



Putting
Children
First

Sacramento City Unified School District BOARD OF EDUCATION SPECIAL MEETING

Board of Education Members

Christina Pritchett, President (Trustee Area 3)
Leticia Garcia, Vice President (Trustee Area 2)
Chinua Rhodes, Second Vice President (Trustee Area 5)
Lisa Murawski (Trustee Area 1)
Jamee Villa (Trustee Area 4)
Darrel Woo (Trustee Area 6)
Lavinia Grace Phillips (Trustee Area 7)
Jacqueline Zhang, Student Member

Wednesday, May 11, 2022
7:15 p.m.

Serna Center
Community Conference Rooms
5735 47th Avenue
Sacramento, CA 95824

AMENDED AGENDA 2021/22-34

7:15 p.m. **1.0 OPEN SESSION / CALL TO ORDER / ROLL CALL**

7:20 p.m. **2.0 PUBLIC COMMENT FOR AGENDA ITEMS ONLY**

3.0 BOARD WORKSHOP/STRATEGIC PLAN AND OTHER INITIATIVES

3.1 Adopt Resolution No. 3270: Resolution Regarding Proposed **Action**
Decision of Administrative Law Judge and Implementing 5 minute presentation
Classified Layoffs (Cancy McArn) 10 minute discussion

7:35 p.m. **4.0 CLOSED SESSION**

While the Brown Act creates broad public access rights to the meetings of the Board of Education, it also recognizes the legitimate need to conduct some of its meetings outside of the public eye. Closed session meetings are specifically defined and limited in scope. They primarily involve personnel issues, pending litigation, labor negotiations, and real property matters.

4.1 Government Code 54957.6 (a) and (b) Negotiations/Collective Bargaining SCTA
SEIU, TCS, Teamsters, UPE, Non-Represented/Confidential Management
(District Representative Pam Manwiller)

5.0 ADJOURNMENT

NOTE: The Sacramento City Unified School District encourages those with disabilities to participate fully in the public meeting process. If you need a disability-related modification or accommodation, including auxiliary aids or services, to participate in the public meeting, please contact the Board of Education Office at (916) 643-9314 at least 24 hours before the scheduled Board of Education meeting so that we may make every reasonable effort to accommodate you. [Government Code § 54953.2; Americans with Disabilities Act of 1990, § 202 (42 U.S.C. §12132)] Any public records distributed to the Board of Education less than 24 hours in advance of the meeting and relating to an open session item are available for public inspection at 5735 47th Avenue at the Front Desk Counter and on the District's website at www.scusd.edu



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 3.1

Meeting Date: May 11, 2022

Subject: Adopt Resolution No. 3270: Resolution Regarding Proposed Decision of Administrative Law Judge and Implementing Classified Layoffs

- 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: Adopt Resolution No. 3270: Resolution Regarding Proposed Decision of Administrative Law Judge and Implementing Classified Layoffs.

Background/Rationale: On March 3, 2022 the Board of Education adopted its Resolution Notice of Layoff: Classified Employees- Reduction in Force Due to Lack of Funds and/or Lack of Work (Resolution No. 3254). Pursuant to Resolution No. 3254, Human Resource Services sent notices to affected classified employees on or before March 15, 2022 informing them they are subject to layoff for the 2022-2023 school year but with no employee being completely separated from the District. Pursuant to Education Code section 45117, a hearing was held before an Administrative Law Judge, the Honorable Erin Koch-Goodman, on April 26-April 27, 2022.

The Administrative Law Judge's proposed decision to the Board, dated May 3, 2022, was received by the District on May 9, 2022. The Board, at this meeting, will consider the proposed decision by its Resolution No. 3270. Once the resolution is adopted, final layoff notices shall be served on the affected employees before May 15, 2022 as required by law.

Financial Considerations: N/A

LCAP Goal 2: Safe, Clean, and Healthy Schools

Documents Attached:

1. Resolution No. 3270
2. Executive Summary

Time of Presentation: 5 minutes

Submitted by: Cancy McArn, Chief Human Resources Officer

Approved by: Jorge A. Aguilar, Superintendent

**SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION**

RESOLUTION NO. 3270

**RESOLUTION REGARDING PROPOSED DECISION OF ADMINISTRATIVE
LAW JUDGE AND IMPLEMENTING CLASSIFIED LAYOFFS**

WHEREAS, the Board of Education of the Sacramento City Unified School District adopted Resolution 3254 on March 3, 2022, authorizing and directing the Superintendent, or Superintendent's designee, to initiate and pursue procedures necessary to discontinue and/or reduce services of classified staff totaling 86.53113 full time equivalent classified employees of this District pursuant to Education Code sections 45117 and 45308 due to a reduction in force due to lack of funds and/or lack of work; and

WHEREAS, the Superintendent, or Superintendent's designee, duly and properly served notice on the classified employees listed in Attachment "A" on or before March 15, 2022, indicating that the Board did not intend to retain them to the extent indicated in the Resolution and Notice for the 2022-2023 school year; and

WHEREAS, the classified employees listed in Attachment "A" were informed of their right to request a hearing and that failure to do so in writing would constitute a waiver of the right to a hearing; and

WHEREAS, a layoff hearing was convened on April 26 and 27, 2022, by the Office of Administrative Hearings, State of California, for five (5) classified employees who timely requested a hearing and submitted a notice of participation, one of whom subsequently withdrew her request for hearing; and

WHEREAS, a Proposed Decision dated May 3, 2022, was submitted by the Honorable Erin Koch-Goodman, Administrative Law Judge, Office of Administrative Hearings, In the Matter of the Reduction in Force pertaining to those employees who appeared for the hearing, a true and correct copy of which included as "Attachment B," attached hereto and fully incorporated herein by this reference; and

WHEREAS, the Board has duly considered said Proposed Decision;

THEREFORE BE IT RESOLVED that the Board adopts the Proposed Decision as the decision of the Board;

THE BOARD HEREBY FINDS sufficient cause for not retaining the classified employees listed in Attachment "C" and consistent with the Proposed Decision, and finds that the decision to not retain these employees in the amounts set forth in Resolution No. 3254 relates to the welfare of the schools of the Sacramento City Unified School District and the pupils thereof; and

BE IT FURTHER RESOLVED AND ORDERED that the Superintendent or Superintendent's designee, is authorized and directed to notify those classified employees listed in Attachment "C", pursuant to Education Code section 45117, that their services will not be required by this District for the ensuing 2022-23 school year in the amounts specified in Resolution No. 3254. Said notice shall be given by serving upon the classified employees listed in Attachment "C" a true and correct copy of this Resolution and notification that their services will be terminated or reduced at the

end of the current 2021-2022 school year and shall be so notified by the Superintendent or Superintendent's designee.

PASSED AND ADOPTED by the Sacramento City Unified School District Board of Education on this 11th day of May, 2022, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

Christina Pritchett
President of the Board of Education

ATTESTED TO:

Jorge A. Aguilar
Secretary of the Board of Education

ATTACHMENT A

	Last Name	First Name
1	Pierson	Desiree
2	Murrillo De Pena	Manuela
3	Garis	Courtney
4	Hinojos	Yuridia
5	Harris	Alona
6	Garcia	Louise
7	Arcaina	Alicia
8	Cervantes	Sandra
9	Trice	Alyca
10	Proby	Latrechia
11	Chaidez	Romeo
12	Chau	Kim
13	Hilliard	Danielle
14	Spivey	Jujuana
15	Oliver	Shari
16	Chodon	Lhakpa
17	McCauley	Telicia
18	Serrano	Josefine
19	Halpine	Chuai
20	Penalozza Luna	Concepcion
21	Kokhanovich	Anna
22	Storozhuk	Nadiya
23	Dang	Nhuong
24	Desmond	Sharon
25	Saldana-Alvarez	Laura
26	Alfaro	Arlene
27	Cheung	Anna
28	Carrillo Flores	Rocio
29	Maria De Lepe	Ana
30	Tran	Ngoc
31	King	Austin
32	Huang	Ru
33	Yu	Minyan
34	Fain	Andrew
35	Delavan	John
36	Romero	Mariela
37	Uribe-Ramirez	Henrietta
38	Borghesil	Carrie
39	Hall	Lisa
40	Lee	Yee
41	Santiago	Marilou
42	De Gomez	Martha
43	Mack	Christy

44	Robles	Silvia
45	Johnson	Pamela A
46	Reyes	Silvia
47	Afable	Eduardo V
48	Rivera	Angie
49	Chu	Melody A
50	Fraga	Luz
51	Mendoza	Magda
52	Zuniga	Christina
53	Dixon	Lashan
54	Holmgren	Miryea
55	Horner	Kellie
56	Fong	Julie
57	Fernandez	Obdulia
58	Pareja Delgado	Marianela
59	Morones De Nava	Ruth
60	Gonzalez	Claudia
61	Newton	Shree
62	Del Toro Figueroa	Erika
63	Andrade Martinez	Silvia
64	Hajaz	Silvia
65	Saechao	Shelly
66	Martino	Lexi
67	Hughes	Rachel
68	Rogers	Phebie
69	Venegas	Angelique
70	Li	Hua
71	Hang Yang	Christina Thai
72	Reyes	Jose
73	Cardenas	Eraldica
74	Martinez	Araceli
75	Atkinson	Tiffany
76	Brown	Priscilla
77	Pham	Hoa
78	Gonzalez	Karla
79	Xu	Xiuyan
80	Jackson	Tyasmom
81	Espitia	Celia
82	Reynolds	Casey
83	Serrato Lozano	Claudia
84	Lopez	Ofelia
85	Nghiem	Hong
86	Torres Garcia	Sandra
87	Soto Zamudio	Tomasa
88	Herrera	Elisabeth
89	Pacheco	Catherine

90	Darvell	Samantha
91	Olvera Ochoa	Dora
92	Pottle	Wendy
93	King	Keonna
94	Carley	Koy
95	Starks	Juanda
96	Kirkendoll	Michael
97	Lewis	Lisa
98	Henderson-Vincent	Carol
99	Marshall	Ka'Ron
100	Haynesworth	Katon
101	Kafouros-Parker	Katrina
102	Leschinskiy	Irina
103	Schoorl	Sara
104	Beltran	Patricia
105	Lopez	Karen
106	Gonzales Fred	Juanita

ATTACHMENT B
[ALJ'S PROPOSED DECISION]

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

In the Matter of the Classified Reduction in Force of:

**MELODY CHU, NHUONG DANG, JOHN DELAVAN, DANIELLE
HILLIARD,¹ and KATRINA KAFOUROS-PARKER, Respondents**

OAH No. 2022040370

PROPOSED DECISION

Erin R. Koch-Goodman, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on April 26 and 27, 2022, by videoconference from Sacramento, California.

Sacramento City Unified School District (District) was represented by Gabriela D. Flowers and Courtney de Groof, Attorneys at Law, Lozano Smith.

Melody Chu, Nhuong Dang, John Delavan, and Katrina Kafouros-Parker (collectively, respondents) were represented by Tiffany Crain, Attorney at Law, Weinberg, Roger and Rosenfeld.

¹ Before the hearing began, respondent Danielle Hilliard withdrew her Notice of Participation. The matter proceeded without her.

Evidence was received, the record closed, and the matter submitted for decision on April 27, 2022.

FACTUAL FINDINGS

Jurisdictional Matters

1. Cancy McArn is the District's Chief Human Resources (HR) Officer. The actions of Ms. McArn, and those of the District's staff and Board of Education (Board), were taken solely in their official capacities and made for the welfare of its schools and the pupils.

2. On March 3, 2022, Ms. McArn recommended to the Board a reduction and/or elimination of classified employee positions for the 2022-2023 school year, based upon a lack of work and/or lack of funds and to ensure the District's long-term fiscal health. The same day, the Board adopted Resolution No. 3254, Notice of Layoff: Classified Employees – Reduction in Force Due to Lack of Funds and/or Lack of Work (Resolution), mandating the same, to benefit "the welfare of the school and the pupils." The Resolution mandated a reduction or elimination of 86.531130 full-time equivalent (FTE) positions and directed the Superintendent or his designee to give notice to the affected classified employees. Relevant here, the Resolution identified: a single Special Education Program Technician position, 12 Months/Year, 8 Hours/Day, for a total of 1 FTE and 74 Food Service Assistant positions, 10 Months/Year, with time ranging from 15 Minutes (0.03125 FTE) to 3 Hours/Day (0.37500), for a total of 25.87500 FTE.

3. On March 15, 2022, Ms. McArn served each respondent with a Notice of Layoff (Notice), informing them of the elimination of their position because of a lack of

work and/or lack of funds. However, Ms. McArn noted: "in accordance with Education Code Section(s) . . . and Article 20 of the SEIU [Service Employees International Union], Local 1021 contract [CBA or Collective Bargaining Agreement] negotiated with the District, you may have displacement rights." In fact, the Notice informed respondents of their layoffs and their placement into another position or the same position but with a reduction in hours. Specifically, respondent Kafouros-Parker was laid off from her 2021-2022 position as a Special Education Program Technician, 12 Months/Year, 8 Hours/Day, and placed at Hiram Johnson High School as an Office Technician IV, 12 Months/Year, 8 Hours/Day for 2022-2023. Respondents Chu and Dang were laid off from their positions as Food Service Assistants, 10 Months/Year, 6 Hours/Day, but placed in the same position for 3 Hours/Day. Respondent Delevan was laid off from his position as a Food Service Assistant, 10 Months/Year, 6 Hours/Day, but placed in the same position for 3.5 Hours/Day. A copy of the Resolution was served with the Notice.

4. Respondents timely filed Requests for Hearing. On March 29, 2022, Ms. McArn served respondents with a Statement, requiring the submission of a Notice of Participation, in order to take part in the hearing on the classified reduction in force. Respondents timely filed Notices of Participation. This hearing followed.

Cause for Reduction or Elimination of Positions

5. The District maintains 78 school sites in urban Sacramento County. The District provides early care through adult learning, employing approximately 2,700 certificated and 2,000 classified employees. The District serves a student population of approximately 40,000, who are "richly diverse" and speak 43 different languages. Approximately 70 percent of District students take part in the free or reduced-price lunch program.

DISTRICT BUDGET

6. On June 24, 2021, the Board approved the District's 2021-2022 annual budget. The Sacramento County Office of Education (SCOE) conditionally approved the District's 2021-2022 budget, noting concern due to the ongoing structural deficit. As part of the SCOE conditional approval, the District was required to submit a viable Board-approved Fiscal Recovery Plan (Recovery Plan) by December 15, 2021, addressing the ongoing structural deficit projected to increase in future years.

7. On December 16, 2021, the District provided to the Board: an Interim Financial Report (Financial Report) and the Recovery Plan. The Financial Report was based on financial information as of October 31, 2021 and projected a deficit of \$2.3 million (M) for the remaining 2021-2022 fiscal year, a \$19.4 M deficit for 2022-2023, and a \$26.2 M deficit for 2023-2024. The Financial Report noted that ongoing reductions of \$26.2 M would be required to balance the budget, satisfy the state-mandated (2 percent) reserves,² and maintain fiscal solvency. As such, the Recovery Plan recommended a five-part proposal. First, a \$5.2 M potential cost savings to the unrestricted general fund from the textbook adoption budget and new teacher induction and a \$7.9 M savings in staffing adjustments based on the enrollment decline. The result: a projected deficit of \$2.3 M for the remaining 2021-2022 fiscal

² Board Policy (BP) 3100 establishes a reserve for economic uncertainty of no less than 5 percent of total general fund expenditures. In addition, BP 3100 acknowledges that one-time funding should be used for one-time expenditures and shall only be used for an ongoing expenditure as a last resort. As part of the approval of the annual budget, the Board shall consider any proposed use of one-time funding and shall take separate action to approve such uses.

year, a deficit of \$14.1 M for 2022-2023, and a deficit of \$25.9 M for 2023-2024. Second, approve to reserve one-time unrestricted general fund savings from unexpended budget categories from vacancies and operational savings of \$14.2 M. Third, approve to apply additional unrestricted general funds provided by the State budget to the deficit. Fourth, achieve a negotiated solution to address the deficit in districtwide proposals subject to negotiations, including health, dental and vision benefits, furlough days, and salary reductions. Fifth, revisit additional items for reconsideration to address the deficit as needed, including the further reduction of central office staffing and/or school site staffing, including assistant principals and counselors. Ultimately, the Recovery Plan determined: (1) the District was at risk of fiscal insolvency if the required reductions were not implemented for the 2022-2023 and 2023-2024 fiscal years; (2) although savings from the non-negotiable items would reduce the deficit, the non-negotiable reductions alone would not be sufficient to achieve fiscal solvency; and (3) additional reductions would be required to eliminate deficit spending.

8. On March 17, 2022, the District filed its second Financial Report with the Board. This Financial Report was based on financial information as of January 31, 2022 and projected a \$4.3 M surplus for the remaining 2021-2022 fiscal year, a \$10.4 M surplus for 2022-2023, and a \$6.2 M deficit for 2023-2024. The District noted the changes to the budget since the first Financial Report: significant improvement in State revenues since the State budget was adopted; cost of living increases; and dedicated one-time COVID funding.

COVID Funding

9. During the past two years, the District's budget has fluctuated to a greater extent due to the impact of COVID. For example, prior to the pandemic, the

District's combined operating budget was approximately \$555 M and as of the 2021-2022 first Financial Report, the projected combined budget is approximately \$711 million, representing a difference of approximately \$156 M. However, this artificially large budget will return to pre-pandemic levels in two years, once the one-time revenues and expenditures are removed.

10. Due to school closures and remote work, the District realized a one-time savings in operating costs. The District was also awarded a significant amount of one-time restricted COVID relief funds. Both the one-time savings and one-time relief funds resulted in increasing combined reserves and revenues, but these adjustments are temporary and not ongoing. Also, COVID relief funds are restricted for COVID related expenses only and cannot be used to address the deficit.

11. The one-time restricted COVID relief funds account for approximately 91% of the \$156 million budget increase and the remaining 9% of the increase is due to carryover and a cost of living adjustment. Excluding the one-time funds, the District's deficit is not resolved but is simply masked by the one-time savings and funds.

12. In addition, the Nutrition Services Department received a large sum of the one-time COVID funds. When students were not in school (distance learning), the District was still preparing meals for pick-up. When some students returned to school (hybrid learning), the District was preparing meals for pick-up and at school. For Fall 2021, with COVID restrictions still in place, the District asked Food Service Assistants to work beyond their normal hours. Initially, respondents Chu and Dang were employed by the District to work 3 Hours/Day (0.37500 FTE) but were asked and accepted additional hours for a total of 6 Hours/Day (0.75000 FTE) in Fall 2021. Respondent Delavan was employed by the District to work 3.75 Hours/Day (0.46875 FTE) but was

asked and accepted additional hours for a total of 6 Hours/Day in Fall 2021. In addition, in January 2022, respondents Chu, Dang, and Delavan were each offered short-term positions (Spring 2022) as Food Service Assistants, 6 Hours/Day plus benefits; respondents Chu, Dang, and Delavan accepted the short-term positions. However, for 2022-2023, all District students will be back in school (classroom learning) and there will no longer be the need to prepare meals for pick-up; coupled with declining student enrollment and the elimination of one-time COVID funds, the District no longer has the need or resources to support respondents working 6 Hours/Day, with or without benefits. As such, layoffs in the Food Service Assistant classification were the only option.

TEACHER'S STRIKE AND NEGOTIATED SALARY INCREASES

13. Since the District provided the Board with the second Financial Report, additional changes have occurred affecting the District's budget, including a certificated teacher's strike and the subsequent negotiated agreements with the same. In March 2022, certificated teachers at the District staged a strike. The strike cost the District \$47 M in revenue, almost depleting budget reserves. In April 2022, the District negotiated a three-year agreement with the certificated teachers for approximately \$100 M. As such, the District's budget is reduced by \$147 M over a three-year period (2022-2025).

Layoffs

14. The parties have negotiated specific layoff procedures in Article 20 of the CBA. "A layoff is an involuntary separation from service or an involuntary reduction in an employee's hours or work year . . . based upon a lack of work or lack of funds." (CBA, Art. 20.1.) Layoff "[s]eniority is established by the employee's date of hire as a

regular probationary or permanent employee of the District in the classification plus any service in higher classes" (Art. 20.3.) "The employee who has been employed the shortest time in the classification, hours, and work year to be eliminated or for which the hours will be reduced shall be laid off first." (Art. 20.4.)

15. For a layoff, the CBA requires the District to implement an: (1) administrative transfer, (2) layoff, (3) bumping rights within a classification, and (4) bumping rights to another classification. (Art. 20.6.) First, "the employee(s) in the position(s) to be eliminated or for which the hours will be reduced by the District shall be administratively transferred to a vacant position, if any, in the same classification, hours, and work year." (Art. 20.6.1.) "If there is one or more employees in the same classification, hours and work year in the position to be eliminated or for which the hours will be reduced, the most senior employee shall be administratively transferred first." (*Ibid.*) Second, "[i]f there are no vacancies in the classification, hours, and work year of the position to be eliminated or for which the hours will be reduced the District shall engage in a layoff." (Art. 20.6.2.) However, "[a]n employee whose position is being eliminated or for which the hours will be reduced may displace the employee within his/her classification, hours, and work year who has the least seniority." (Art. 20.6.3.) "The employee having the least seniority within his/her classification, hours, and work year who is to be laid off, and who has seniority in a different classification, hours, and work year (with an equal or lower maximum salary range) greater than that of an incumbent, shall be placed in a vacancy, if any. If no vacancy exists then the employee shall have the right to displace the incumbent with the least seniority in that classification, hours, and work year." (Art. 20.6.4.)

SENIORITY

16. In this case, Jake Hansen, HR Technology Analyst, created a seniority list of affected positions and employees, including previously held positions and hire dates with the District. Mr. Hansen also created a bumping chart of affected employees and positions. Respondents are all classified employees ranked on the seniority list and bumping chart.

17. For 2021-2022, respondent Kafouros-Parker is working as a Special Education Program Technician; she was hired as a probationary/permanent employee into the classification on July 24, 2018. According to the Notice, respondent Kafouros-Parker's position is being eliminated. There are no vacancies in the same classification and no one in the classification with less seniority either. As such, the District bumped respondent Kafouros-Parker into another classification (Office Technician IV), where she had seniority over the incumbent based upon her hire date into the position on December 17, 2012 as a probationary/permanent employee. Respondent Kafouros-Parker does not challenge the District's lack of funds. However, she believes that the duties of the Special Education Program Technician are ongoing and will continue (i.e., there is not a lack of work). In addition, she argues for an earlier seniority date, based upon her March 24, 2003 hire date with the District as a long-term substitute in the Special Education Instructional Aid classification. Assuming the District has correctly identified respondent Kafouros-Parker's hire date, she did not identify any errors in the District's seniority list or bumping chart.

18. For 2021-2022, respondent Chu is working as a Food Service Assistant; she was hired as a probationary/permanent employee into the classification on February 27, 2017. Her short-term assignment for 6 Hours/Day with benefits will conclude at the end of the Spring 2022 semester. According to the Notice, respondent

Chu's hours are being reduced from 6 Hours/Day to 3 Hours/Day. There are vacancies in the same classification, and she has more seniority than others based upon her hire date of February 27, 2017. However, respondent Chu argues for an earlier seniority date, based upon her November 17, 2015 hire date as a substitute in the Food Service Assistant classification.

19. For 2021-2022, respondent Dang is working as a Food Service Assistant; she was hired as a probationary/permanent employee into the classification on April 5, 2010. Her short-term assignment for 6 Hours/Day with benefits will conclude at the end of the Spring 2022 semester. According to the Notice, respondent Dang's hours are being reduced from 6 Hours/Day to 3 Hours/Day. There are vacancies in the same classification, and she has more seniority than others based upon her hire date of April 5, 2010. However, respondent Dang argues for an earlier seniority date, based upon her October 13, 2008 hire date as a substitute in the Food Service Assistant classification.

20. For 2021-2022, respondent Delavan is working as a Food Service Assistant; he was hired as a probationary/permanent employee into the classification on January 26, 2015. His short-term assignment for 6 Hours/Day with benefits will conclude at the end of the Spring 2022 semester. According to the Notice, respondent Delavan's hours are being reduced from 6 Hours/Day to 3.5 Hours/Day. There are vacancies in the same classification, and he has more seniority than others based upon his hire date of January 26, 2015. However, respondent Delavan argues for an earlier seniority date, based upon his June 3, 2013 hire date as a substitute in the Food Service Assistant classification.

21. Assuming the District has correctly identified respondents Chu, Dang, and Delavan's hire dates, they did not identify any errors in the District's seniority list

or bumping chart. However, respondents Chu, Dang, and Delavan questioned the District's lack of funds, because it has continued to advertise and hire Food Service Assistants during the 2021-2022 school year. In addition, respondents Chu, Dang, and Delavan believe the 6 Hour/Day workload will continue into 2022-2023, although they are not aware of any student enrollment numbers or changing Nutrition Services Department responsibilities.

Analysis

22. In this case, the District identified a substantial budget deficit, requiring considerable cuts to prevent financial insolvency. In addition, the District must consider one-time COVID funds that will no longer be available, especially impacting the Nutrition Services Department; the \$47 M certificated teacher's strike in March 2022; and the subsequent \$100 M negotiated agreements with certificated employees in April 2022.

23. Based upon the welfare of its schools and the pupils, the District laid off respondents based upon a lack of work and/or funds. Thereafter, the District properly interpreted the CBA and calculated the seniority date of each respondent, using their probationary/permanent hire dates. Ultimately, respondents raised no viable challenges to the District's lack of work and/or funds, seniority list or bumping chart. Given all of the above, the District acted properly in laying off respondents. Any other assertions put forth by respondents at the hearing and not addressed above are found to be without merit and are rejected.

LEGAL CONCLUSIONS

1. The burden is on the District to demonstrate that: (1) cause exists for the reduction or elimination of classified services based upon a lack of work and/or lack of funds; and (2) the cause is related to the welfare of the schools and the pupils (Ed. Code § 45117, subds. (a)(1) and (c)(3)(A).) In this case, the District identified a substantial budget deficit, requiring considerable cuts to prevent financial insolvency. In addition, the District must consider one-time COVID funds that will no longer be available, especially impacting the Nutrition Services Department; the \$47 M certificated teacher's strike in March 2022; and the subsequent \$100 M negotiated agreements with certificated employees in April 2022.

2. "No later than March 15, . . . the governing board of the school district and the employee shall be given written notice by the superintendent of the school district or the superintendent's designee, . . . that it has been recommended that the notice be given to the employee, stating the reasons that the employee's services will not be required for the ensuing year, and informing the employee of the employee's displacement rights, if any, and reemployment rights. (Ed. Code § 45117, subd. (a)(1).) On March 15, 2022, the District sent respondents a Notice, informing them of the elimination of their position or reduction in hours because of a lack of work and/or lack of funds; advising respondents of their displacement rights; and providing respondents with their new position (Kafouros-Parker) or reduction in hours (Chu, Dang, Delavan). The Notice satisfied the requirements of Education Code section 45117, subdivision (a)(1).

3. Pursuant to Education Code section 45308, subdivision (a):

If a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first.

Reemployment shall be in order of seniority.

In this case, length of service or seniority is defined by the CBA to mean: "the employee's date of hire as a regular probationary or permanent employee of the District in the classification . . . [but] does not include any substitute or temporary time . . . plus any service in higher classes (i.e., those with higher pay ranges)." (Art. 20.3; see also Ed. Code, 45308, subd. (b).) Here, the District correctly interpreted the "length of service" for each respondent, based on the definition of seniority found in the CBA. Thereafter, the District correctly laid off respondents, pursuant to Education Code section 45308, based on a lack of work and/or a lack of funds; and correctly determined respondents' seniority, displacement rights, and placement into a new position or a reduction in hours.

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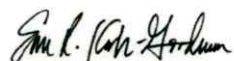
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RECOMMENDATION

Cause exists for the reduction of 86.531130 full-time equivalent classified positions/hours for the 2022-2023 school year. Notice shall be given to respondents that their services will be reduced (Chu, Dang, Delavan) or displaced (Kafouros-Parker) for the 2022-2023 school year, because of the lack of work and/or lack of funds.

DATE: May 3, 2022



ERIN R. KOCH-GOODMAN

Administrative Law Judge

Office of Administrative Hearings

ATTACHMENT C

	Last Name	First Name
1	Pierson	Desiree
2	Murrillo De Pena	Manuela
3	Garis	Courtney
4	Hinojos	Yuridia
5	Harris	Alona
6	Garcia	Louise
7	Arcaina	Alicia
8	Cervantes	Sandra
9	Trice	Alyca
10	Proby	Latrechia
11	Chaidez	Romeo
12	Chau	Kim
13	Hilliard	Danielle
14	Spivey	Jujuana
15	Oliver	Shari
16	Chodon	Lhakpa
17	McCauley	Telicia
18	Serrano	Josefine
19	Halpine	Chuai
20	Penaloza Luna	Concepcion
21	Kokhanovich	Anna
22	Storozhuk	Nadiya
23	Dang	Nhuong
24	Desmond	Sharon
25	Saldana-Alvarez	Laura
26	Alfaro	Arlene
27	Cheung	Anna
28	Carrillo Flores	Rocio
29	Maria De Lepe	Ana
30	Tran	Ngoc
31	King	Austin
32	Huang	Ru
33	Yu	Minyan
34	Fain	Andrew
35	Delavan	John
36	Romero	Mariela
37	Uribe-Ramirez	Henrietta
38	Borghesil	Carrie
39	Hall	Lisa
40	Lee	Yee
41	Santiago	Marilou
42	De Gomez	Martha

43	Mack	Christy
44	Robles	Silvia
45	Johnson	Pamela A
46	Reyes	Silvia
47	Afable	Eduardo V
48	Rivera	Angie
49	Chu	Melody A
50	Fraga	Luz
51	Mendoza	Magda
52	Zuniga	Christina
53	Dixon	Lashan
54	Holmgren	Miryea
55	Horner	Kellie
56	Fong	Julie
57	Fernandez	Obdulia
58	Pareja Delgado	Marianela
59	Morones De Nava	Ruth
60	Gonzalez	Claudia
61	Newton	Shree
62	Del Toro Figueroa	Erika
63	Andrade Martinez	Silvia
64	Hajaz	Silvia
65	Saechao	Shelly
66	Martino	Lexi
67	Hughes	Rachel
68	Rogers	Phebie
69	Venegas	Angelique
70	Li	Hua
71	Hang Yang	Christina Thai
72	Reyes	Jose
73	Cardenas	Eraldica
74	Martinez	Araceli
75	Atkinson	Tiffany
76	Brown	Priscilla
77	Pham	Hoa
78	Gonzalez	Karla
79	Xu	Xiuyan
80	Jackson	Tyasmom
81	Espitia	Celia
82	Reynolds	Casey
83	Serrato Lozano	Claudia
84	Lopez	Ofelia
85	Nghiem	Hong
86	Torres Garcia	Sandra
87	Soto Zamudio	Tomasa
88	Herrera	Elisabeth

89	Pacheco	Catherine
90	Darvell	Samantha
91	Olvera Ochoa	Dora
92	Pottle	Wendy
93	King	Keonna
94	Carley	Koy
95	Starks	Juanda
96	Kirkendoll	Michael
97	Lewis	Lisa
98	Henderson-Vincent	Carol
99	Marshall	Ka'Ron
100	Haynesworth	Katon
101	Kafouros-Parker	Katrina
102	Leschinskiy	Irina
103	Schoorl	Sara
104	Beltran	Patricia
105	Lopez	Karen
106	Gonzales Fred	Juanita

Board of Education Executive Summary

Human Resource Services

Adopt Resolution No. 3270: Resolution Regarding Proposed Decision of Administrative Law Judge and Implementing Classified Layoffs
May 11, 2022



I. Overview/History of Classified Layoffs for 2022-2023 Due to Lack of Funds and/or Lack of Work:

Due to concerns associated with District program needs, reduced funding, and declining enrollment, it was recommended that the Board approve a Reduction in Force Due to Lack of Funds and/or Lack of Work, which it did on March 3, 2022, in Board Resolution No. 3254. The approved classified reductions totaled 86.53113 full time equivalency ("FTE").

Before and after the Board approved this resolution, staff considered attrition, among other things, in order to reduce the number of current employees who would be subject to reduction. As a result, a total of 106 layoff notices were sent to impacted employees in inverse seniority order by job classification, work calendar, and hours. While some employees will have fewer hours next school year, no employee will lose District employment as a result of this layoff. Employees who were served a preliminary layoff notice had seven days to request a hearing. Of the 106 employees who received a layoff notice, seven timely submitted a request for a hearing. These seven employees were served with a Statement of Reduction in Force packet per Education Code section 45117, for which they were required to submit a Notice of Participation within five days. Of the seven employees who timely requested a hearing, five timely submitted a Notice of Participation. A hearing was scheduled for these five respondents.

The Classified Layoff hearing took place on April 26, 2022 and April 27, 2022, and was presided over by Administrative Law Judge, Honorable Erin Koch-Goodman, of the Office of Administrative Hearings.

On May 9, 2022, the District received Administrative Law Judge, Honorable Erin Koch-Goodman's proposed decision dated May 3, 2022.

II. Driving Governance:

Education Code section 45117 requires the administrative law judge who presides over the layoff hearing to "prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the welfare of the schools and the pupils of the schools. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the administrative law judge shall be binding on the governing board."

Board of Education Executive Summary

Human Resource Services

Adopt Resolution No. 3270: Resolution Regarding Proposed Decision of Administrative Law Judge and Implementing Classified Layoffs
May 11, 2022



Education Code section 45117 requires that final layoff notices be served on affected employees before May 15.

III. Budget:

Position reductions are needed to assist in addressing the District's declining enrollment, the elimination of certain funds, and staffing needs.

IV. Goals, Objective and Measures:

Judge Koch-Goodman was tasked with determining whether the District satisfied the requirements of Education Code sections 45117 and 45308 when it reduced 86.53113 FTE.

V. Major Initiatives:

It is recommended that the Board adopt the proposed decision and authorize staff to send final layoff notices to affected employees according to same, per the attached resolution.

VI. Results:

With the adoption of Resolution No. 3270, the Chief Human Resources Officer and staff will be directed to send final layoff notices to affected employees.

These final layoff notices must be sent to employees before May 15, 2022 as required by law.