonso, Monica         |
| 105. Hall, Mirna                 | 140. Lovely, Lori A               |
| 141. Lovett, Wikitoria           | 176. Ochoa, Joseph                |
| 142. Luna, Felicia               | 177. Ochoa, Mayra                 |
| 143. Lyons, Jessica Lynn         | 178. Ortega, Anna Marie           |
| 144. Macias, Julia               | 179. Ortega, Paulette             |
| 145. Madrigal, Anacelia          | 180. Ospina, Blanca               |
| 146. Mancha, Sandra              | 181. Padilla, Paola               |
| 147. Manjarrez, Amanda           | 182. Pantoja, Jessica             |
| 148. Mao, Elisa                  | 183. Parker, MarLan               |

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|-----------------------------------|----------------------------------|
| 149. Marruffo, Laura              | 184. Parrish, Janet              |
| 150. Marshall, Renita             | 185. Parsons, Clynton H          |
| 151. Martin, Marrina R            | 186. Payan, Rachael              |
| 152. Martinez, Alicia             | 187. Perez, Angela I             |
| 153. Martinez, Blanca             | 188. Perez, Jeanette Monica      |
| 154. Martinez, Brian              | 189. Perez, Sarah                |
| 155. Martinez-Guzman, Maria Cecil | 190. Pinon, Enriqueta            |
| 156. Mashni, Basima Mosa          | 191. Ponce, Christine            |
| 157. McGee, Arlene                | 192. Ponsler, Shawn              |
| 158. McNair, Lisa Renee           | 193. Prato, Patricia             |
| 159. Meaca, Marisol               | 194. Psilopoulos, Elizabeth      |
| 160. Medina, David                | 195. Quezada, Rosalinda Vera     |
| 161. Mena Lisella, Nancy          | 196. Raef, Teresa                |
| 162. Mendoza, Nora                | 197. Ramirez, Brianna M          |
| 163. Mojica-Mastranzo, Diana      | 198. Ramirez, Melissa Yong       |
| 164. Moneta, Katie                | 199. Ramos, Pedro                |
| 165. Moore, Robin                 | 200. Rawls, Michael              |
| 166. Morales Alfonso, Sarah Mary  | 201. Renoir, Eugene              |
| 167. Moreno, Denise               | 202. Reyes, Nancy                |
| 168. Moss, Robert                 | 203. Reynolds, Charles E         |
| 169. Muir, Erin                   | 204. Robinson, Stephanie Patrice |
| 170. Muller, Kimberly             | 205. Robles, Rebecca Alexandra   |
| 171. Muller, Thomas               | 206. Rodriguez III, Santos       |
| 172. Murguia, Anna                | 207. Rodriguez, Beatriz          |
| 173. Murphy, Joan                 | 208. Rodriguez, Magda A          |
| 174. Neu, Craig                   | 209. Romero, Jesse               |
| 175. Noelke-Young, Petra Jutta    | 210. Romero, Sara Victoria       |
| 211. Roundy, Robin                | 246. Tran, Linda                 |
| 212. Roybal, Heather Lynn         | 247. Verduzco, Georgina          |
| 213. Ruffin, Cameron              | 248. Villalobos, Maria           |
| 214. Russo, Iris                  | 249. Wang, Thelma                |
| 215. Salazar, Adriana             | 250. Warren, Bonnie              |
| 216. Salazar, Andrea A            | 251. Westerhaus, Anja            |
| 217. Salazar, Mayra               | 252. Williams, Christine         |
| 218. Salazar-Jimenez, Guadalupe   | 253. Williams, Nyesha Danielle   |
| 219. Saldivar-Juarez, Dora A      | 254. Wilson, Elizabeth           |
| 220. Sanchez, Sam                 | 255. Wong, Jessica               |
| 221. Sanz, Lizette                | 256. Yates, Jennifer Lynn        |
| 222. Sargent, Kimbre              | 257. Zapata, Norma Angelica      |

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|---------------------------------|-----------------------|
| 223. Sassaman, Sandra           | 258. Zataray, Cynthia |
| 224. Schmidt, Amy               | 259. Zavala, Augustin |
| 225. Schmidt, Tara Nicole       |                       |
| 226. Scoggin, Kelly             |                       |
| 227. Serna, Diana               |                       |
| 228. Shih, Angela               |                       |
| 229. Silva, Lanaya Marie        |                       |
| 230. Simental-Gladin, Maribel   |                       |
| 231. Sinclair, Lisa M.          |                       |
| 232. Singer, Trimonisha         |                       |
| 233. Sinner, Mayte              |                       |
| 234. Slowinski, Aimee           |                       |
| 235. Smith, Trudy L             |                       |
| 236. Sorrell, LaTonya           |                       |
| 237. Spencer, Rebecca           |                       |
| 238. Spooner, Kimberlee         |                       |
| 239. Stark, Lisa R              |                       |
| 240. Stephens, Eileen Catherine |                       |
| 241. Teig, Gina D               |                       |
| 242. Tonn, Sierra Diane         |                       |
| 243. Tornero, Jessica Christine |                       |
| 244. Torres, Angela             |                       |
| 245. Torres, Oscar              |                       |

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

In the Matter of the Employment Status of:

FARAH AGHA, et al.,

OAH No. 2011031298

Respondents.

**PROPOSED DECISION**

Robert Walker, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter in San Bernardino, California, on April 11, 2011.

Todd M. Robbins, Attorney at Law,<sup>1</sup> represented the complainant, Dr. Arturo Delgado, Superintendent, San Bernardino City Unified School District.

The respondents are listed in exhibit A.

Carlos R. Perez, Attorney at Law,<sup>2</sup> represented those respondents who are listed in exhibit B.

Mr. Perez also represented Rachael Payan. She did not satisfy the procedural requirements for obtaining a hearing, but the district waived the defect.

Mr. Perez also represented Melissa Anderson. She did not satisfy the procedural requirements for obtaining a hearing, and the district refused to waive the defect. Thus, she is not a party to this proceeding.

Guy Krant appeared in propria persona.

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<sup>1</sup>Todd M. Robbins, Attorney at Law, 3450 Fourteenth Street, Suite 420, Riverside, California 92501.

<sup>2</sup> Carlos R. Perez, Attorney at Law, 2670 North Main Street, Suite 300, Santa Ana, California 92705.

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No appearance was made by or on behalf of Irene Esqueda, JoAnn C. Hammer, Joan Murphy, or Paulette Ortega.

The matter was submitted on April 11, 2011.

DEFAULT

As to Ms. Esqueda, Ms. Hammer, Ms. Murphy, and Ms. Ortega, on proof of compliance with Government Sections 11505 and 11509, this matter proceeded as a default pursuant to section 11520.

FACTUAL FINDINGS

*General Findings Concerning Statutory Requirements*

1. Education Sections 44949 and 44955,<sup>3</sup> provide for two notices to be given in connection with terminating certificated employees. The first notice, which will be referred to as the Preliminary Layoff Notice, is given by the superintendent. It is given to the governing board and to the employees the superintendent recommends for layoff. The Preliminary Layoff Notice gives the board and the employees notice that the superintendent recommends that those employees be laid off. The superintendent must give the Preliminary Layoff Notice no later than March 15. There is no requirement that a governing board take any action in March. But while it is unnecessary, governing boards usually adopt a resolution ratifying the superintendent's recommendations.
2. The second notice is a notice of a governing board's decision to terminate an employee. That notice is provided for in Section 44955 and must be given before May 15. That notice advises a teacher that the district will not require his or her services for the ensuing school year. That notice will be referred to as a Termination Notice.
3. In this case, not later than March 15, 2010, the superintendent notified the governing board and the respondents that he recommended that the respondents not be retained for the ensuing school year. In this case, however, as to four respondents, there was a defect in the service of the notice.
4. The Preliminary Layoff Notice stated the reasons for the recommendation. The recommendation was not related to respondents' competency.

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<sup>3</sup> All references to the Code are to the Education Code unless otherwise specified.

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5. Except as to four of the respondents, a Preliminary Layoff Notice was delivered to each respondent, either by personal delivery or by depositing the notice in the United States mail, registered, postage prepaid, and addressed to respondent's last known address.

6. The Preliminary Layoff Notice advised each respondent who was properly served as follows: He or she had a right to a hearing. In order to obtain a hearing, he or she had to deliver a request for a hearing in writing to the person sending the notice. The request had to be delivered by a specified date, which was a date that was not less than seven days after the notice was served.<sup>4</sup> And the failure to request a hearing would constitute a waiver of the right to a hearing.

7. Respondents either timely filed written requests for a hearing or obtained a waiver of their failure to file. An accusation was timely served on respondents. Respondents were given notice that, if they were going to request a hearing, they were required to file a notice of defense within five days after being served with the accusation.<sup>5</sup> Respondents either filed timely notices of defense or obtained a waiver of their failure to file. All prehearing jurisdictional requirements were either met or waived.

8. The governing board of the district resolved to reduce or discontinue particular kinds of services. Within the meaning of Section 44955, the services are "particular kinds of services" that can be reduced or discontinued. The decision to reduce or discontinue these services was not arbitrary or capricious but constituted a proper exercise of discretion.

*Defects in Service of Notices*

9. The district stipulated that, with respect to four respondents, there was a defect in the service of the Preliminary Layoff Notice. Those respondents are Brian Martinez, Maria Cecil Martinez-Guzman, Clynton H. Parsons, and Rachael Payan. The district further stipulated that it would not give Termination Notices to these respondents.

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<sup>4</sup> Employees must be given at least seven days in which to file a request for a hearing. Education Section 44949, subdivision (b), provides that the final date for filing a request for a hearing "shall not be less than seven days after the date on which the notice is served upon the employee."

<sup>5</sup> Pursuant to Government Section 11506, a party on whom an accusation is served must file a notice of defense in order to obtain a hearing. Education Section 44949, subdivision (c)(1), provides that, in teacher termination cases, the notice of defense must be filed within five days after service of the accusation.

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8. The governing board of the district resolved to reduce or discontinue particular kinds of services. Within the meaning of Section 44955, the services are "particular kinds of services" that can be reduced or discontinued. The decision to reduce or discontinue these services was not arbitrary or capricious but constituted a proper exercise of discretion.

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<sup>5</sup> Pursuant to Government Section 11506, a party on whom an accusation is served must file a notice of defense in order to obtain a hearing. Education Section 44949, subdivision (c)(1), provides that, in teacher termination cases, the notice of defense must be filed within five days after service of the accusation.

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*Services the District Intends to Reduce or Discontinue*

10. The governing board of the district determined that, because particular kinds of services are to be reduced or discontinued, it is necessary to decrease the number of permanent or probationary employees in the district by 272 full time equivalents (FTE).

11. The particular kinds of services the governing board of the district resolved to reduce or discontinue are:

Elementary K-5 Teaching Services	223	F.T.E.
High School English Teaching Services	16	F.T.E.
High School Social Studies Teaching Services	8	F.T.E.
High School Math Teaching Services	7	F.T.E.
High School Physical Education Teaching Services	6	F.T.E.
High School Spanish Teaching Services	3	F.T.E.
High School Drafting Teaching Services	2	F.T.E.
High School Art Teaching Services	2	F.T.E.
High School Physical Science Teaching Services	2	F.T.E.
High School Biology Teaching Services	1	F.T.E.
High School Chemistry Teaching Services	1	F.T.E.
High School German Teaching Services	1	F.T.E.
TOTAL CERTIFICATED POSITIONS	272	F.T.E.

*Notices to be Rescinded*

12. The district stipulated that it will rescind the Preliminary Layoff Notice served on the following respondents:

Gallery, Jon Eric  
 Lee Jr., Robert P  
 McCuiston, Michael D  
 Oliver, Shirley A  
 Phillips, Ramona Rae  
 Schlagel, Lacie  
 Smith, Alton Michael  
 Smith, Christal  
 Stewart, Hope M  
 Thach, Hue Thi

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Bunn, Tira  
Burg, Kevin  
Craig, Sally Z  
Danridge, Victoria  
Emrich, Stephen J  
Hann, Tristan M.  
Hena, Jennifer  
Holley, Daniel M.  
Parker, Olivia  
Paz, Elva Y  
Perez, Cristina  
Reding, April Denise  
Rios, Adriana Brenes  
Rios, Erika  
Smith, Kevin  
Tabler, Joeleinn J  
Torres, Gina

*USE OF TIE-BREAKING CRITERIA BASED ON THE CURRENT NEEDS OF THE DISTRICT AND STUDENTS*

13. Pursuant to Section 44955, subdivision (b), the governing board of the district adopted criteria for determining the order of termination as among employees who first rendered paid service on the same day. Section 44955, subdivision (b), requires a district to adopt such criteria and provides that the criteria are to be based on “needs of the district and the students . . . .” The district’s tie-breaking criteria are as follows:

[I]n the event of a certificated layoff the following criteria shall be applied in order based on information on file as of February 1, [2011], one step at a time until the tie is broken, to resolve ties in seniority between certificated employees:

1. Highly Qualified Status under NCLB in area of assignment.
2. Possession of an authorization to teach English Language Learners in order of priority:
  - a. Bilingual Cross Cultural Language and Academic Development (BCLAD)
  - b. Cross Cultural Language and Academic Development (CLAD). SB 1969 or SB 395 Certificate, Language Development Specialist Certificate, Supplemental Authorization for English as a Second Language. Specially Designated Academic Instruction in English (SDAIE). other

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3. Credential status in area of assignment, in order of priority:
  - a. Clear, Life, Standard Secondary, etc.
  - b. Preliminary
  - c. Intern
  - d. Provisional, STC, other
  
4. Possession of a Clear or Preliminary Single Subject credential in the following areas, in order of priority:
  - a. Special Education
  - b. Math
  - c. Science
  - d. English
  
5. Possession of a supplemental authorization to teach in the following areas, in order of priority:
  - a. Math
  - b. Science
  - c. English
  
6. Total number of Clear or Preliminary credentials.
  
7. Total number of supplementary authorizations.
  
8. Number of years of credentialed teaching experience prior to employment with District, as indicated by initial salary schedule placement.
  
9. Possession of a Doctorate Degree, earliest date prevails.
  
10. Possession of a Masters Degree, earliest date prevails.
  
11. Total number of post-secondary credits on file with the District by February 1.
  
12. If ties cannot be broken by using the above criteria then order of seniority shall be determined by a random drawing among employees in the individual tie.
  
  
14. Application of the tie-breaking criteria resulted in determining the order of termination solely on the basis of needs of the district and the students thereof.

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*DISTRICT'S INTENTION TO DEVIATE FROM SENIORITY (SKIPPING)*

15. Pursuant to Section 44955, subdivision (d)(1), the governing board of the district resolved to deviate from terminating employees in the order of seniority, i.e., the board resolved to skip over teachers with a particular qualification and lay off more senior teachers who do not possess that qualification.

16. The district identified the following course or course of study as one creating a specific need for personnel: English Learner (EL). The district demonstrated a specific need for personnel to teach EL students; demonstrated that certain teachers have special training and experience necessary to teach that course or course of study; and demonstrated that other teachers, in spite of being more senior, do not possess that special training and experience.

17. The board resolved as follows:

WHEREAS, this Board has 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 therewith; and

WHEREAS, State law mandates that each 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; and

WHEREAS, compliance with the provisions of the No Child Left Behind Act ("NCLB"), the Williams Settlement, and Education Section 44253.1 require that EL students be served by certificated employees with appropriate EL authorizations; and

WHEREAS, the needs of the District and the students thereof 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; and  
WHEREAS, EL authorizations are not required for school counselors, nurses, psychologists; and

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WHEREAS, Education Section 44955(d) authorizes this Board to deviate from terminating a certificated employee in order of seniority for the above reasons, if necessary.

*RIGHT TO BE RETAINED ACCORDING TO SENIORITY AND QUALIFICATIONS – DATE OF HIRE*

18. Job security is not inherent in seniority. The Legislature chose to provide teachers with limited job security according to their seniority.

19. Danielle Greene contends that she is more senior than the district lists her as being. Ms. Greene began rendering paid service in October of 2007. She held an emergency certificate. She continued to teach on that certificate until June 30, 2010, when the district non-reelected her.

20. In March of 2010, Ms. Greene obtained a preliminary credential. On July 30, 2010, which was one month after the district non-reelected Ms. Greene, the district rehired her. On this occasion she was hired as an intern.

21. Ms. Greene contends that her date of hire is October of 2007. The district contends that it is July 30, 2010.

*Guy Krant*

22. Guy Krant is a high school art teacher. He began teaching at San Geronimo High School in September of 1998 and has continued to teach there.

23. The federal No Child Left Behind Act of 2001 (NCLB), Title 22, United States Section 6301 et seq. requires that English language learners be served by teachers who have EL authorization. Also, the California Legislature, in Section 44253.1 et seq., required the Commission on Teacher Credentialing to “implement an assessment system to certify those teachers who have the essential skills and knowledge necessary to meet the needs of California’s limited-English-proficient pupils.” The Commission on Teacher Credentialing did that and made the system applicable to any teacher assigned to provide EL services to one or more EL students. The system applies not only to core content classes but also to elective subjects such as art and music.

24. A school district that assigns a teacher who does not have EL authorization to teach an EL student faces a risk of being sanctioned by the County Superintendent of Schools and a risk of being found to be out of compliance with NCLB.

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25. By a letter dated July 16, 2009, the San Bernardino City Unified School District advised all teachers who did not have EL authorization that their failure to obtain it would put them at risk of being laid off. The letter stated, in part, the following:

Given that 34% of the District's students are designated as English Learners, it is the District's expectation that all teachers possess this authorization. This allows the District to meet state credentialing requirements, as well as providing assignment flexibility.

[¶ . . . ¶]

If you do not currently possess EL authorization, please be informed that if the District moves toward layoffs in the future (which, given the state budget crisis, seems likely), it will be the administration's recommendation to the Board of Education to implement "skipping" criteria. This will mean that within any identified type of service (i.e. elementary teachers, secondary English, etc.), less senior staff members with EL authorization will be skipped, leading to the potential layoff of more senior staff members who do not possess EL authorization.

On the attached sheet you will find the current options that are available to obtain EL authorization. Please indicate which option you will pursue and return this form to Trina Brown in Certificated Human Resources . . . . It is imperative that you take the necessary steps to obtain appropriate EL authorization as soon as possible.

If you have any questions or need more information, we are hosting two (2) informational meetings. You are certainly encouraged to attend: [The dates, times, and place are stated.]

26. In the attachment, the district outlined two ways in which one could obtain EL authorization. One could take an examination, or one could complete a course of study at a college or university. The district listed the colleges and universities that offered the courses. The district also offered to reimburse the cost of the examination.

27. Mr. Krant was one of the teachers to whom the district sent the July 16, 2009, letter.

28. When Mr. Krant was in the second grade, he was diagnosed as being dyslexic. It is difficult for him to remember things. It also is difficult for him to understand things and respond quickly. He testified that he has never taken a test without accommodation, i.e., without being provided extra time, special instructions, or some other necessary

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accommodation. He started and stopped college several times. After he obtained help through the Disabled Student Center at California State University at Long Beach, he was able to earn his degree. Mr. Krant testified that, without special accommodation, he never would have been able to pass the California Basic Educational Skills Test (CBEST).

29. On September 9, 2009, Mr. Krant began taking California Teacher of English Learners (CTEL) classes in order to prepare to take the EL examinations. This was less than two months after the district sent out the July 16, 2009, letter. The training program consists of 15 classes. He completed eight classes in September, five in October, one in November, and one in December of 2009.

30. On November 18, 2009, while Mr. Krant was taking the classes, he applied to register to take the three EL tests on June 12, 2010. As part of his application, he requested special accommodation. CTETL responded and said Mr. Krant would need to submit a completed Alternative Testing Arrangement Request Form no later than May 14, 2010. On April 7, 2010, which was five weeks before the deadline for submitting the form, Mr. Krant faxed the completed form along with a January 27, 1993, memorandum from the Adult Learning Disabilities Program at California State University, Long Beach. The memorandum said that, when taking tests, Mr. Krant might need accommodations such as extended time, an alternative location away from distraction, and use of a thesaurus or misspeller dictionary. By a letter dated April 23, 2010, CTETL advised Mr. Krant that, in order to obtain alternative testing arrangements, he would have to submit the name, date, and results of evaluations that had resulted in his being found to be disabled.

31. Mr. Krant set about to obtain that documentation. He contacted his health care insurer and, on May 5, 2010, obtained a list of psychologists who might evaluate him and provide the documentation. He left voice mail messages for 15 psychologists, but only one, Charity Paxton-Hennings, Psy.D., returned his call. Mr. Krant saw Dr. Paxton-Hennings on May 17, 2010; she told him that her schedule would not permit her to complete an evaluation before the CTETL test date of June 12, 2010. Mr. Krant cancelled his appointment to take the tests on that date. Dr. Paxton-Hennings tested Mr. Krant on June 7 and 15, 2010, and wrote a report dated June 24, 2010. Thus, it was not Mr. Krant's fault that he was unable to take the tests on June 12, 2010.

32. Dr. Paxton-Hennings also wrote a letter dated April 4, 2011, addressed to "Whom it may concern." She wrote that Mr. Krant has multiple learning disabilities that constitute a handicapping condition for him. She wrote that he needs extra time to complete tasks and that giving him additional time to obtain EL authorization would be a reasonable accommodation. The letter is as follows:

I previously evaluated Mr. Guy Krant in June of 2010 and found him to be a person with multiple learning disabilities in spite of overall intelligence scores within the Gifted range. These findings were consistent with other evaluations (beginning as early as 2<sup>nd</sup> grade) which found him to be "dyslexic" and show

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significant delays in “processing speed.” As an individual with a handicapping condition, Mr. Krant is eligible for reasonable accommodations within the workplace. These accommodations may include, but are not limited to:

- 1) Extra time to complete tasks
- 2) Extended time for examinations/evaluations
- 3) Repetition of mandatory instructions in both auditory and visual formats

Mr. Krant was initially referred to me in order [for me] to determine if he qualified for testing accommodations to complete California state tests which are required for him to maintain his teaching position. It is my professional opinion that Mr. Krant will be granted accommodations for this test/s given the severity of his disability. However, he was unable to take them due to illness. Mr. Krant has re-registered for the next administration of this examination.

*It is a reasonable accommodation, given Mr. Krant's disability, to grant him additional time to meet this requirement.*

33. After obtaining Dr. Paxton-Hennings’s June 24, 2010, report, Mr. Krant planned to take one of the three tests in December of 2010. He planned to take only one of the tests because Dr. Paxton-Hennings had advised him that he should take one test at a time – not all three in one administration.

34. As it turned out, Mr. Krant was unable to take the test in December because of an extended illness. He began feeling unwell in September of 2010. He continued to feel unwell and in November was diagnosed with pharyngitis, sinusitis, and bronchitis. He continued to be ill in December. On December 13, 2010, his doctor began a second series of injections to combat infection. Other teachers may have been delayed in taking the tests because of illnesses. It is not Mr. Krant’s illness that entitles him to accommodation. It is his dyslexia. If it had not been for his dyslexia, he would have taken the tests on June 12, 2010.

35. On January 30, 2011, Mr. Krant registered to take one of the CTEL examinations on June 11, 2011. Again, he requested special accommodation. He has not yet received a reply to that request.

36. Thus, Mr. Krant did not procrastinate. After the district sent out the July 16, 2009, letter, he began taking the necessary classes. He made timely application for accommodation. When the testing authority notified him that it required a particular type of evidence of his disability, he promptly set about to obtain it. He has been diligent in his effort to comply with the requirement that he obtain EL authorization.

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37. As noted above, High School Art Teaching Services are being reduced by two FTEs. The superintendent skipped all teachers who have EL authorization. If Mr. Krant had had EL authorization, the district would have skipped him, i.e., would not have served him with a Preliminary Layoff Notice.

38. Mr. Krant contends that, because he has multiple learning disabilities, the district should have given him additional time to obtain EL authorization. If the district had done that, the superintendent, in order to achieve the reduction of two FTEs, would have given a Preliminary Layoff Notice to a teacher who has greater seniority than Mr. Krant has, i.e., a teacher whose date of hire was earlier than his.

39. Two high school art teachers who are senior to Mr. Krant do not have EL authorization.

40. In the 2011-12 school year, the district will have approximately 50 teachers who do not have EL authorization.

*RIGHT TO BE RETAINED ACCORDING TO SENIORITY AND QUALIFICATIONS – BUMPING*

41. The second paragraph of section 44955, subdivision (c), does not add to teachers' seniority rights. It does, however, make it clear that governing boards must make assignments in such a way as to protect seniority rights. Employees must be retained to render any service their *seniority* and qualifications entitle them to render. Thus, if a senior teacher whose regular assignment is being eliminated is certificated and competent to teach a junior teacher's courses, the district must retain the senior teacher and reassign him or her to render that service. This is commonly referred to as bumping. The district must either reassign or terminate the junior employee.

42. Bridgett Gonzalez, whose date of hire is August 23, 2006, teaches one of the services being reduced and is subject to layoff. Tina Lingenfelter, whose date of hire is October 16, 2008, does not teach one of the services being reduced. Ms. Gonzalez, however, is qualified to fill Ms. Lingenfelter's position, i.e., Ms. Gonzalez has a right to bump into Ms. Lingenfelter's position. As of the present, however, Ms. Gonzalez has not advised the district as to whether she chooses to do that.

43. Ms. Lingenfelter testified. She acknowledged that Ms. Gonzalez is qualified to fill the position but testified that she, Ms. Lingenfelter, has some unique experience and qualification that cause her to be better qualified. Ms. Lingenfelter's qualification, however, is not the issue; the focus of the inquiry is on Ms. Gonzalez's qualification. If Ms. Gonzalez is qualified to fill the position, that is the end of the matter. And she is qualified.

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*MANDATED SERVICES*

44. State and federal laws mandate that certain services be provided at or above mandated levels. There was no evidence that the district is reducing those services below mandated levels.

*SUMMARY OF FINDINGS REGARDING RETENTION OF EMPLOYEES*

45. With regard to respondents who are permanent employees, the district is not retaining any probationary employee to render a service that such a respondent is certificated and competent to render.

46. With regard to respondents who are permanent employees, the district is not retaining any employee with less seniority than such a respondent has to render a service that the respondent is certificated and competent to render.<sup>6</sup>

47. With regard to respondents who are either permanent or probationary employees, the district is not retaining any employee with less seniority than such a respondent has to render a service that the respondent's qualifications entitle him or her to render.<sup>7</sup>

LEGAL CONCLUSIONS

*General Conclusions*

1. Jurisdiction in this matter exists under Sections 44949 and 44955. Except as noted above, all notice and jurisdictional requirements contained in those sections were satisfied.

2. Within the terms of Sections 44949 and 44955, the district has cause to reduce or discontinue particular kinds of services and to give Termination Notices to certain respondents. The cause relates solely to the welfare of the schools and the pupils.

*Conclusions Regarding Ms. Greene*

3. By reason of the matters set forth in Findings 19 through 21, it is determined that Ms. Greene's date of hire is July 30, 2010.

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<sup>6</sup> Section 44955, subdivision (b), provides seniority protection for a permanent employee in terms of the services *the employee is "certificated and competent to render."*

<sup>7</sup> Section 44955, subdivision (c), provides seniority protection for both permanent and probationary employees in terms of the services *an employee's "qualifications entitle [him or her] to render."*

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4. *Summerfield v. Windsor Unified School District* (2002) 95 Cal.App.4th 1026, concerns a teacher who taught under an emergency permit for two years and under a preliminary credential the following year. Before March 15 of the teacher's third year, the district sent her a notice of non-reelection. She contended that, as a result of being reelected after serving two years under the emergency permit, she became a tenured teacher and that, therefore, she no longer was subject to non-reelection. The court disagreed and held that time spent teaching under an emergency permit cannot be counted toward accruing tenure as a permanent employee.

5. Thus, the district had a right to non-reelect Ms. Greene. When the district rehired her one month later, that became her new date of hire. Because of the break in service, her original date of hire no longer applies.

*Conclusions Regarding Mr. Krant*

6. The Americans with Disabilities Act of 1990 (ADA or Act), (42 U.S.C. § 12101 et seq.), prohibits an employer from discriminating against an "individual with a disability" who, with "reasonable accommodation," can perform the essential functions of a job. (42 U.S.C. § 12112, subds. (a) and (b)).

7. An employer who fails to make "reasonable accommodations to the known physical or mental limitations of an [employee] with a disability" discriminates "*unless*" the employer "can demonstrate that the accommodation would impose an *undue hardship* on the operation of [its] business." (Italics added.) (42 U.S.C. § 12112, subd. (b)(5)(A)).

8. The process to identify whether a reasonable accommodation must be made for an employee begins with defining the "essential functions" of the employee's job. "The term 'essential functions' means the fundamental job duties of the employment position the individual with a disability holds or desires." (29 C.F.R. § 1630.2.) The law contemplates an interactive and cooperative process to determine appropriate accommodations. To determine the appropriate reasonable accommodation, it may be necessary for the covered entity to initiate an informal, interactive process with the employee who is in need of an accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations. (29 C.F.R. § 1630.2, subd. (o).)

9. In *US Airways, Inc., v. Barnett*, (2002) 535 U.S. 391, the United States Supreme Court held that, generally, a requested accommodation cannot be reasonable if it conflicts with the rules of a seniority system.

This case, arising in the context of summary judgment, asks us how the Act resolves a potential conflict between: (1) the interests of a disabled worker who seeks assignment to a particular position as a "reasonable accommodation," and (2) the interests of other workers with superior rights to bid for the

job under an employer's seniority system. In such a case, does the accommodation demand trump the seniority system?

In our view, the seniority system will prevail in the run of cases. As we interpret the statute, to show that a requested accommodation conflicts with the rules of a seniority system is ordinarily to show that the accommodation is not "reasonable." Hence such a showing will entitle an employer/defendant to summary judgment on the question—unless there is more. (*US Airways, supra*, at pp. 393 – 394.)

10. The Court concluded that, generally, such an accommodation would necessarily be unreasonable because of the impact on other employees. The Court said:

Yet a demand for an effective accommodation could prove unreasonable because of its impact, not on business operations, but on fellow employees – say, because it will lead to dismissals, relocations, or modification of employee benefits to which an employer, looking at the matter from the perspective of the business itself, may be relatively indifferent. (*US Airways, supra*, at pp. 400 – 401.)

11. The Court emphasized the importance of not undermining employees' expectations of uniform treatment with regard to a seniority system. The Court said:

Most important for present purposes, to require the typical employer to show more than the existence of a seniority system might well undermine the employees' expectations of consistent, uniform treatment – expectations upon which the seniority system's benefits depend. That is because such a rule would substitute a complex case-specific "accommodation" decision made by management for the more uniform, impersonal operation of seniority rules. Such management decisionmaking, with its inevitable discretionary elements, would involve a matter of the greatest importance to employees, namely, layoffs . . . . (*US Airways, supra*, at pp. 404 – 405.)

12. But in a case in which other employees can not have a legitimate expectation that a seniority rule will be followed, an accommodation may be reasonable in spite of the fact that it conflicts with the rules of a seniority system. The Court said:

The plaintiff (here the employee) nonetheless remains free to show that special circumstances warrant a finding that, despite the presence of a seniority system (which the ADA may not trump in the run of cases), the requested "accommodation" is

“reasonable” on the particular facts. That is because special circumstances might alter the important expectations described above. (*US Airways, supra*, at p. 405.)

[¶ . . . ¶]

[A] showing that [a proposed accommodation] would violate the rules of a seniority system warrants summary judgment for the employer – unless there is more. The plaintiff must present evidence of that “more,” namely, special circumstances surrounding the particular case that demonstrate the [accommodation] is nonetheless reasonable. (*US Airways, supra*, at p. 406.)

13. It is determined that the present case is one in which special circumstances warrant a finding that, despite the presence of a seniority system, the requested accommodation is reasonable. In the present case, special circumstances altered the expectations the senior teachers legitimately could have. The district sent the July 16, 2009, letter to all teachers. Thus, the two teachers who are senior to Mr. Krant knew that the district expected them to obtain EL authorization. The letter advised them that their failure to obtain EL authorization would put them at risk of being laid off. As noted above, the letter stated, in part, the following:

If you do not currently possess EL authorization, please be informed that if the District moves toward layoffs in the future (which, given the state budget crisis, seems likely), it will be the administration’s recommendation to the Board of Education to implement “skipping” criteria. This will mean that within any identified type of service (i.e. elementary teachers, secondary English, etc.), less senior staff members with EL authorization will be skipped, leading to the potential layoff of more senior staff members who do not possess EL authorization. [¶ . . . ¶] It is imperative that you take the necessary steps to obtain appropriate EL authorization as soon as possible.

14. The superintendent should not have given a Preliminary Layoff Notice to Mr. Krant. Rather, the superintendent should have given the notice to one of the two senior teachers who, also, have not obtained EL authorization.<sup>8</sup> Mr. Krant has been diligent in his

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<sup>8</sup> Phrasing the matter in this way is instructive. It, however, suggests that the superintendent was presented with this issue at the time he sent out Preliminary Layoff Notices. In fact, the superintendent did not know that Mr. Krant needed accommodation. The superintendent did not know that Mr. Krant is dyslexic. Mr. Krant prefers that people not know. Thus, at the time the superintendent sent out Preliminary Layoff Notices he did not know there was reason to consider sending a notice to one of the two more senior art

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effort to comply with the requirement that he obtain EL authorization. If it had not been for his dyslexia, he would have had the authorization. Because of his dyslexia, he needs additional time to obtain it.

15. In the terms of *US Airways, supra*, 535 U.S. 391, there are special circumstances here that alter the expectations the two more senior art teachers legitimately could have. Thus, in spite of the fact that the accommodation Mr. Krant seeks is in conflict with a seniority rule, it is a reasonable accommodation.

16. Here the seniority system is established by state law, not merely by contract. Under the doctrine of federal preemption, however, the reasonable accommodation requirement of the ADA must prevail over the state law.

17. That leaves a final matter. As noted above, an employer is not required to provide a reasonable accommodation if the employer can demonstrate that the accommodation would impose an undue hardship on the operation of its business. Would giving Mr. Krant additional time impose an *undue* hardship on the district? It is determined that it would not. It is true that giving Mr. Krant more time will impose a hardship. The district may have to create classes with no EL students in them or risk being in violation of NCLB and facing sanctions. The district may have to advise parents that Mr. Krant, who does not have EL authorization, is teaching their EL children. But it is not as though the district would not face those hardships if it were not for Mr. Krant. As noted above, the district, in the 2011-12 school year, will have approximately 50 teachers who do not have EL authorization. Thus, accommodating Mr. Krant will not create a hardship. Rather it merely will increase the hardship by two percent. Viewed in the light of the important policies underlying the ADA, that is not an *undue* hardship.

18. It is determined 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. In spite of this impairment, he can perform the essential functions of a high school art teacher. He is prepared to engage in an interactive and cooperative process with the district to determine appropriate accommodations; he recently sent the district's human resources department a package of materials describing his impairment and outlining the efforts he has made to obtain EL authorization.

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teachers. Nevertheless, as a precaution, the superintendent served a Precautionary Preliminary Layoff Notice on each of the two senior art teachers. Thus, in spite of not having known of Mr. Krant's need for accommodation, the district could have terminated one of the senior teachers. At the hearing, however, the district elected to rescind those precautionary notices. Unfortunately, this set of circumstances may result in the district's being able to reduce its staff by only 271 FTEs rather than by 272 FTEs.

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*Conclusions Regarding Ms. Gonzalez and Ms. Lingenfelter*

19. By reason of the matters set forth in Findings 41 through 43, it is determined that the district may give a Termination Notice to either Ms. Gonzalez or Ms. Lingenfelter but not to both of them. If Ms. Gonzalez chooses to bump into Ms. Lingenfelter's position, the district may give a Termination Notice to Ms. Lingenfelter. If Ms. Gonzalez does not choose to bump into Ms. Lingenfelter's position, the district may give a Termination Notice to Ms. Gonzalez.

*Cause Exists to Terminate Certain Respondents*

20. Cause does not exist to terminate the following: The respondents identified in Findings 9 and 12, Mr. Krant, and either Ms. Gonzalez or Ms. Lingenfelter.

21. With those exceptions, cause exists to give notice to the respondents that their services will not be required for the ensuing school year.

ORDER

1. As to Brian Martinez, Maria Cecil Martinez-Guzman, Clynton H. Parsons, and Rachael Payan, there was a defect in the service of the Preliminary Layoff Notice, and, pursuant to stipulation, the district shall not give Termination Notices to those respondents. As to those respondents, the accusation is dismissed.

2. Pursuant to stipulation, the district shall rescind the Preliminary Layoff Notices served on the following respondents, and the district shall not give Termination Notices to them:

Gallery, Jon Eric  
Lee Jr., Robert P  
McCuiston, Michael D  
Oliver, Shirley A  
Phillips, Ramona Rae  
Schlagel, Lacie  
Smith, Alton Michael  
Smith, Christal  
Stewart, Hope M  
Thach, Hue Thi

Bunn, Tira  
Burg, Kevin  
Craig, Sally Z  
Danridge, Victoria  
Emrich, Stephen J

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Hann, Tristan M.  
Henaio, Jennifer  
Holley, Daniel M.  
Parker, Olivia  
Paz, Elva Y  
Perez, Cristina  
Reding, April Denise  
Rios, Adriana Brenes  
Rios, Erika  
Smith, Kevin  
Tabler, Joeleinn J  
Torres, Gina

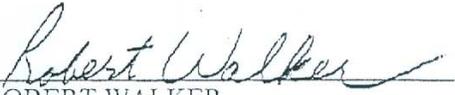
As to those respondents, the accusation is dismissed.

3. Within the terms of the ADA, Mr. Krant has a right to reasonable accommodation. The district shall not give him a Termination Notice.<sup>9</sup> As to Mr. Krant, the accusation is dismissed.

4. The district may give a Termination Notice to either Bridgett Gonzalez or Tina Lingenfelter but not to both of them. If Ms. Gonzalez chooses to bump into Ms. Lingenfelter's position, the district may give a Termination Notice to Ms. Lingenfelter, and in that event, the accusation against Ms. Gonzalez is dismissed. If Ms. Gonzalez does not choose to bump into Ms. Lingenfelter's position, the district may give a Termination Notice to Ms. Gonzalez, and in that event, the accusation against Ms. Lingenfelter is dismissed.

5. The district may give Termination Notices to the remaining respondents.

Dated: April 18, 2011

  
ROBERT WALKER  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>9</sup> In the present proceeding, there is no jurisdiction to deal with matters other than teacher lay off issues. It is appropriate to note, however, that under the ADA, the district and Mr. Krant have an obligation to engage in an interactive and cooperative process to determine what accommodations should be provided.

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Upon motion by Member Penman, seconded by Member Parra Craig, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the Board of Education has determined that certificated employee CERT-HR-10-11-17 shall be reassigned from the position of Director to Assistant Director at the end of the 2010-2011 school year, and that the Superintendent or his designee is hereby authorized to give written notice of this action prior to May 15, 2011, pursuant to Education Code 44951.

BE IT RESOLVED that the Board of Education has determined that certificated employee CERT-HR-10-11-15 shall be reassigned from the position of Director to Coordinator at the end of the 2010-2011 school year, and that the Superintendent or his designee is hereby authorized to give written notice of this action prior to May 15, 2011, pursuant to Education Code 44951.

Upon motion by Member Tillman, seconded by Member Flores, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the Board of Education has determined that certificated employee CERT-HR-10-11-43 shall be reassigned from the position of Coordinator to Middle School Vice Principal at the end of the 2010-2011 school year, and that the Superintendent or his designee is hereby authorized to give written notice of this action prior to May 15, 2011, pursuant to Education Code 44951.

Upon motion by Member Tillman, seconded by Member Flores, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the Board of Education has determined that certificated employee CERT-HR-10-11-27 shall be reassigned from the position of Coordinator to an administrative assignment to be determined at the end of the 2010-2011 school year, and that the Superintendent or his designee is hereby authorized to give written notice of this action prior to May 15, 2011, pursuant to Education Code 44951.

Upon motion by Member Penman, seconded by Member Tillman, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the Board of Education has determined that certificated employee CERT-HR-10-11-30 shall be reassigned from the position of Coordinator to a teaching position consistent with his/her credential authorization(s) at the end of the 2010-2011 school year, and that the Superintendent or his designee is hereby authorized to give written notice of this action prior to May 15, 2011, pursuant to Education Code 44951.

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Upon motion by Member Penman, seconded by Member Flores, and approved by the affirmative vote of Members Ayala, Parra Craig, Flores, Penman, Savage, Tillman, and Valdez (Noes: None), the following was adopted:

BE IT RESOLVED that the Board of Education has determined that certificated employee CERT-HR-10-11-48 shall be reassigned from the position of Elementary Vice Principal to a teaching position consistent with his/her credential authorization(s) at the end of the 2010-2011 school year, and that the Superintendent or his designee is hereby authorized to give written notice of this action prior to May 15, 2011, pursuant to Education Code 44951.

**SESSION TEN - Closing**

**12.0 - Adjournment**

By the affirmative vote of members, the meeting was adjourned at 9:05 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 17, 2011, at 5:30 p.m. in the Community Room of the Board of Education Building, 777 North F Street, San Bernardino.