



NOTICE OF SPECIAL MEETING

Written notice is hereby given, in accordance with Education Code Section 35144 and Government Code Section 54957, that a special meeting of the Governing Board of the National School District will be held as follows:

Monday, May 11, 2009 – 10:30 a.m.

Closed Session from 9:30 – 10:30 a.m.

Administrative Center
National School District
1500 N Avenue
National City, CA

The business to be transacted at this meeting shall be limited to the following:

Pending Litigation Pursuant to Government Code Section 54956.9(a):
CONFERENCE WITH LEGAL COUNSEL – OFFICE OF ADMINISTRATIVE HEARINGS
Case #2009030453

Closed session in accordance with Government Code Section 54957.6:
CONFERENCE WITH LABOR NEGOTIATOR
Agency negotiator: Cindy Frazee
Employee organizations: California School Employees Association

- 1. CALL TO ORDER**
- 2. OPENING PROCEDURES**
 - A. Pledge of Allegiance
 - B. Roll Call

NATIONAL SCHOOL DISTRICT
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3. PUBLIC COMMUNICATIONS

4. HUMAN RESOURCES

- A. Approve amended proposed decision of the Office of Administrative Hearings (OAH) Administrative Law Judge in OAH case number 2009030453 authorizing final layoff of certificated bargaining unit employees effective June 30, 2009.

District Superintendent's Recommendation: Approve amended proposed decision of the OAH.

Moved by _____ Seconded by _____ Vote _____


- B. Adopt Resolution #08-09.36 authorizing final (May 15) layoff notices to certificated employees effective June 30, 2009.

District Superintendent's Recommendation: Adopt Resolution.

Moved by _____ Seconded by _____ Vote _____

5. BOARD/CABINET COMMUNICATIONS

6. ADJOURNMENT


James Grier, Jr., President
Governing Board

DD:yo

May 8, 2009

GOVERNING BOARD AGENDA ITEM

Agenda Date: May 11, 2009

Prepared by: Cindy Frazee

Department: Human Resources

AGENDA ITEM:

Approve amended proposed decision of the Office of Administrative Hearings (OAH) Administrative Law Judge in OAH case number 2009030453 authorizing final layoff of certificated bargaining unit employees effective June 30, 2009.

 X Action

 Information

BACKGROUND INFORMATION:

The Office of Administrative Hearings conducted an Administrative Hearing on April 27, 2009 regarding certificated employees layoffs in the National School District.

CURRENT INFORMATION:

The proposed action is simply an approval of the amended decision from the Office of Administrative Hearings.

ADDITIONAL DATA:

None

COST IMPLICATIONS: N/A

FUNDING SOURCE: N/A

BEFORE THE
GOVERNING BOARD
OF THE
NATIONAL SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Layoff/Accusation
Against:

58 CERTIFICATED EMPLOYEES,

Respondents.

OAH No. 2009030453

AMENDED PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge, at National City, California on April 27, 2009.

Richard J. Currier, Esq. and Jennifer L. Cabuccia, Esq. of Currier & Hudson, represented the National School District (the district).

104 certificated employees were originally served with Reduction in Force Notices. Some of the served certificated employees failed to request a hearing and/or failed to file Notices of Defense. Consequently, 58 certificated employees remain as respondents in this matter.

Two respondents, Lisa Bellon and Nancy Esquivel, represented themselves. The remaining 56 respondents were represented by Fern M. Steiner, Esq.

Oral and documentary evidence was received and the matter was submitted on April 27, 2009.

FACTUAL FINDINGS

1. On March 4, 2009, the Superintendent of the district recommended, with regard to the ensuing school year, that the Governing Board of the district (the board) reduce or eliminate particular kinds of services (PKS) provided by the district for the 2009-2010 school year.

2. On March 4, 2009, the board adopted Resolution number 08-09-24, determining that it would be necessary to reduce or discontinue PKS at the end of the current

school year. The board determined that the PKS that must be reduced for the 2009-2010 school year were the following full time equivalent (FTE) positions:

<u>PKS</u>	<u>FTE</u>
K-6 Classroom Teachers	39.0
Language Arts Specialists	7.0
Physical Education Teachers	2.0
Counselor	4.0
Librarian	1.0
Psychologist	1.0
Impact Teachers	49.0
Total FTE positions to be reduced or eliminated	<hr/> 103.0

The parties do not dispute the fact that the services listed above are PKS, which may be reduced or discontinued within the meaning of Education Code section 44955.

3. The district's recommendation and the board's decision to reduce or discontinue the services listed in Finding 2, above, were neither arbitrary nor capricious; rather, the recommendation and decision were based on the projected, \$4 million dollar, budget deficit. Thus the board's decision represents a proper exercise of its discretion.

4. The reduction and discontinuation of services is related to the welfare of the district and its pupils, and it has become necessary to decrease the number of certificated employees as determined by the board.

5. The district is committed to retaining as many certificated employees and PKS as possible as this statutorily driven process proceeds. In this regard, on April 22, 2009, with the board's blessings, the district reduced Language Arts Teachers PKS from 7 FTE to 4 FTE. Ultimately, the number of certificated employees affected by these lay off proceedings was reduced to the current 58 and, as the employment landscape changes, the district hopes to reduce this number even more¹.

6. The Superintendent designated the respondents, permanent or probationary teachers employed by the district, by creating a seniority list, first selecting teachers to be laid off in the inverse of the order in which they were employed, then assigning and reassigning employment in such a manner that all employees to be retained will be retained so as to render any service which their seniority and qualifications entitle them to render.

7. The district does not employ any temporary certificated employees.

¹ The district has offered early retirement incentives to its employees and continues to monitor attrition in an attempt to minimize the number of respondents adversely impacted by this layoff process.

8. Prior to March 15, 2009, all respondents affected by the layoffs received written notices entitled, "Notice of Recommendation Not to Employ for the 2009-2010 School Year Pursuant to Education Code Sections 44949 and 44955." (Exh. 6.)

9. On March 24, 2009, the District Superintendent made and filed an accusation in his official capacity.

10. Prior to March 15, 2009, all respondents were served with board resolution number 08-09-24, a Notice of Accusation, the Accusation, a Notice of Defense and Request for Hearing, copies of Education Code sections 44949 and 44955 and Government Code sections 11506, 11507.5, 11507.6, 11507.7, and 11520. Additionally, the "Notice of Accusation" advised respondents as follows: "Your failure to request a hearing by filing a Notice of Defense within FIVE DAYS will constitute a waiver of your rights to a hearing." (Exh. 10)

11. 54 of the 58 of current respondents timely submitted their notices of defense requesting a hearing to determine if cause exists for not re-employing them for the ensuing year.

12. Each respondent who requested a hearing and filed a Notice of Defense was properly noticed of the date, time and place of the instant hearing.

13. All prehearing jurisdictional requirements were met.

14. Respondents are certificated permanent or probationary employees of the district.

15. The services of no permanent employee are being terminated while any probationary employee, or any permanent employee with less seniority, is being retained to render services which such permanent employee is certificated and competent to render.

LEGAL CONCLUSIONS

1. Jurisdiction for the instant proceedings exists pursuant to Education Code sections 44949 and 44955, and all notices and other requirements of those sections have been provided, as required.

2. The services listed in Factual Finding 2 are PKS that can be reduced or discontinued under Education Code section 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.

3. Based on the Factual Findings, considered in their entirety, cause exists to reduce the number of certificated employees of the District by 100 FTE positions², due to the budget crisis described in Factual Finding 3.

4. Cause to reduce or discontinue services relates solely to the welfare of the District's schools and pupils within the meaning of Education Code section 44949.

5. No junior certificated employee is scheduled to be retained to perform services which a more senior employee is certificated and competent to render.

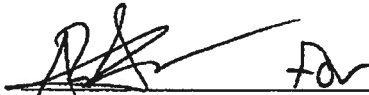
6. Cause exists to notify the 58 respondents that their services will not be needed during the 2009-2010 school year due to reduction or discontinuance of PKS.

DVISORY DETERMINATION

WHEREFORE, THE FOLLOWING ADVISORY DETERMINATION is hereby made:

The Accusation is sustained. The district may notify the 58 respondents listed in Appendix A and any certificated employees that were served layoff notices and failed to either request a hearing or file a notice of defense, that their services will not be needed during the 2009-2010 school year due to lack of funds and the resulting need to reduce or discontinue PKS.

DATED: May 6, 2009



ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

² As set forth in Finding 5, the district reduced Language Arts Teachers PKS by 3 FTE.

APPENDIX

A

1. Adamick, Emily
2. Bacher, Caitlin
3. Bahena, Maria
4. Barragan, Tanya
5. Bellon, Lisa
6. Benitez, Angelica
7. Bernachi, Brenda
8. Brito, Teresa
9. Burer, Kristin
10. Burnam, Jennifer
11. Cafasso, Michelle
12. Cahill, Bobbie
13. Campos, Janine
14. Carrillo, Marissa
15. Casillas, Karla
16. Castro, Maria
17. Cervantes, Jisel
18. Cueva, Mayra
19. Curcio, Anastasia
20. Damon, Daneal
21. Duran, Patricia
22. Elliott, Wendy
23. Ellis, Kristina
24. Esparza, Erica
25. Esquivel, Nancy
26. Fiszlewicz, Sara
27. Gates, Michelle
28. Greenfield, Sarah
29. Hartley, Joanna
30. Hayes, Amy
31. Hellenbrand, Lynn
32. Hernandez, Angelica
33. Isaacs, Jonathan
34. Lamas Elsas, Yenni
35. Leal, Yovanna
36. Martinez, Michael
37. Mendoza, Kathrina
38. Ochoa, Alejandro
39. Ochoa, Jessika
40. Ortiz, Lucia
41. Patino, Maria
42. Perez, Alejandro
43. Perez, Monica
44. Reynoso, Debra
45. Rodriguez, Karina
46. Satoafaiga, Semmi-Lu
47. Sbardellati, Kathryn
48. Schaefer, Mary
49. Sheppard, Cindy
50. Sobhani, Gabriela
51. Sotelo, Christina
52. Taniguchi, Kimberly
53. Vine, Bryan
54. Wappler, Sharon
55. Wert, Amy
56. Wilcox, Claudia
57. Wu, Sabrina
58. Zavala, Bertha

GOVERNING BOARD AGENDA ITEM

Agenda Date: May 11, 2009

Prepared by: Cindy Frazee
Department: Human Resources

AGENDA ITEM:

Adopt Resolution #08-09.36 authorizing final (May 15) layoff notices to certificated employees effective June 30, 2009.

 X Action

 Information

BACKGROUND INFORMATION:

The Governing Board of the National School District has determined that it shall be necessary to layoff certificated employees as a result of a lack of work and a lack of funds effective June 30, 2009.

CURRENT INFORMATION:

Upon the adoption of the attached resolution by the Governing Board, the District Superintendent is directed to send final layoff notices by May 15, 2009 to certificated employees whose services will be terminated at the end of the 2008-2009 school year.

ADDITIONAL DATA:

None

COST IMPLICATIONS: N/A

FUNDING SOURCE: N/A

NATIONAL SCHOOL DISTRICT
National City, California

RESOLUTION NO. 08-09.36

**AUTHORIZING FINAL (MAY 15) LAYOFF NOTICES
REDUCING OR DISCONTINUING PARTICULAR KINDS OF SERVICES
FOR THE 2009-2010 SCHOOL YEAR
IMPLEMENTING EDUCATION CODE SECTION 44955**

May 11, 2009

WHEREAS, the Governing Board of the National School District has determined that it will be necessary to reduce or discontinue the following services of the District no later than the beginning of the 2009-2010 school year:

K-6 Classroom Teacher	39.0	Full-Time Equivalents
Language Arts Specialist <i>(Also known as or previously known as Resource Teacher Instructional Services also known as or previously known as Teachers on Special Assignment Language Arts)</i>	4.0	Full Time Equivalents
Physical Education Teacher	2.0	Full Time Equivalents
Counselor	4.0	Full Time Equivalents
Librarian	1.0	Full Time Equivalents
Psychologist	1.0	Full Time Equivalents
Impact Teacher <i>(Impact Teachers work for no more than 134 workdays in any school year and work 4 hours per day)</i>	49.0	Full Time Equivalents

WHEREAS, it is the opinion of the Governing Board that it is in the best interests of this District that the number of certificated employees in the District be reduced; and

WHEREAS, the Governing Board has found that the foregoing services to be reduced or discontinued constitute a "particular kind of service" within the meaning of Education Code section 44955; and

WHEREAS, pursuant to Education Code sections 44949 and 44955, the Governing Board has determined that the foregoing reduction or discontinuance in particular kinds of services necessitate termination of the services of certificated employees in the District effective at the close of the 2009-2010 school year; and

WHEREAS, the Governing Board has adopted the amended proposed Decision of the Administrative Law Judge in OAH Case No. 2009030453;

NOW, THEREFORE BE IT RESOLVED, that due to the reduction or discontinuance of particular kinds of services, the legal number of certificated employees of the District shall not be re-employed for the 2009-2010 school year, pursuant to Education Code sections 44949 and 44955; and

BE IT FURTHER RESOLVED, that the Superintendent is directed to terminate positions by giving final (May 15) layoff notices pursuant to Education Code sections 44949 and 44955 to the following eighty-nine (89) certificated employees:

Casillas, Karla	Wilkie, Amanda	McBride, Rosemarie
Fidler, Evelyn	West, Erin	Sheppard, Cindy
Peters, Jacqueline	Aldenderfer, Marissa	Cortez, Mariza
Vermillion, Jolene	Mondares, Phon	Tolentino, Lindsay
Reynoso, Debra	Patino, Maria	Delgado, Dorothea
Calette, Rosalba	Pavao, Cari	Fis, Elizabeth
Castro, Maria	Vigil, Paul	Ventura, Angela
Brizuela, Linda	Garcia, Dawn	Bellon, Lisa
Casillas, Gloria	Esquivel, Nancy	Wilcox, Claudia
Galbraith, Lucy	Gates, Michelle	Hess, Konnie
Martinez, Michael	May, Erin	Richardson, Suzanne
Sandoval, Guadalupe	Vasche, Elizabeth	Chase, Donna
Sinclair, Vanessa	Adeyemi, Irungu	Barragan, Tanya
Barth, Sidoney	Bush, Amy	Curcio, Anastasia
Elliot, Wendy	Ellis, Kristina	Esparza, Erica
Gonzalez, Norma	Nunez, Lucia	Quigley, Margaret
Vasquez, Maria	Wappler, Sharon	Eagle, Wendy
Bernachi, Brenda	Cahill, Bobbi	Carson, Jessica
Duran, Patricia	Greenfield, Sarah	Hayes, Amy

Isaacs, Jonathan	Langarica, Yvonne	Sobhani, Gabriela
Sotelo, Christina	Zavala, Bertha	Lopez, Rosa
Wu, Sabrina	Cervantes, Jisel	Leal, Yovana
Satoafaiga, Semmi-Lu	Hartley, Joanna	Damon, Daneal
Espinoza, Rosario	Lamas Elsas, Yenni	Ochoa, Jessika
Roberts, Evy	Rodriguez, Karina	Vine, Bryan
Hellenbrand, Lynn	Villa, Megan	Schaefer, Mary
Wert, Amy	Adamick, Emily	Campos, Janine
Feuquay, Katherine	Ochoa, Alejandro	Ortiz, Lucia
Perez, Monica	Sbardellati, Kathryn	Yu, Naomi
Bacher, Caitlin	Tostado, Lisa	

BE IT FURTHER RESOLVED, that no probationary or permanent certificated employee shall be retained to render services which certificated employees who are to receive such notice pursuant to Education Code sections 44949 and 44955 are certificated and competent to render; and

PASSED AND ADOPTED this 11th day of May 2009, by the Governing Board of the National School District of National City, California, by the following vote:

AYES:

NOES:

STATE OF CALIFORNIA)

COUNTY OF SAN DIEGO)

I, Dennis M. Doyle, Ph.D., Secretary to the Governing Board of the National School District of San Diego County, California, do hereby certify that the foregoing is a true copy of a resolution adopted by said Board at a regular meeting thereof, held at its regular place of meeting at the time and by the vote above stated, which resolution is on file in the office of said Board.

Secretary to the Governing Board