



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 6.1

Meeting Date : May 10, 2012

Subject: Resolution No. 2703: Resolution Regarding Proposed Decision of Administrative Law Judge and Implementing Certificated Layoff

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: _____)
- Conference/Action
- Action
- Public Hearing

Division: Human Resource Services

Recommendation: Adoption of Resolution No. 2703: Resolution Regarding Proposed Decision of Administrative Law Judge and Implementing Certificated Layoff

Background/Rationale: On February 16, 2012, the Board of Education adopted its Resolution of Intention to Terminate Certificated Employees Due to a Reduction of Particular Kinds of Services (Resolution No. 2683). Pursuant to Resolution No. 2683, the District's administration sent notices to affected certificated employees on or before March 15, 2012 informing them they are subject to layoff for the 2012-2013 school year. Pursuant to Education Code §44949, a hearing was held before an administrative law judge commencing on April 24th and proceeded until the matter was taken under submission on April 30, 2012 for a proposed decision to the Board of Education.

The administrative law judge submitted a proposed decision to the Board of Education on Tuesday, May 8, 2012. The Board, at this special meeting, shall either adopt the proposed decision or adopt, as modified, the proposed decision by its Resolution No. 2703; or the Board may decide to reject the proposed decision and adopt its own decision.

If the decision is adopted, final layoff notices shall be served on the affected employees before May 15, 2012 as provided by law.

Financial Considerations : N/A

Documents Attached:

1. Draft Resolution No. 2703 (subject to revision)
2. Proposed decision of Administrative Law Judge

Estimated Time of Presentation : 10 minutes
 Submitted by : Jess Serna, Chief Human Resources Officer
 Approved by : Jonathan P. Raymond, Superintendent

BEFORE THE
GOVERNING BOARD OF THE
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
COUNTY OF SACRAMENTO
STATE OF CALIFORNIA

In the Matter of the Reduction in Force of:

CERTAIN CERTIFICATED PERSONNEL
EMPLOYED BY THE SACRAMENTO
CITY UNIFIED SCHOOL DISTRICT,

OAH No. 2012020744

Respondents.

PROPOSED DECISION

Administrative Law Judge Ann Elizabeth Sarli, Office of Administrative Hearings, State of California heard this matter in Sacramento, California on April 24-27, and April 30, 2012.

Dulcinea Grantham, Attorney at Law and Thomas R. Manniello, Attorney at Law, Lozano Smith, represented the Sacramento City Unified School District (District).

Margaret Geddes Attorney at Law and Costa Kerestenzis, Attorney at Law, Beeson, Tayer, & Bodine, APC, represented the respondents identified in Exhibit A attached hereto and incorporated herein by reference.

Respondent Miles Krier represented himself.

Respondents Annah Kiambati and Thellis Panacek timely filed Requests for Hearing and Notices of Defense, but did not appear at hearing.

Oral and documentary evidence was received and the parties made oral closing arguments. The record was closed and the matter submitted on April 30, 2012. -

FINDINGS

Jurisdiction

1. Jess Serna is the Chief Human Resource Officer for the District.

7. All respondents filed timely individual or group Notices of Defense to the Accusation.

8. All respondents are certificated permanent or probationary employees of the District.

9. Jurisdiction for the subject proceeding exists pursuant to Education Code sections 44949 and 44955.

Cause for Reduction or Elimination of Services

10. The District is a large urban school district that provides services to approximately 41,000 students at 85 school sites in and surrounding the City of Sacramento. The District employs approximately 2,669 certificated employees.

11. The District has a projected budget deficit of \$28 million for the 2012-

d will lose local control.

12. costs (salaries and benefits for certificated and classified staff). As a consequence of the anticipated budget shortfall, the District recognized that it would need to reduce programs and services for the 2012-13 school year to reAl.

298e, to all site and department administrators of the District for distribution to each certificated employee. If employees made corrections to the Employee Information Report, District personnel checked the information and, if correct, entered the corrected information into the District data system. Any corrections were reflected in the master seniority list. The District relied on the verifications provided by

determine the order of layoff.

19. At hearing, the District made some changes to the seniority list based on application of Tie-Breaking Criteria, change in status from categorical/temporary to probationary status and other information requiring changes in seniority date. The District updated its records to reflect this information. One respondent argued at hearing that his seniority date should be changed.³ This contention is discussed below in Findings 22-23.

Method of Effectuating the Reduction in Services and Identifying Affected Employees

20.

the hearing, the District rescinded the preliminary notices issued to several respondents and other certificated employees who are not respondents. The rescissions were based on the fact that certain potential challenges were not made at

retirements, and other permanent vacancies and leaves of absence). As a result of the rescissions, there are no valid arguments that the District has issued more preliminary notices than authorized under the PKS Resolution.

Individual Issues Seniority Dates

22. _____ nent employee employed after June 30, 1947, shall be deemed to have been employed on the date

23. Preston Jackson has a seniority date of September 5, 2006. He claims that his seniority date should be the date he was first employed by the District. Preston was hired as a substitute teacher in the beginning of the 2005-06 school year. In early November of the 2005-06 school year he was hired as a long-term substitute. On February 1, 2006, he received an emergency substitute permit and continued in his long-term substitute placement through the school year. He was employed by the District for the 2006-07 school year and obtained his teaching credential on September 5, 2006. The District then classified him as a probationary teacher with a seniority date of September 5, 2006. The District argues that Jackson could not be classified as a probationary employee until he obtained his teaching credential on September 5, 2006. The District _____ *California Teachers Assn. v. Governing Bd. of the Golden Valley Unified School Dist.* (2002) 98 Cal.App.4th 369, the court held that teachers holding emergency permits may be classified as probationary employees. (*Id.* at p. 383.) The District offered no other argument or information that would bar Jackson from being classified as a

be changed to the date in February 2006 on which he first rendered paid service to the District under an emergency substitute permit, according to the District records.

Individual Issues

24. Fred Jackson has a seniority date of September 3, 1996. The seniority list indicates he is not assigned to a school site and that he is assigned to teach in the high school Regional Occupation Program (ROP). Jackson maintains he is teaching in regular high school classrooms and is not assigned under the ROP program. Jackson holds a vocational education teaching credential, clear designated subject business management and computer application, that authorizes him to teach business management and computer application to grade 12 and below and adults. This credential authorizes Jackson to teach these subjects in a technical, trade or vocational

of teachers junior to him who are teaching computer applications and technology

him to teaching vocational, trade and technical classes. The classes he seeks to bump into are academic classes requiring multiple subject or single subject credentials. The fact that he may have been assigned to teach academic classes in the past does not compel the District to continue mis-assigning him. The District may not legally assign a teacher to teach a subject for which he is not certificated.

Individual Issues

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25. Miles Krier has a seniority date of November 2, 2007. He holds a single subject teaching credential in physical education, with a CLAD and a supplemental authorization in biology and is highly qualified (HQ) in biology. The seniority list does not reflect the supplemental authorization and HQ in biology. Krier

indicates the he teaches 1.0 FTE physical education at Bowling Green Elementary. He testified that he currently teaches physical education and fourth through sixth grade science. He testified that 57 percent of his assignment is PE and the remainder is biology. He maintains that he should not be laid off because he is important to Bowling Green Elementary for many reasons, but particularly because of his ability to

persuasive. District layoff procedures are governed by sections 44949 and 44955. These sections establish a seniority-based lay off proceeding that mandates that employees shall be terminated in the inverse order in which they were employed. Under limited and specific circumstances, the District has the authority to deviate from seniority-based layoffs by skipping junior employees. The statute does not permit employees to establish that they should be skipped because their certifications and experience render them more valuable to the District than other employees. In *Martin v Kentfield* (1983) 35 Cal. 3d 294, the Supreme Court, while analyzing

Legislature has made seniority the *sole* determinant as to which tenured teachers on layoff status should be appointed to a vacant position. The only limitation is that the

vacant position. Among employees who meet this threshold limitation, there is no room in the statutory scheme for

her from seniority-based layoffs because she is of African-American descent and is

Individual Issues

permanent as well as probationary, at the close of the school year. Except as otherwise provided by statute, the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to

(c) Notice of such termination of services shall be given before the 15th of May in the manner prescribed in Section 44949, and services of such employees shall be terminated in the inverse of the order in which they were

The governing board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and

(d) Notwithstanding subdivision (b), a school district may deviate from terminating a certificated employee in order of seniority for either of the following reasons:

(1) The district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services, which others with more seniority do not possess.

(2) For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.

34. The Education Code was enacted in 1943 as a recodification of the School Code and other provisions of law related to education. No substantive changes were made in the law and the Education Code represented a definite and needed advancement in the clarification and 9(anc)3(e4pe89 205eETBTBT 4e 1 313178 Tm[0510057004

But when such service is discontinued in a school where probationary teachers are employed, the permanent teacher may not be discharged if she is capable of performing the service rendered by any such probationary teacher. The permanent teacher thus is given preference over all probationary teachers whose particular service she is capable of performing. When a special service is discontinued it follows that it becomes the duty of the board, when probationary teachers are employed in the school, to ascertain and determine whether such probationary teachers, or any of them, are performing services which the permanent teacher is capable of doing. If there are probationary teachers in the school so engaged, the permanent teacher is entitled to her job, and if the services of both are not required,

community day schools and that they had extensive background and training in areas experience teaching as of 2004, eight of which involved working with disabled populations. Gates has a bachelor's degree in applied psychology. He has extensive training in mediation, aggression management, abuse recognition, and other areas of training related to working with difficult student populations. The administrative law decision [in 2004] indicates Sormano also has extensive background and training in specialized areas related to teaching at a community day school. Specifically, he has extensive training in management of assaultive behavior and drug abuse recognition. He has experience working with special needs children and utilizing behavioral modification
Id. at pp. 139-140.)

41. In *Bledsoe*, the District presented substantial evidence that, even though the senior employee was credentialed and competent to teach in the positions the junior employees occupied, the District had a specific need for the two junior teachers to teach in the community day school, and the two junior teachers had special training and experience necessary to teach in a community day school that the senior teacher did not possess. The *Bledsoe* court therefore found that, consistent with section 44955, subdivision (d)(1), the school district could skip the two junior employees and lay off the more senior employee. The court held that subdivision (d)(1) of section

fully-credentialed to teach the full breadth of

45. Only those employees holding single subject math credentials are fully-credentialed to teach the full breadth of high school math assignments up to and including calculus. Those holding foundational math credentials are authorized to teach math through algebra II, but not trigonometry, math analysis, or calculus.

46. In applying skipping criteria C, HR staff skipped 26 employees holding single subject math credentials. As a result, there were several respondents senior to those skipped who hold foundational level math credentials and received preliminary notices. They challenge the skip of junior single subject credential holders because many of the junior single subject holders are not currently assigned to teach trigonometry, math analysis, or calculus (advanced subjects) and there is no current plan to assign them to teach advanced subjects. In essence, respondents argue that foundational level math credentials authorize the holder to teach the bulk of math courses offered in the District, and it is improper to lay off senior teachers in favor of junior teachers who are teaching the same classes as the senior teachers.

47. The District assign math teachers to teach advanced subjects and that in the future there may be more advanced math classes taught throughout the District. The District has had difficulty recruiting teachers with a single subject math credential and wishes to retain those it has on staff. Additionally, the District argued that single subject holders have a deeper understanding of the theory of math than those who hold foundational credentials and are therefore superior teachers in their lower level math classes.

48. Because the junior teachers are not assigned to teach trigonometry, math analysis, or calculus and there are no immediate plans to have them teach these advanced subjects in the 2013-13 school year, the District is essentially retaining a group of junior employees to avoid *potential* difficulties recruiting *future* employees and to improve flexibility in *future* scheduling. As a result of these administrative planning concerns, junior employees are being retained to render services (teaching foundational level math) that senior employees are qualified and entitled to render, in

the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to (c): d reassignments in such a manner that employees shall be retained to render any service which their

49. The District maintains that it has demonstrated under section 44955, subdivision (d)(1), that

sciences; biological sciences (specialized); science: chemistry; science; geosciences and an administrative services credential. He taught honors chemistry to 10th-graders and a ninth-grade academic decathlon honors class at a Stockton charter school. The charter school provided accelerated and enriched honors and advanced placement classes. All the students were required to take math and pre-calculus, AP chemistry and biology and nine units of college classes. The district wished to skip this junior teacher so that he could teach chemistry classes at the charter school the following school year. The SUSD also wished to skip this junior teacher to provide teaching services under his other four credentials, because the school curriculum was expanding to include anatomy/physiology, physics, AP biology and AP chemistry over the these courses. Those senior employees who challenged his skipping were not credentialed to teach chemistry or were not credentialed to teach the advanced honors courses the district proposed he teach.

the 2012-13 school year in a position requiring a single subject credential in math.⁸ Those teachers are properly skipped. As regards the remaining of the 26 teachers who were skipped under criteria C, the District shall determine whether any of the respondents who received preliminary notices based on math reductions are senior to any of the 26 teachers who were not otherwise properly skipped. Pursuant to *Alexander v. Board of Trustees of Delano Joint Unified High School District* (1983) 139 Cal. App. 3d 567, 576-577, (*Alexander*) a corresponding number of the most

The evidence at hearing was not conclusive as to whether the assignments of Eisner and Spilman and the anticipated assignments, if any, of Singleton involved teaching or counseling under their special education credentials. The indications are that they are not performing services under special education credentials.

58. The skipping exception set forth in section 44955, subdivision (d)(1), requires that the district invoking the skip demonstrate (prove) specificity: proof of a

Eisner, Spilman or Singleton are being retained to teach or provide counseling services in special education.

59. As set forth in the Legal Conclusions, the parties have records of those respondents who are senior to Eisner, Singleton and Spilman and who have the credentials necessary to bump into the current assignments of Eisner and Spilman and the last assigned position of Singleton. Pursuant to *Alexander, supra*, 139 Cal. App. at pp. 576-577, a corresponding number of the most senior of the respondents who received preliminary notices shall have their preliminary notices rescinded.

Dual Language Immersion Competency Criteria - Carolina Avina Mora

60. In competency criteria F, the Board determined that competency required:

Mora has a seniority date of August 2, 2004. She holds a multiple subjects credential with a BCLAD in Spanish and teaches at the William Land Elementary School. She is senior to some of the employees with Spanish BCLADs, who are teaching in the Dual-Language Immersion Program (DLIP). Avina Mora did not testify and there was no evidence presented as to any experience she might have teaching in a DLIP. She challenges the competency criteria and maintains that she is certificated and competent to bump into one of the DLIP positionT1 vbcea-7(ms)4(t)-7(m)4(he iolds-8(s)4(c)-7(m)4(C

There are a host of second language acquisition strategies to help make the input of language comprehensible in a class, such as use of graphic organizers or visual aids and representations and modeling.

62. Taylor confirmed that a BCLAD is required for the DLIP positions. There is professional development training unique to DLIP teachers. When teachers enter as instructors in the DLIP they attended a dual language immersion conference. Taylor was unsure whether the conference lasted more than one day. She explained that DLIP teachers meet on a continuous basis once or twice a month, where they engage in professional learning. At a couple of the sites, particularly the newer sites like the Hmong DLIP, teachers meet with an outside consultant to help them understand teaching in a cultural context.

63. Taylor acknowledged that there were two new hires to the DLIP program on August 31, 2011, who did not have one year of experience teaching in a DLIP. Nor did the job description for these hires require one year of experience in the past five teaching in a DLIP. The new teachers will have the one year of experience at the conclusion of this school year, and the District intends to offer the DLIP programs in 2012-13 school year. The new hires attended the dual language immersion conference after they were employed and have been attending the ongoing teacher meetings.

64. The evidence is not persuasive that competency criteria F can be used to bar Avina Mora from bumping a junior employee being retained to teach in a Spanish DLIP program. The District did not establish that this competency criteria was reasonable as applied to Avina Mora. Avina Mora holds a BCLAD and has been teaching in the District for eight years. There is no persuasive evidence that a teacher holding a BCLAD is not competent to teach in a DLIP program without having previously taught in that program for a year. The evidence is to the contrary; new hires are not required to have one year of experience. Training requirements are minimal and are acquired at the commencement of the school year. Avina Mora, like the other DLIP teachers, can acquire this training rapidly and probably at the beginning of the 2012-13 school year as well.

65. There are several employees junior to Avina Mora who hold BCLADs
As set forth in the Legal
Conclusions, Avina Mora may bump the least senior of these employees and her preliminary notice shall be rescinded.

Accelerated Academy Program Skips

66. In skipping criteria H, the Board determined that it was necessary to
erience in the Accelerated
Accelerated Academy Program (Accelerated Academy) would be deemed competent

training in Accelerated Academy programs and experience relevant

67. The District proposed to skip five of the seven certificated teachers in the Accelerated Academy as well as the counselor. The skipped employees are:

Keoni Chock holds a single subject credential in social sciences with an ELA and has a seniority date of October 29, 2010.

Cory Fukuoka holds a single subject foundational math credential and a multiple subject credential with a CLAD and has a seniority date of September 5, 2006.

Jennifer Healey holds a single subject credential in math with an ELA and has a seniority date of October 31, 2007.

You Lor holds a single subject credential in English with an ELA and has a seniority date of October 4, 2010.

Sara Taylor holds a single subject credential in social sciences with an ELA and a multiple subject credential with an ELA, and has a seniority date of September 2, 2008.

Onisha Hardin holds a pupil personnel services credential in school counseling, school social work. She has a seniority date of December 1, 2004. She is employed in a .50 FTE position.

68. Respondents who are senior to these teachers maintain they are certificated and competent to bump into positions held by these teachers. Respondents with PPS credentials in counseling, senior to Hardin, contend that they are certificated and competent to bump into the .50 counselor position held by Hardin. (Hardin was laid off .50 FTE of her 1.00 FTE in counseling and is a respondent in this matter.) The District maintains that it has demonstrated a specific need to retain the employees in the Accelerated Academy and they have specialized training and experience which respondents do not possess.

69.
progra

comprehensive high school due to credit deficiency to graduate on time. It also assists students who are deficient in their credits to earn credits on an accelerated basis so that they may return to their home high schools at the same level as their classmates. The Accelerated Academy program addresses the needs of students who are not successful in a comprehensive high school environment for various reasons, including behavioral issues, as well as students who do not attend high school because

they are pregnant, have children, have been bullied or have other reasons not to attend high school. The students are predominantly African-American and Hispanic. Many of the students are 100 to 200 credits deficient for graduation when they enroll in the Accelerated Academy. The program has been effective in timely graduating students and in preventing students from dropping out of high school.

70. The Accelerated Academy students complete courses on the Internet, through Aventa Learning (Aventa), a vendor that provides the curriculum and on-line

74. Young testified that the lead teacher helps with the implementation and use of the online program at the Accelerated Academy, oversees disciplinary issues and attendance and serves as the conduit to the high schools in communicating with the registrars and reviewing transcripts. Accelerated Academy teachers do not deliver curriculum or instruction. They do not grade students. The Aventa certificated teachers are responsible for delivering curriculum. However, the Accelerated Academy teachers review and assess transcripts to determine where students are deficient, put together learning plans with students to meet these deficiencies and

positions by two in the 2011-12 school year. Erlinda Villahermosa and Kirk Arnoldy (lead teacher) are new hires and are not included on the skip list. The Accelerated Academy was able to train them when they began work.

78. Many of the respondents use Aventa and are familiar with the program. Most have worked or are working in schools that have similar population demographics as the Accelerated Academy: historically low performing students, students from disadvantaged families, students in single parent families, students whose financial circumstances entitled them to free school breakfast and lunch and students with behavioral issues. Many respondents have had training in managing student behavior. Several have performed work which involves analyzing transcripts. Many respondents have worked or work in schools that assist students with credit recovery.

79. ded to Accelerated Academy employees was minimal and could easily be obtained in the summer before the school year or at the inception of the retain Accelerated Academy employees was because the employees have established relationships with students, and sometimes with their families. The District speculates that students will lose their trust in adults, and that the effectiveness of the program would be devastated if these bonds were severed when senior teachers arrive on the scene.⁹ This is not a valid ground for skipping junior employees. In all Districts, in all programs, employees and students develop relationships. To allow a District to set aside the seniority-based protections of the Education Code in favor of

services authorized by a services credential with a specialization in . . . pupil personnel services . . . [and] the certificated employee has special training and experience necessary to . . . provide those services, which others with more seniority

Threshold Issue-Course of Study

86. second challenge to the skip of Priority School employees is that the Priors

section 44955, subdivision (d)(1). This section provides in pertinent part:

(d) Notwithstanding subdivision (b), a school district may deviate from terminating a certificated employee in order of seniority for either of the following reasons:

(1) The district demonstrates a specific need for personnel to teach a *specific course or course of study*, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services, which others with more seniority do not possess. (Italics added)

87.

88. Section 51002 states:

The Legislature hereby recognizes that, because of the common needs and interests of the citizens of this state and the nation, there is a need to establish a common state curriculum for the public schools, but that, because of economic, geographic, physical, political and social diversity, there is a need for the development of educational programs at the local level, with the guidance of competent and experienced educators and citizens. Therefore, it is the intent of the Legislature to set broad minimum standards and guidelines for educational programs, and to encourage local districts to develop programs that will best fit the needs and interests of the pupils, pursuant to stated philosophy, goals, and objectives.

Priority School Skips

94. In the spring of 2010, the Superintendent announced the Priority Schools Initiative for the 2010-11 school year. The Superintendent designated the following six schools as Priority Schools: Oak Ridge Elementary; Father Keith B. Kenney Elementary; Jedediah Smith Elementary; Fern Bacon Basic Middle; Will C. Wood Middle; and Hiram Johnson High School (HJHS). A seventh school, Rosa Parks Middle School, was identified as a Priority School for the 2011-12 school year.

95. The Priority Schools were established to provide additional assistance and resources to focus on improving underperforming schools. The seven designated schools are among the 20 percent lowest performing schools in California, with Oak Ridge Elementary in the lowest five percent in the state. They were persistently underperforming, in that four of the six schools have been in Performance Improvement status (PI) for seven years, and all had been in PI for five or more years. They had had low yearly improvement rates in the Academic Performance Index and had failed to meet federal and state standards in English-Language Arts (ELA) and mathematics. They had low percentage rates of Adequate Yearly Progress (AYP) in ELA and mathematics. HJHS had the lowest rate of passage of the CAHSEE (high school exit examination) and the lowest graduation rate of the traditional high schools in the District.

96. The student population served in the Priority Schools are primarily economically disadvantaged minority students with more than 90 percent of the students in five of the schools living in or near poverty. The schools have large Title 1 (free or reduced-m 13(eve)3(nth)-9(s)4(ch)-7(or)-3(educ)3(edlSc)-9itlI9(hoe lo1 0 0 1,3(ende)-4651.2

would be detrimental to students. None of these rationales constitute grounds for deviating from the seniority-based order of layoff under the specific and narrow specialized training and experience necessary to teach a course/course of study or provide services.¹¹

99. -based order of layoff is proof that the certificated employees in the Priority Schools have special training and experience necessary to teach the courses and perform services in the Priority Schools, which the more senior teachers do not possess. Pursuant to a reading of the statute and *Bledsoe*, this analysis should be conducted on a case-by-case basis, where the District establishes that a particular assignment requires a teacher with special training and experience, the District establishes that the individual teacher assigned has the necessary training and experience and the District establishes that the individual senior employees do not have the necessary training and experience.

100. Here, the District maintains that all of the 100 certificated employees at the Priority Schools have special training and experience necessary to teach or provide services at those schools and that all of the senior respondents dTmechoo

their classrooms. The DataWise process involves collecting data from multiple sources to assess student work/achievement, and requires extensive staff collaboration to identify learner-centered problems. The

determining what strategies and interventions might be successful, implementing the strategies, and assessing success. The process of data analysis, strategic planning, implementation of the plan and measurement of the outcome is collaborative, and completion of each round of the

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Time (CPT) in addition to other meeting time, for collaboration and implement the DataWise process.

- b. WriteTools is a training program in academic writing. Teachers receive initial and follow up training. In order to integrate the training into daily classroom teaching, trainers provide classroom coaching and modeling of the WriteTools techniques. Area-3 Writing training has replaced some Write Tools training because of its focus on EL and because of its more comprehensive approach to integrating reading and writing into curriculum and activities.

(Guided Language Acquisition Design) because of its large EL population. There was no evidence that the HJHS staff was involved in the cycle of inquiry, or that it devoted more common planning time or professional development time to DataWise/Data Inquiry or Write Tools/Area-3 Writing than did any other District high school.

103. The evidence established that although HJHS is a Priority School, its staff has not been intensely trained in the teaching strategies the District maintains are critical to the Priority School mission. And without these strategies in place, it follows that merely working in the HJHS does not provide specialized experience. Accordingly, the District did not meet the requirements of section 44955, subdivision (d)(1). It did not establish a specific need for specially trained personnel to provide services at HJHS, or that its personnel had special training or experience that more senior employees do not possess.

104. Finally, the District maintains that competency criteria C (In order to work in a Priority School, training and/or experience teaching in a Priority School setting) bars reassignment of senior respondents to the HJHS. Competency criteria must be reasonable and valid and must relate to teacher skills and credentialing. (*Duax v. Kern Community College District, supra*, 186 Cal.App 3d at pp. 565-566.) Criteria C is not reasonable and valid as it pertains to HJHS. As set forth above, there is minimal specialized training or experience required to provide services in the

111. The parties have records of those respondents who are senior to any of the first year employees who were skipped due to their assignment to teaching positions at the Priority School Middle and Elementary Schools. Pursuant to *Alexander, supra*, 139 Cal.App.3d at pp. 576-577, a corresponding number of the most senior of the respondents who received preliminary notices and are certificated to serve in these assignments shall have their preliminary notices rescinded.

112. Competency criteria C does not bar reassignment of senior respondents to these elementary and middle schools. Competency criteria must be reasonable and valid and must relate to teacher skills and credentialing. (*Duax v. Kern Community College District, supra*, 186. Cal.App.3d at pp. 565-566. Criteria C is not reasonable and valid, for the reasons set forth above.

Skip of Staff at Rosa Parks Middle School

113. Rosa Parks Middle School is in its first year of operation. Between August 1, and August 5, 2011, 22 of its 29 certificated employees took 40 hours of training in Data Inquiry/Project Design through Transformations by Design. (Exhibit 38 e, a record of professional development activities of Rosa Parks certificated employees, in the 2011-12 school year, through 1/25/12). One of the 22 trainees is a librarian and one is a physical education teacher. Denise Lee has not taken the DataWise training and is a probationary 2 science teacher with a seniority date of September 7, 2010. Christine Ha has not taken DataWise training and is a probationary 1 teacher with a seniority date of November 30, 2010. In addition, Exhibit 38 e shows that none of the Rosa Parks employees has taken Write Tools/ Area3 Writing, CCR or Home Visit training. Accordingly, the claim that Rosa Parks Middle School employees have special training rests on the 40 hours of DataWise training most, but not all, of the teachers have taken.

School. As set forth in the Legal Conclusions, pursuant to *Alexander, supra*, 139 Cal.App.3d at pp. 576-577, a corresponding number of the most senior of the respondents who received preliminary notices and are certificated to serve in these assignments shall have their preliminary notices rescinded.

117. Competency criteria C does not bar reassignment of senior respondents to Rosa Parks Middle School. Competency criteria must be reasonable and valid and must relate to teacher skills and credentialing. *Duax v. Kern Community College District, supra*, 186. Cal.App.3d at pp. 565-566. Criteria C is not reasonable and valid, for the reasons set forth above.

These students would not be treated equally with Priority School students and would be disproportionately burdened by the additional layoffs necessitated by skipping staff at the seven Priority Schools. Layoffs are clearly disruptive and detrimental to the academic programs of all low-performing schools, not just the Priority Schools. The Priority School skip cannot be justified based on section 44955, subdivision (b)(2).

LEGAL CONCLUSIONS

1. Jurisdiction for this proceeding exists pursuant to Education Code sections 44949 and 44955. All notices and other jurisdictional requirements of sections 44949 and 44955 were met.

2. A District may reduce services within the meaning of section 44955,

for the reduction or discontinuation of services relates solely to the welfare of the

5. Legal cause also exists to reduce the number of certificated employees of the District due to the reduction and discontinuation of particular kinds of services.

6.

10. *Accelerated Academy Program Skip*: As set forth in Findings 66 through 81, the proposed Accelerated Academy Program skipping criteria is invalid.

EXHIBIT A

LIST OF RESPONDENTS

- | | | | |
|----|------------------------|---------------------|-----------|
| 1. | Aasen | Tina | |
| 2. | Abdo | Tammy | |
| 3. | Acquisto | Yvette | |
| 4. | Ahmadzai | Zolaikha | |
| 5. | Ainslie | Thomas | |
| 6. | Alair-Saito | Allison- | Rescinded |
| 7. | Alvarado | Olivia | |
| 8. | Amioka | | |

41.	Cazel-Mayo	Michelle	
42.	Chadwell	Norma	
43.	Chang	Ian	
44.	Chapman	Ellen	Rescinded .7 FTE
45.	Chen	Wendy	
46.			

86.	Garcia	Jose E.	
87.	Garcia	Lucille Ann	
88.	Garcia	Lyudmila	
89.	Garrett	Sarah	
90.	Geronimo-Uribe	Josefina	
91.	Gonzalez	Jenny	
92.	Goodwin	Michelle C.	
93.	Gordon	Julie	
94.	Gorman	John	
95.	Gosney	Chris	
96.	Griffen	Janene	
97.	Hack	Brandy	
98.	Hammond	Jeremy	Rescinded .1FTE
99.	Hansen	Barbara	Rescinded .4 FTE
100.	Hardin	Onisha	
101.	Harris	Kathryn	
102.	Hensley	Katherine	
103.	Hernandez	Jesse	
104.	Hernandez	Jose Ramiro	Rescinded
105.	Herzog-Kruse	Joy	
106.	Hetzel	Danielle	Rescinded
107.	Hill	Megan	
108.	Hoekstra	Lara	
109.	Hogan	Kathryn	Rescinded
110.	Hoffhines	Amy	
111.	Irwin-DiLoreto	Kevin	
112.	Ishimaru	Susan	
113.	Jackson	Adriane	
114.	Jackson	Fred	
115.	Jackson	Preston	
116.	Jaime-Razo	Alicia	Rescinded
117.	Jarvis	Lisa	
118.	Jensen	Erika	
119.	Jewett	Irene	Rescinded
120.	Johnson	Audrey	
121.	Johnson	Cristopher	
122.	Johnson	Elisabeth	
123.	Johnson	Jeffrey	
124.	Johnson	Wallace	
125.	Johnston	Michael	Rescinded
126.	Jones	Phillip Marc	
127.	Jones	Rory	
128.	Kachagin	Anna Lisa	
129.	Kapp	William	Rescinded
130.	Kerns	Patricia	

176.	Nakamura	Howard	
177.	Navarette	Ray	
178.	Navarro	Lecenia	Rescinded
179.	Newman	Jean	
180.	Nguyen	Kieu	
181.	Nguyen	Kim Anh	
182.	Nickel	Kimberly	
183.	Nim	Veasna	
184.	Noma	Lisa	
185.	Norris	Claire	Rescinded .4 FTE
186.	Nouchi	Nadine	
187.	O'Flaherty	Kenneth	
188.	O'Hara	Sheilah	
189.	Pattow-Vigil	Barbara	
190.	Pedley	Sandra	
191.	Perez	Herson	Rescinded
192.	Perez	Mirna	
193.	Perez	Rafael	Rescinded
194.	Pineda	Marcos	
195.	Plant	Gregory	Rescinded
196.	Power	Deborah	
197.	Prabhjot	Rai	
198.	Prentice	Gary	
199.	Price	Lauren	
200.	Pullano	Jacquelyn	
201.	Rambo	Sonia	
202.	Reeder-Esparza	Pamela	
203.	Reilly	Patrick	
204.	Reinke	Jennie	
205.	Reyes	Kim	Rescinded
206.	Roach	Michael	
207.	Ruiz	Rosario	Rescinded
208.	Rule	Daniel	
209.	Ryan	Kelly	
210.	Saldana	Juanita	
211.	Salk	Heidi	
212.	Samaan	Lynne	
213.	Sanchez	Debra	
214.	Sandoval	Adriana	
215.	Schmelling	Evelyn	
216.	Schnack	Sarah	
217.	Schon	Julie	
218.	Selseleh	Mary	
219.	Shaffer	Kimberly	
220.	Simonsen	Nicole	

266.	Xiong	Nhia
267.	Yaangh	Stacy
268.	Yang	Chong
269.	Yang	Julia
270.	Yang	Ka
271.	Yates	Grace
272.	Young	Gregory
273.	Zierenberg	Carolyn
274.	Nevarez	Jackie