Special Governing Board Meeting

CABRILLO UNIFIED SCHOOL DISTRICT

Cabrillo Unified School District Board Room, 498 Kelly Avenue, Half Moon Bay, California 94019

Wednesday, May 22, 2024 • 6:00 PM

In compliance with the Americans with Disabilities Act, Individuals who require special accommodations (Spanish interpreter, accessible seating, documentation in an accessible format, etc.) should contact the Administrative Assistant to the Superintendent at acostar@cabrillo.k12.ca.us. Notification at least 48 hours before the meeting will enable the District to make reasonable arrangements to ensure accessibility to the Board meeting and to provide any required accommodations, auxiliary aids, or services.

Documents provided to a majority of the Governing Board regarding an open session item on the agenda will be made available for public inspection in the District Office located at 498 Kelly Avenue, Half Moon Bay, California, during normal business hours. In addition, such writings and documents are posted on the District's website, www.cabrillo.k12.ca.us.

PUBLIC COMMENTS GUIDELINES

Members of the public are encouraged to participate in Board meetings and express their views on agenda items or matters within the Board's jurisdiction. To facilitate this, two methods are available for providing comments:

1. Submission of Written Comments in Advance: Members of the public may submit written comments in advance of the meeting using the Google Public Comments form, which can be accessed at cusd.info/comments. For the May 22, 2024, Special Board meetings, written comments are accepted from the time the agenda is posted until 3:00 pm on the day of the meeting. It's important to note that during Special meetings, comments are limited to items outlined in the agenda. Comments will be read out loud by the Board President or a Designee. Written comments should be limited to no more than 300 words; longer comments might not be shared publicly during the meeting. However, all comments received, whether or not they are shared publicly during the meeting, will be made available to all Board members and the public and will be included in the minutes.

2. Provision of In-Person Comments During the Meeting: Members of the public wishing to address the Board in person during the meeting should submit a "Request to Address the Board" slip to the Administrative Assistant to the Superintendent prior to the introduction of the item. For meeting facilitation, please submit the slip at your earliest possible convenience. Upon recognition by the Board President, please proceed to the podium and comment as briefly as the subject permits.

Individual speakers will be allowed three (3) minutes to address the Board on each agenda or nonagenda item, and the Board will limit the total time for public input on each item to 20 minutes. However, in exceptional circumstances, when necessary to ensure full opportunity for public input, the

Board president may, with Board consent, adjust the amount of time allowed for public input and/or the time allotted for each speaker. Any such adjustment shall be done equitably so as to allow a diversity of viewpoints. The president may also ask members of the public with the same viewpoint to select a few individuals to address the Board on behalf of that viewpoint. The Administrative Assistant will keep the time and advise the speaker when there are 30 seconds left and again when the time is up. We ask speakers to keep within the time limits.

- Agenda Items may be addressed after the conclusion of the staff presentation on the item.
- Closed Session Items may be addressed under Public Comment on Closed Session Topics.
- Please note that during Special Meetings, there is no provision for discussing nonagenda topics. Any matters not on the agenda can be addressed at Regular Meetings during Public Comments under the Communication section.

IMPORTANT BOARD PROTOCOLS REGARDING PUBLIC COMMENTS

The Cabrillo Unified School District Governing Board does not act upon any matter that has not been agendized except under limited circumstances as permitted by law. It is the policy of the Cabrillo Unified School District Governing Board to refer matters raised in this forum to staff for further examination and/or action where appropriate.

1. OPENING BUSINESS

a. Call Public Session to Order

b. Roll Call / Quorum

c. Pledge of Allegiance

2. APPROVAL OF AGENDA

3. GENERAL BUSINESS

a. Resolution 15-2024 Non-Reemployment of Classified Employee (Action)

3.a Board Memo Non-Reemployment of Classified Employees Resolution.pdf (p. 4)

3.a.1 Resolution 15-2024 Non-Reemployment of Classfied Employees.pdf (p. 5)

3.a.2 Exhibit A_051424.pdf (p. 7)

4. CLOSED SESSION

a. Identification of Closed Session Topics of Discussion (Please refer to the list of items identified in Agenda Section 3c, below.)

b. Public Comments on Closed Session Topics

c. Adjourn to Closed Session

Board Members will meet privately for Closed Session. Any action taken during Closed Session will be reported out under "Closed Session Action Report."

1. **Conference with Labor Negotiators (Government Code §54957.6)**

   - **District-designated representatives:** Dr. Sean McPhetridge, Superintendent
   - **Employee organizations:** Cabrillo Unified Teachers Association, California School Employees Association Chapter 485, and Unrepresented

d. Adjourn Closed Session and Reconvene Open Session

5. RECONVENE IN OPEN SESSION

a. Closed Session Action Report

6. ADJOURNMENT

CABRILLO UNIFIED SCHOOL DISTRICT

498 Kelly Avenue, Half Moon Bay, California 94019 • 650 712-7100 • Fax 650 726-0279 • www.cabrillo.k12.ca.us

SUPERINTENDENT
Sean McPhetridge, Ed.D.

GOVERNING BOARD
Mary Beth Alexander
Lizet Cortes
Carmen Daniel
Kimberly Hines
Sophia Layne

MEMORANDUM

MEETING DATE: May 22, 2024
TO: Members of the Governing Board
FROM: Bianca Forrester, M.A. Ed., Director of Personnel and Pupil Services
CATEGORY: Action
ITEM TITLE: Resolution 15-2024 Non-Reemployment of Classified Employee

BACKGROUND INFORMATION

On March 14, 2024, the Governing Board of the Cabrillo Unified School District ("District") adopted Resolution No. 06-2024 to eliminate and/or decrease certain classified services due to lack of work and/or lack of funds. Notice of non-reemployment was given to the affected employees on or before March 15, 2024. All but one of the affected employees waived their right to a hearing. The Office of Administrative Hearings ("OAH") initially scheduled a Reduction in Force hearing for April 26, 2024. On April 17, 2024, the Acting Presiding Administrative Law Judge granted the District's and Respondent's joint request to continue the hearing to May 6, 2024. In accordance with Education Code section 45117, subdivision (c)(3)(A), and the Acting Presiding Administrative Law Judge's Order Continuing Hearing, dated April 17, 2024, the granting of the continuance extends all deadlines in Education Code section 45117, including the deadline to provide notice of termination to the employee, by the number of days of the continuance, which is ten (10) days. On May 14, 2024, the Administrative Law Judge issued a proposed decision providing in pertinent part, "The District may give final notice to respondent Rinaldo Veseliza that the District will not require his services for the 2024-2025 school year." This resolution is to implement the elimination of the Construction Manager position and to authorize the Superintendent or his designee to issue the appropriate notice to the affected employee in accordance with the California Education Code.

FISCAL ANALYSIS

The financial impact is included in the budget.

RECOMMENDATION

Approve Resolution 15-2024 as submitted.

RESOLUTION NO. 15-2024
BEFORE THE GOVERNING BOARD
OF THE CABRILLO UNIFIED SCHOOL DISTRICT
SAN MATEO COUNTY, CALIFORNIA

NON-REEMPLOYMENT OF CLASSIFIED EMPLOYEES

WHEREAS, on March 14, 2024, the Governing Board of the Cabrillo Unified School District ("District") adopted Resolution No. 06-2024 to eliminate and/or decrease certain classified services due to lack of work and/or lack of funds; and

WHEREAS, a notice of non-reemployment was given to the affected employees on or before March 15, 2024; and

WHEREAS, all but one of the affected employees waived their right to a hearing; and

WHEREAS, with respect to the one affected employee who requested a hearing ("Respondent"), the Office of Administrative Hearings ("OAH") initially scheduled a Reduction in Force hearing for April 26, 2024; and

WHEREAS, on April 17, 2024, the Acting Presiding Administrative Law Judge granted the District's and Respondent's joint request to continue the hearing to May 6, 2024, and determined that good cause exists to continue the hearing; and

WHEREAS, in accordance with Education Code section 45117, subdivision (c)(3)(A), and the Acting Presiding Administrative Law Judge's Order Continuing Hearing, dated April 17, 2024, the granting of the continuance extends all deadlines in Education Code section 45117, including the deadline to provide notice of termination to the employee, by the number of days of the continuance, which is ten (10) days; and

WHEREAS, on May 6, 2024, a layoff hearing was held before an Administrative Law Judge from the OAH; and

WHEREAS, on May 14, 2024, the Administrative Law Judge issued a proposed decision providing in pertinent part, "The District may give final notice to respondent Rinaldo Veseliza that the District will not require his services for the 2024-2025 school year." A copy of the proposed decision is attached hereto as **Exhibit A**.

NOW, THEREFORE, BE IT RESOLVED that the Board adopts the proposed decision by the Administrative Law Judge as its own decision, effective immediately.

BE IT FURTHER RESOLVED that the classifications and/or positions listed below shall be eliminated or reduced for the 2024-2025 school year, effective on July 1, 2024:

Classification/Positions	FTE
Construction Manager	1.0
Total	**1.0 FTE**

BE IT FURTHER RESOLVED that the Superintendent or his designee is hereby authorized to give notice on behalf of the Board of Education in accordance with Education Code section 45117 to the following employee(s): Rinaldo Veseliza.

PASSED AND ADOPTED by the Board of Education of the Cabrillo Unified School District on this 22nd day of May 2024, by the following vote:

Mary Beth Alexander:	_____ Aye	_____ No	_____ Abstain	_____ Absent
Lizet Cortes:	_____ Aye	_____ No	_____ Abstain	_____ Absent
Carmen Daniel:	_____ Aye	_____ No	_____ Abstain	_____ Absent
Kimberly Hines:	_____ Aye	_____ No	_____ Abstain	_____ Absent
Sophia Layne:	_____ Aye	_____ No	_____ Abstain	_____ Absent

Certified by:

_____
Lizet Cortes
Clerk to the Governing Board
Cabrillo Unified School District

Attest by:

_____
Sean McPhetridge, Ed.D.
Secretary to the Governing Board
Cabrillo Unified School District

BEFORE THE
GOVERNING BOARD OF THE
CABRILLO UNIFIED SCHOOL DISTRICT
SAN MATEO COUNTY
STATE OF CALIFORNIA

In the Matter of the Reduction in Force Involving:

RINALDO VESELIZA, a Classified Employee, Respondent.

OAH No. 2024040385

PROPOSED DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on May 6, 2024, by videoconference.

Attorney Bryan J. Park represented the Cabrillo Unified School District (District).

Attorney Peter McMahon represented respondent Rinaldo Veseliza, who was present.

The record closed and the matter was submitted for decision on May 6, 2024.

FACTUAL FINDINGS

Procedural Matters

1. On March 14, 2024, the District's Governing Board (Board) adopted Resolution No. 06-2024 (Resolution) to decrease the number of classified employees

for the following school year, effective July 1, 2024. In the Resolution, the Board found that the specified reductions were necessary and in the best interest of the District, "due to lack of work and/or lack of funds," and directed the District's Superintendent or designee to send appropriate notices to the affected permanent classified employees.

2. The Resolution identified a total of three full-time equivalent positions to be eliminated, including the position of Construction Manager. Respondent Rinaldo Veseliza is the only employee in the District in the Construction Manager classification.

3. On March 15, 2024, the District served a preliminary layoff notice on all three employees affected by the proposed layoff, including respondent, by personal delivery, United States mail, and registered mail. The preliminary layoff notices informed the employees that they would be laid off effective July 1, 2024, due to the Board's Resolution. The notices attached the Resolution and relevant statutes and provided information to the employees about their right to request a hearing and their reemployment rights.

4. Respondent requested a hearing. The other two classified employees selected for layoff did not.

5. On April 10, 2024, the District served respondent with a RIF (reduction in force) packet by email, United States mail, and certified mail. The RIF packet included a cover letter; a statement to respondent; relevant Government Code sections regarding discovery; the District Statement of Reduction in Force; the Resolution; relevant sections of the Education Code regarding the layoff process; and a blank notice of participation form.

6. On April 11, 2024, the District served respondent with a Notice of Hearing, informing him that the hearing would take place on April 26, 2024, at 9:00 a.m.

7. Respondent returned the Notice of Participation on April 11, 2024.

8. On April 22, 2024, the District served respondent with an Amended Notice of Hearing, informing him that the hearing was rescheduled and would take place on May 6, 2024, at 1:00 p.m. Because this hearing was continued by 10 days, the deadlines set forth in Education Code section 45117 are extended by 10 days.

Decision to Layoff the Construction Manager

9. Bianca Forrester, Director of Personnel and Pupil Services for the District, and J. Jesus Conteras, Ed.D., the District's Deputy Superintendent for Business Services, testified credibly regarding the decision to layoff respondent.

10. In 2012 and 2018, voters in San Mateo County authorized two bond measures which provide funds to the District to repair, modernize, and maintain its facilities.

11. In October 2021, Dr. Contreras proposed to the Governing Board that the District hire a construction management firm to oversee use of the bond funds for numerous projects throughout the District. The Board rejected the proposal because of concerns regarding the firm's fee structure.

12. The District subsequently hired respondent as a temporary employee to assist in managing the bond projects. Respondent's contract was to run from January 20 through June 30, 2022. Respondent's salary is paid with bond funds.

13. Dr. Contreras was in a serious accident in April 2022 and took an extended medical leave. When respondent's initial temporary contract expired on June 30, 2022, he was retained and became a permanent classified employee of the District.

14. Dr. Contreras returned to work in October 2022 and resumed his search for a construction management firm. In February 2023, at Dr. Contreras's recommendation, the District engaged the Vanir construction management firm to oversee bond-funded projects. Vanir performs a wide range of services for the District, including work that has been performed by respondent.

15. Respondent has continued working in his position as Construction Manager with responsibility for certain assigned projects, in coordination with the Vanir firm. Respondent's current assignments will end in June 2024.

16. Dr. Contreras has found Vanir to be cost-effective and efficient, and has been highly satisfied with the services it provides. The decision was made to eliminate the Construction Manager position and rely solely on Vanir for all bond-funded construction management. Dr. Contreras explained that the Construction Manager position has become "redundant" and that the District can better use the money spent on respondent's salary and benefits to pay for projects in the District. Dr. Contreras's testimony was credible in all respects.

Respondent's Evidence and Contentions

17. Respondent has 50 years of relevant experience. He was hired through a competitive process.

18. Respondent contends that he can perform all the work that has been given to the Vanir firm, if the District would hire two employees to assist him.

Respondent's request for the District to hire an administrative assistant to work with him was denied. Respondent contends that the salaries of three employees would be significantly less than the District's contract with Vanir. Vanir's agreement with the District provides that the District will pay up to $562,752 for the services of four individuals during the current six-month period. Respondent's annual salary is $129,000, with the District paying an additional $56,000 for benefits. He assumes that administrative assistant salaries would be much less. Respondent stated that he has more experience than the individuals from Vanir who have been working on the District's projects.

19. Respondent contends that the Governing Board was provided misleading or inaccurate information when it approved the Resolution, noting that the Resolution does not explicitly state that respondent's salary is paid entirely by bond funds and not from the District's operating budget.

20. Respondent disputes the justification for the elimination of his position, arguing that there is not a lack of funds because the District has access to millions of dollars in bond funds and that there is not a lack of work because there are many modernization, repair, and maintenance projects still to be performed.

LEGAL CONCLUSIONS

1. Under Education Code section 45308, classified employees may be subject to layoff for lack of work or lack of funds.

2. Education Code section 45117, subdivision (a)(1), requires a school district to give written preliminary notice of a layoff to a classified employee no later than March 15, providing notice that the employee's services will not be required for

the ensuing year due to lack of work or lack of funds, and informing the employee of any displacement rights and reemployment rights. Education Code section 45117, subdivision (b), provides that the employee may request a hearing, which if requested is conducted as set forth in subdivision (c).

3. The District's pre-hearing notices and actions satisfied the jurisdictional and notice requirements of Education Code sections 45117 and 45308. (Factual Findings 1-8.)

4. The District, through its Board, has discretion to reduce or modify services its classified employees provide, due to lack of work or lack of funds. This discretion encompasses the District's decision to restructure how it manages bond-funded projects by engaging an outside firm rather than a District employee. (See *Gallup v. Bd. of Trustees* (1996) 41 Cal.App.4th 1571) The Board's exercise of this discretion, as stated in the Resolution, was related to the welfare of the District's schools and the schools' pupils, is not arbitrary or capricious, and is not an abuse of discretion. (Factual Findings 1, 14-16.)

5. Respondent is the only employee in the Construction Manager classification. Therefore, the District does not propose to retain anyone in respondent's classification who is less senior than respondent. (Factual Finding 2.)

6. Sufficient cause exists under Education Code section 45117 and 45308 to sustain the District's proposed reduction in force and give notice to respondent Rinaldo Veseliza that the District will not require his services for the 2024-2025 school year.

7. Respondent's contentions have been considered and are found to be without merit.

ORDER

The District may give final notice to respondent Rinaldo Veseliza that the District will not require his services for the 2024-2025 school year.

DATE: 05/14/2024

Karen Reichmann

KAREN REICHMANN

Administrative Law Judge

Office of Administrative Hearings