

RESOLUTION NO. 2010-11-25

RESOLUTION TO DECREASE THE NUMBER OF CERTIFICATED EMPLOYEES DUE TO A REDUCTION IN SERVICE AND DIRECTION TO ADMINISTRATION TO GIVE AFFECTED EMPLOYEES NOTICE

WHEREAS, on March 10, 2011, this Board of Education adopted Resolution No. 2010-11-19 which reduced or eliminated particular kinds of services equal to 10.6 full time equivalent (FTE) positions not later than the beginning of the 2011-2012 school year;

WHEREAS, on or before March 15, 2011, the Superintendent and/or his designated representatives served notices to 15 certificated employees that it was recommended that each of their services will not be required for the 2011-2012 school year pursuant to Education Code sections 44949 and 44955;

WHEREAS, the notices served upon those certificated employees advised them that they could request a hearing to determine if there was cause for not re-employing them for the 2011-2012 school year and that if they failed to timely request a hearing, the failure to do so would constitute a waiver of the right to a hearing and his/her services would be terminated pursuant to the Superintendent's recommendation;

WHEREAS, various employees did not request a hearing regarding the recommendation and thus waived their right to a hearing;

WHEREAS, other employees requested a hearing and, accordingly, on April 14, 2011, an evidentiary hearing was held pursuant to sections 44949 and 44955 of the Education Code;

WHEREAS, an Administrative Law Judge presided over the hearing and produced a proposed decision, a true and correct copy of which is attached hereto as Exhibit 1, for consideration by this Board of Education;

WHEREAS, the Board finds that sufficient cause exists for the termination of those FTE who did not request a hearing and those listed in Resolution No. 2010-11-19;

WHEREFORE, IT IS RESOLVED, the Board accepts the proposed decision of the Administrative Law Judge and adopts that decision as the decision of the Board itself;

BE IT FURTHER RESOLVED, the decision is effective immediately and the Superintendent or designee shall take such actions that are necessary and appropriate to implement this Board's decision, including giving appropriate notice, both to those certificated employees who did not request a hearing and those employees identified in the proposed decision, of the termination of their services to take effect upon the close of this school year;

BE IT FURTHER RESOLVED, the Superintendent or designee is hereby authorized to give notice to the aforementioned employees, on behalf of the Board, on or before May 14, 2011, in the manner described in Education Code section 44949;

BE IT FURTHER RESOLVED, that reemployment rights shall be afforded in accordance with the Education Code.

ADOPTED by the Governing Board of the Willows Unified School District on May 12, 2011, by the following votes:

AYES:

NOES:

ABSENT:

I hereby certify that the foregoing is a true and correct copy of a Resolution of the Governing Board of the Willows Unified School District of Glenn County adopted by said Governing Board at its meeting on May 12, 2011.

Secretary of the Governing Board

BEFORE THE
GOVERNING BOARD OF THE
WILLOWS UNIFIED SCHOOL DISTRICT
GLENN COUNTY
STATE OF CALIFORNIA

In the Matter of the Accusation/Non-
Reemployment of Certificated Employees of
the Willows Unified School District:

OAH No. 2011031315

DIANA ABOLD
LAUREN ALBERT
SHARON BUSLER
CHRISTINA CAMERON
THOMAS CHISHOLM
KERI CONKLIN-TAFURO
WENDY FARNSWORTH
CATHRYN FLEMING
GRICELDA LOZANO-TRUJILLO
MELANIE PERRIN
CHRISTINE STEWART
ADDIE VIERRA,

Respondents.

PROPOSED DECISION

Administrative Law Judge Catherine B. Frink, Office of Administrative Hearings (OAH), State of California, heard this matter in Willows, California, on April 14, 2011.

Matthew Juhl-Darlington, Attorney at Law, represented the Willows Unified School District (District).

Ted Lindstrom, Attorney at Law, represented all of the respondents.

Oral and documentary evidence was presented and the parties offered oral closing arguments. The record was closed and the matter was submitted for decision on April 14, 2011.

FACTUAL FINDINGS

1. Morton J. Geivett II, Ed.D., is the District Superintendent. His actions, and those of the District's Governing Board (Board), were taken solely in their official capacities.

2. Respondents Diana Abold, Lauren Albert, Sharon Busler, Christina Cameron, Thomas Chisholm, Keri Conklin-Tafuro, Wendy Farnsworth, Cathryn Fleming, Gricelda Lozano-Trujillo, Melanie Perrin, Christine Stewart, and Addie Vierra are all certificated employees of the District.

3. The District serves approximately 1,558 students in kindergarten through twelfth grade. The District operates the following school sites: Murdock Elementary School (MES), grades kindergarten through four; Willows Intermediate School (WIS), grades five through eight; Willows High School (WHS), grades nine through 12; and Willows Community High School (WCHS), grades nine through 12. The District operates an independent study program for approximately 30 students, mostly in grades nine through 12.

4. The District is facing a budget shortfall for the 2011-2012 school year, and expects a decrease in revenue due to competition from a recently opened charter school.

5. On March 10, 2011, the Board adopted Resolution No. 2010-11-19, Resolution to Decrease the Number of Certificated Employees Due to a Reduction in Particular Kinds of Services (Layoff Resolution) reducing or eliminating particular kinds of services (PKS) affecting 10.6 full-time equivalent certificated positions (FTE).

6. The Layoff Resolution was based on the Superintendent's recommendation that it was necessary to reduce or discontinue PKS no later than the beginning of the 2011-2012 school year. In making his recommendation, the Superintendent took into account all positively assured attrition (i.e., resignations or retirements, and additional attrition which may occur before the start of the 2011-2012 school year) which was known to the District as of the date of adoption of the Layoff Resolution. According to Dr. Geivett, but for the attrition already assured and the attrition anticipated as of March 10, 2011, the District would have found it necessary to reduce additional certificated service.

7. The District became aware of additional attrition after the adoption of the Layoff Resolution. As the result of the retirement of Maureen Calonico, the District rescinded the layoff notice to respondent Wendy Farnworth, the most senior certificated employee with a Multiple Subject (MS) credential identified for layoff.

8. The Layoff Resolution states that the Board determined that it was necessary to reduce the following PKS of the District not later than the close of the current school year:

<u>Services</u>	<u>Number of FTE Positions</u>
Various Multiple Subject Teaching Positions At Murdock Elementary School	6.0 FTE
Various Teaching Positions at Willows Community High School	1.6 FTE
Various Multiple Subject Teaching Positions At Willows Intermediate School	2.0 FTE
Various Teaching Positions at Willows High School:	1.0 FTE
<ul style="list-style-type: none"> • AP U.S. History (1 period) • Art (1 period) • Spanish (1 period) • Physics (1 period) • Calculus (1 period) • Anatomy/Physiology (1 period) 	
TOTAL	<u>10.6 FTE</u>

9. As a result of the above PKS reductions and/or eliminations, the Board determined that it was necessary to decrease 10.6 FTE positions for certificated employees in the District no later than the beginning of the 2011-2012 school year, in accordance with Education Code section 44955.¹

10. The Layoff Resolution directed the Superintendent or his designee to send appropriate notices to all employees whose services would be terminated by virtue of the Board's action.

11. Before March 15, 2011, Dr. Geivett caused a letter entitled "Notice of Non-reemployment for 2011-12" (Preliminary Notice) to be served in person and by mail on each of the employees affected by the PKS reductions and/or eliminations set forth in the Layoff Resolution. The Preliminary Notice advised that the Superintendent had recommended to the Board that the recipient be given preliminary written notice that his/her services would be terminated at the close of the current

¹ All statutory references are to the California Education Code unless otherwise indicated.

school year due to reductions in PKS. The Preliminary Notice set forth the reasons for the recommendation and attached a copy of the Layoff Resolution.

12. Respondents timely filed a Request for Hearing to determine whether there was cause for not reemploying them for the 2011-2012 school year.

13. Respondents are all permanent certificated employees of the District.

14. On March 28, 2011, the Superintendent signed the Accusation, and caused it to be served on respondents. Respondents, through their legal counsel, timely filed a Notice of Defense.

Teaching Positions at WCHS

15. WCHS currently has 30 students in ninth through twelfth grades. There are four teachers who are assigned to WCHS. Of these, two are employed by the Glenn County Office of Education.² The other two, Michael Rutherglen (1.0 FTE) and Sharon Busler (.6 FTE), each hold MS credentials.

16. According to Dr. Geivett, the Board has decided to close WCHS, thereby leading to the reduction of 1.6 FTE teaching positions for individuals holding MS credentials.

17. Prior to March 10, 2011, Mr. Rutherglen informed the District of his intention to retire at the end of the 2010-2011 school year. Mr. Rutherglen's retirement was taken into account by the Board as positively assured attrition in its determination that a total of 10.6 FTE reduction in PKS was necessary for the 2011-2012 school year.

Teaching Positions at WHS

18. Students in grades nine through 12 are taught in departmentalized classes by certificated employees who hold a single subject (SS) or other credential in the subject matter taught.

Teaching Positions at WIS

19. Fifth and sixth grade students are taught by certificated employees holding MS credentials in self-contained classrooms. Students in seventh and eighth grades are taught in departmentalized classes by certificated employees who hold MS credentials with supplemental authorization(s) in the subject matter taught, or by certificated employees holding an SS credential in the subject matter taught.

² Since these individuals are not employees of the District, none of the respondents would be able to displace them from their positions.

Teaching Positions at MES

20. With the exception of music and physical education, certificated employees providing instruction in grades kindergarten through five hold MS credentials.

Development of the District's Seniority List

21. Seniority is the relationship between the teachers within a school district. Among the teachers credentialed to provide a given service, greater seniority in the district gives a greater legal entitlement to a position. Seniority is defined as the date upon which an employee first rendered paid services in a probationary position. (§ 44845.)

22. At the start of the 2010-2011 school year, the District emailed a copy of the certificated seniority list to all certificated employees, so that they could verify the information on file with the District relating to their credentials and coursework. In addition, a copy of the seniority list was placed in each teacher's mailbox in September 2010, and copies were provided to those individuals occupying leadership positions in the Willows Unified Teachers Association (WUTA). The District emailed an updated version of the certificated seniority list to certificated employees in January of 2011. On March 3, 2011, the Board adopted Resolution No. 2010-11-17, Resolution to Determine Order of Employment of Certificated Employees for Reductions in Particular Kinds of Services, in which it adopted the seniority list. Resolution No. 2010-11-17 stated, in part: "BE IT FURTHER RESOLVED that the Seniority List may be corrected from time to time by the Superintendent or his designee based on valid evidence presented by any certificated employee of any change and said corrected Seniority List shall be valid absent action by the Governing Board." The seniority list was further updated on March 14, 2011.

Seniority Date – Sharon Busler

23. Ms. Busler occupies a .6 rTE teaching position at WCHS. Her seniority date, as listed on the District's seniority list, is September 24, 2004. Ms. Busler contended that her seniority date should be August 16, 2003, as she believes this was her first date of paid service with the District. Ms. Busler was hired as a long-term substitute in August of 2003, and she worked in that capacity for the entire school year. She replaced another teacher and performed all of his teaching duties during the 2003-2004 school year. The following year she was hired as a probationary teacher. Ms. Busler raised the issue of her seniority date in the 2009 layoff proceedings, and a determination was made that her seniority date of September 24, 2004, was correct. Ms. Busler did not contact the District in the 2010-2011 school year, prior to the date of hearing, to contend that her seniority date was incorrect. Nevertheless, her claim for an earlier seniority date was considered, and is persuasive.

24. Section 44918, subdivision (a), states that “Any employee classified as a substitute or temporary employee, who serves during one school year for at least 75 percent of the number of days the regular schools of the district were maintained in that school year and has performed the duties normally required of a certificated employee of the school district, shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year.”

25. In *Bakersfield Elementary Teachers Association v. Bakersfield City School District* (2006) 145 Cal.App.4th 1260, the court determined that provisionally credentialed teachers must, in some circumstances, be classified as probationary. The court stated:

Section 44845 states: “Every probationary or permanent employee ... shall be deemed to have been employed on the date upon which he [or she] first rendered paid service in a probationary position.” (See *San Jose Teachers Assn. v. Allen, supra*, 144 Cal.App.3d at pp. 640–641 [statute applies to probationary service in children’s center, i.e., in any position requiring certification qualifications, as well as to service in regular program].) If the Legislature had intended that only probationary and permanent employees *with a preliminary or clear credential* shall acquire seniority, it would not have been difficult to say so. We recognize in making this observation that very little in the Education Code seems to be stated in the easiest or most direct way. (*Haase, supra*, 113 Cal.App.3d at p. 917 [“Entry into the Education Code is painful”].) But once having determined that certificated employees with less than a regular credential must in certain circumstances be classified as probationary, we cannot then overlook the clear directive in section 44845 that, as probationary employees, they are entitled to accrue seniority.

(*Id.*, at pages 1300-1301. Italics in original.)

26. The court further held that, once employees are classified as probationary, they “must be accorded the rights of probationary employees as provided in the Code, including the right to accrue seniority (§ 44845) and the rights to notice and a hearing in the event of a workforce reduction (§§ 44949, 44955).” (*Ibid.*) The court found that misclassified employees who did not receive a layoff notice must be retained. The court further stated: “It also follows that the order in which those employees were laid off and reemployed, relative to the teachers and counselors classified by the District as probationary employees, must be redetermined

based on the relative seniority dates of the misclassified temporary employees, and their layoff and reemployment priorities adjusted accordingly.” (*Id.*, at p. 1302.)

27. The clear holding in *Bakersfield* is that, once employees are deemed to be probationary, they accrue seniority from the date they provided paid service in that capacity. Thus, under section 44918, subdivision (a), a substitute employee who is deemed to have served a full year as a probationary employee if he or she is rehired as a probationary employee in the following school year must be accorded seniority rights dating back to the date he or she first provided service in a probationary capacity, i.e., the date of full-time substitute employment. (See also, *California Teachers Association v. Vallejo City Unified School Dist.* (2007) 149 Cal.App.4th 135, 156.)

28. In the 2009 layoff proceedings, Ms. Busler contended that her correct seniority date should be August 19, 2003. In the current proceedings, Ms. Busler claimed that she was required to attend an in-service on August 16, 2003, prior to the start of the school year. She was not able to state with certainty how she was paid for her service prior to the first day of the school year. Payroll records introduced into evidence show that Ms. Busler was paid \$600 for the period ending August 31, 2003. It is not possible from those records to determine Ms. Busler’s first date of paid service in August 2003. Therefore, the District shall be required to redetermine Ms. Busler’s seniority date in accordance with District records. As is further discussed in the Factual Findings below, the change in seniority date for Ms. Busler does not affect the District’s determination that Ms. Busler is properly identified for layoff.

Implementation of Layoff

29. District staff used the Board-adopted seniority list in identifying employees affected by the PKS reductions. With the exception of the 1.0 FTE reduction in teaching positions at WHS, as set forth in the Layoff Resolution, all of the affected reductions involved positions in which certificated employees hold MS credentials. Therefore, according to Dr. Geivett, he and his staff identified the least senior persons holding MS credentials occupying 9.6 FTE positions, the total number affected by the PKS reductions.³

30. When the least senior persons occupying the positions affected by the PKS reductions were identified, District staff looked at each individual’s credentials to determine whether he or she could displace any less senior certificated employees.

³ As a result of the retirement of Ms. Calonico, and the rescission of the layoff notice to Ms. Farnworth (Finding 6), the PKS reduction in MS teaching positions at MES is reduced from 6.0 FTE to 5.0 FTE, and the total FTE reduction in MS teaching positions is reduced to 8.6.

31. Before March 15, 2011, District staff served the Preliminary Notice identified in Finding 11, on the most junior employees affected by the PKS reduction, as set forth in further detail below.

Reduction of 8.6 FTE Multiple Subject Teaching Positions

32. The 9 least senior certificated employees holding MS credentials are as follows:⁴

A. Gricelda Lozano-Trujillo (10/9/06) teaches 1.0 FTE English Language Development (ELD) at MES. She holds an MS credential and a BCLAD-Spanish authorization.

B. Lauren Albert (8/16/04) teaches 1.0 FTE History and Computer Literacy at WIS. She holds an MS credential with supplemental authorizations in Science and English; she also holds SS credentials in Social Science and English.

C. Diana Abold (8/28/03) teaches 1.0 FTE English and Journalism at WIS. She holds a MS credential and an SS English credential.

D. Cristina Cameron (8/18/03) teaches 1.0 FTE Kindergarten at MES. She holds an MS credential, an SS Spanish credential, and a BCLAD-Spanish authorization.

E. Kathryn A. Vierra (8/18/03) was on leave of absence for the 2010-2011 school year. She previously taught 1.0 FTE English at WHS with a waiver. She holds an MS credential with a supplemental authorization in English (CLAD in training).

F. Melanie Perrin (8/18/03) teaches 1.0 FTE sixth grade at WIS. She holds an MS credential.

G. Christine Stewart (8/18/03) teaches 1.0 FTE Algebra/Mathematics at WIS. She holds an MS credential with a supplemental authorization in Mathematics.

H. Sharon Busler (August 2003 – exact date to be determined per Finding 28) teaches .6 FTE grades 9-12 at WCHS. She holds an MS credential.

I. Cathryn Fleming (September 11, 2002) teaches 1.0 FTE fifth grade at WIS. She has an MS credential.

⁴ Except as noted, all respondents hold a CLAD authorization.

Respondents' Arguments

33. Respondents contend that the Layoff Resolution is impermissibly vague, in that it refers to "various multiple subject teaching positions" at MES and WIS, and "various teaching positions" at WCHS. This contention is not persuasive. There were only two teachers at WCHS who were employed by the District at WCHS, occupying 1.6 FTE positions. Since the Layoff Resolution reduced services at WCHS by 1.6 FTE, it is clear that the services of both teachers were being eliminated.

34. With respect to reductions at MES and WIS, the court held in *San Jose Teachers Association v. Allen* (1983) 144 Cal.App.3d 627, that "A preliminary notice pursuant to Education Code sections 44949, subdivision (a), and 44955 recommending that a school district terminate certain certificated employees because of a reduction in particular kinds of services is sufficiently specific if it designates the categories of services to be reduced or discontinued, even though it does not specify the specific positions to be eliminated," and "At the elementary school level, reduction of classroom teaching can be a reduction of a particular kind of service." (*Id.*, at pp. 630-631.) The reference to "various multiple subject teaching positions" clearly refers to positions in grades kindergarten through six, where an MS teaching credential is required.

35. Respondents Melanie Perrin (grade 6) and Cathryn Fleming (grade 5) teach in multiple subject teaching positions at WIS. They were properly identified for layoff of 2.0 FTE reduction in multiple subject teaching positions at WIS.

36. Respondents Cristina Cameron (kindergarten) and Gricelda Lozano-Trujillo (ELD) teach in multiple subject teaching positions at MES. They were properly identified for layoff as part of the 5.0 FTE reduction in multiple subject teaching positions at MES. Ms. Lozano-Trujillo contended that, since ELD was not specifically reduced or eliminated in the Layoff Resolution, her position should not be affected, and she should be retained. This contention is not persuasive, since the District would not be obligated to reassign Ms. Lozano-Trujillo to the ELD class for the 2011-12 school year. With her seniority date and MS credential, there is no certificated employee with less seniority than Ms. Lozano-Trujillo with a teaching assignment that Ms. Lozano-Trujillo could displace.

37. Respondents contend that the subjects taught by Lauren Albert, Dianna Abold, Kathryn Vierra, and Christine Stewart were not specifically reduced or eliminated in the Layoff Resolution, and that the District has improperly identified them for layoff, because they hold supplemental authorizations or SS credentials that allow them to teach departmentalized classes. Furthermore, Ms. Albert, Ms. Abold, and Ms. Vierra were identified for layoff as a result of the reduction in multiple subject teaching positions at MES, when they teach departmentalized classes at WIS; Ms. Stewart was identified for layoff as a result of the reduction in teaching positions

at WCHS, when she also teaches at WIS. Respondents' arguments are not persuasive. Again, the District is not obligated to reassign any of these respondents to the same classroom assignments for the 2011-2012 school year. Each of them holds an MS credential that would permit the District to assign them to a self-contained classroom. Therefore, they were properly identified for layoff for teaching positions where an MS credential is required. Due to their seniority dates, there are no certificated employees with less seniority than these respondents with teaching assignments that these respondents could displace.

38. Ms. Busler was properly identified for layoff as part of the 1.6 FTE reduction of teaching positions at WCHS. Even with her adjusted seniority date, there is no certificated employee with less seniority than Ms. Busler with a teaching assignment that Ms. Busler could displace.

Reduction of 1.0 FTE Teaching Positions at WHS

39. As a result of the reduction of one period (.17 FTE) of AP U.S. History and .17 FTE of Anatomy/Physiology, no layoff notice was sent to any certificated employee.

40. As a result of the .17 FTE reduction of Art, a Preliminary Notice was sent to certificated employee Brandon Boyd. Mr. Boyd did not file a request for hearing, and he is not a respondent herein.

41. As a result of the .17 FTE reduction of Spanish, a Preliminary Notice was sent to certificated employee Maria Herrera. Ms. Herrera did not file a request for hearing, and she is not a respondent herein.

42. As a result of the .17 FTE reduction of Physics, a Preliminary Notice was sent to respondent Thomas Chisholm (8/19/94). Mr. Chisholm holds an SS credential in Life Science/Physical Science. During the current school year, Mr. Chisholm taught three periods of Earth Science, one period of World History, one period of Physics, and one period of Chemistry.

Amanda Samons (8/13/07) holds an SS credential in Agriculture, and an Agriculture Specialist Instruction credential. During the current school year, Ms. Samons taught two periods of Earth Science, one period of Integrated Ag Biology, one period of Animal Science, one period of Agriculture, and one period of "Project." Ms. Samons was not served with a Preliminary Notice, and she will be retained by the District for the 2011-2012 school year.

Respondents contend that the District improperly noticed Mr. Chisholm for layoff, because he is senior to Ms. Samons and is qualified to displace her from one period of Earth Science. The District contends that, since Mr. Chisholm is not certificated and competent to displace Ms. Samons from her entire assignment, it

cannot be required to "bump" Ms. Samons from a portion of her assignment. The District's argument is without merit. Section 44955, subdivision (b), states in pertinent part: "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 render." In this case, Mr. Chisholm is already teaching three periods of the same course that is being taught by Ms. Samons. He is clearly certificated and competent to teach Earth Science. Inasmuch as a less senior teacher has been retained to provide a service that Mr. Chisholm is certificated and competent to render, the layoff notice issued to Mr. Chisholm was improper, and the Accusation must be dismissed as to him.

43. As a result of the .17 FTE reduction of Calculus, a Preliminary Notice was sent to respondent Keri Conklin-Tafuro (8/16/04). Ms. Conklin-Tafuro holds an SS credential in Mathematics. During the current school year, Ms. Conklin-Tafuro taught three periods of Geometry, one period of Integrated Math II, one period of Algebra Lab, and one period of Algebra II. There is no certificated employee with less seniority than Ms. Conklin-Tafuro with a teaching assignment that Ms. Conklin-Tafuro could displace. Ms. Conklin-Tafuro was properly identified for layoff of .17 FTE. However, Ms. Conklin-Tafuro was served with a Preliminary Notice which informed her that her entire teaching assignment (1.0 FTE) was being eliminated. At hearing, Dr. Geivett stated that Ms. Conklin-Tafuro had been given a "precautionary" layoff notice for 1.0 FTE because of "declining enrollment." The Layoff Resolution does not address or otherwise authorize a reduction in the number of certificated employees of the District due to a decline in average daily attendance. The proposed layoff of Ms. Conklin-Tafuro for 1.0 FTE is improper, and the Preliminary Notice must be rescinded except as to .17 FTE.

44. All other arguments of the parties not specifically addressed herein were considered and are rejected.

Welfare of the District and Its Students

45. The Superintendent correctly identified the certificated employees providing the particular kinds of services that the Board directed be reduced or discontinued. Except as otherwise noted, no junior certificated employee is scheduled to be retained to perform services which a more senior employee is certificated and competent to render. The reduction or discontinuation of services relates solely to the welfare of the District's schools and pupils, within the meaning of Education Code section 44949.

LEGAL CONCLUSIONS

1. As set forth in the Findings, all notice and jurisdictional requirements set forth in sections 44944 and 44945 were met. The notices sent to respondents indicated the statutory basis for the reduction of services and, therefore, were sufficiently detailed to provide them due process. (*San Jose Teachers Association v. Allen, supra*, 144 Cal.App.3d 627; *Santa Clara Federation of Teachers v. Governing Board* (1981) 116 Cal.App.3d 831.) The description of services to be reduced, both in the Board Resolution and in the notices, adequately describe particular kinds of services. (*Zalac v. Ferndale USD* (2002) 98 Cal.App.4th 838. See, also, *Degener v. Governing Board* (1977) 67 Cal.App.3d 689.)

2. The Governing Board may reduce, discontinue or eliminate a particular kind of service and then provide the needed services to the students in another manner. (*Gallup v. Board of Trustees* (1996) 41 Cal.App.4th 1571; *California Teachers Association v. Board of Trustees of Goleta Union School Dist.* (1982) 132 Cal.App.3d 32.) A school board may reduce services within the meaning of the statute either by determining that a certain type of service shall not be performed at all or by reducing the number of district employees who perform such services. (*Rutherford v. Board of Trustees of Bellflower Unified School District* (1976) 64 Cal.App.3d 167.)

3. The services identified in Resolution No. 2010-11-19 are particular kinds of services that may be reduced or discontinued under sections 44949 and 44955. The Board's decision to reduce or discontinue the identified services was neither arbitrary nor capricious, and was a proper exercise of its discretion. Cause for the reduction or discontinuance of services relates solely to the welfare of the District's schools and pupils within the meaning of section 44949.

4. As set forth in Findings 23 through 28, the seniority date for respondent Sharon Busler must be adjusted to account for her year of service which was deemed probationary by operation of section 44918, subdivision (a). The District shall redetermine Ms. Busler's seniority date in accordance with District records.

5. As set forth in Finding 42, the District did not establish cause to issue a Preliminary Notice to respondent Thomas Chisholm pursuant to sections 44949 and 44955, in that a less senior certificated employee was retained to provide a service that Mr. Chisholm is certificated and competent to render. Therefore, the District shall rescind the Preliminary Notice and dismiss the Accusation as to Mr. Chisholm.

6. As set forth in Finding 43, the District did not establish cause to issue a Preliminary Notice to respondent Keri Conklin-Tafuro for 1.0 FTE. The Preliminary Notice shall be rescinded except as to .17 FTE.

7. With regard to the remaining respondents, as set forth in the Findings and Legal Conclusions, the District has established that no employees junior to respondents are being retained to perform the services which respondents are certificated and competent to render.

RECOMMENDATION

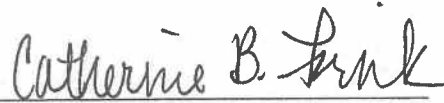
1. The District shall redetermine the seniority date of respondent Sharon Busler in accordance with District records.

2. The Accusation is dismissed as to respondent Thomas Chisholm. The District shall rescind the Preliminary Notice issued to Mr. Chisholm, and Mr. Chisholm shall be retained for his full 1.0 FTE position.

3. The District shall rescind the Preliminary Notice issued to respondent Keri Conklin-Tafuro as to .83 FTE. The District may give notice to Ms. Conklin-Tafuro that her position shall be reduced by .17 FTE for the 2011-2012 school year.

4. The District may give notice to the remaining respondents in inverse order of seniority that it will not require their services for the 2011-2012 school year.

Dated: April 20, 2011



CATHERINE B. FRINK
Administrative Law Judge
Office of Administrative Hearings

APPENDIX A

2011 Willows Unified School District – List of Respondents

	Last Name	First Name	Procedural Status
1	Abold	Dianna	
2	Albert	Lauren	
3	Busler	Sharon	
4	Cameron	Cristina	
5	Chisholm	Thomas	Retained for full 1.0 FTE
6	Conklin-Tafuro	Keri	Retained for .83 FTE
7	Farnworth	Wendy	Notice rescinded
8	Fleming	Cathryn	
9	Lozano-Trujillo	Gricelda	
10	Perrin	Melanie	
11	Stewart	Christine	
12	Vierra	Addie	

BEFORE THE
GOVERNING BOARD OF THE
WILLOWS UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusation/Non-
Reemployment of Certificated Employees
of the Willows Unified School District

OAH No. 2011031315

Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Willows Unified School District as its Decision in the above-entitled matter.

This Decision shall become effective on _____.

IT IS SO ORDERED this _____ day of _____.

President, Governing Board
Willows Unified School District