



Sacramento City Unified School District
Putting Children First
BOARD OF EDUCATION
Special Board Meeting

Board of Education Members

Chinua Rhodes, President (Trustee Area 5)
 Lavinia Grace Phillips, Vice President (Trustee Area 7)
 Jasjit Singh, Second Vice President (Trustee Area 2)
 Tara Jeane (Trustee Area 1)
 Christina Pritchett (Trustee Area 3)
 Jamee Villa (Trustee Area 4)
 Taylor Kayatta (Trustee Area 6)
 Liliana Miller Segura, Student Member

Wednesday, May 8, 2024
4:30p.m.-4:55p.m.

Serna Center
 5735 47th Avenue
 Sacramento, CA 95824

AGENDA
2023/24-26

4:30 p.m. **1.0 OPEN SESSION / CALL TO ORDER**

2.0 PUBLIC COMMENT REGARDING ITEMS TO BE DISCUSSED IN CLOSED AND OPEN SESSION

NOTICE OF PUBLIC COMMENT AND DEADLINE FOR SUBMISSION

Members of the public may address the Board on-agenda items only. Public comment may be (1) emailed to publiccomment@scusd.edu; (2) submitted in writing through the District's website at https://www.scusd.edu/submit-public-comment; or (3) provided in-person at the meeting. The submission deadline for written public comments shall be no later than noon on the day of the meeting. If you intend to address the Board in-person, please fill out a yellow card available at the entrance. Speakers may be called in the order that requests are received, or grouped by subject area. We ask that comments are limited to two (2) minutes with no more than 15 minutes per single topic so that as many people as possible may be heard. By law, the Board is allowed to take action only on items on the agenda. The Board may, at its discretion, refer a matter to district staff or calendar the issue for future discussion.

4:45 p.m. **3.0 BOARD WORKSHOP/STRATEGIC INITIATIVE**

3.1 Adopt Resolution No. 3403: Resolution Regarding Proposed Decision of Administrative Law Judge and Implementing Classified Layoffs (Cancy McArn)

Action
 5 minute presentation
 5 minute presentation

4:55 p.m. **4.0 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 8, 2024

Subject: Adopt Resolution No. 3403: 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. 3403: Resolution Regarding Proposed Decision of Administrative Law Judge and Implementing Classified Layoffs.

Background/Rationale: On February 15, 2024, 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. 3384). Pursuant to Resolution No. 3384, Human Resource Services sent notices to affected classified employees on or before March 15, 2024 informing them they are subject to layoff for the 2024-2025 school year. Pursuant to Education Code section 45117, a hearing was held before an Administrative Law Judge, the Honorable Sean Gavin on April 22, 2024.

The Administrative Law Judge's proposed decision to the Board, dated April 25, 2024, was received by the District on April 26, 2024. The Board, at this meeting, will consider the proposed decision by its Resolution No. 3403. Once the resolution is adopted, final layoff notices shall be served on affected employees before May 15, 2024 as required by law.

Financial Considerations: N/A

LCAP Goal 2: Safe, Clean, and Healthy Schools

Documents Attached:

1. Resolution No. 3403
2. Executive Summary

Estimated Time of Presentation: 5 minutes

Submitted by: Cancy McArn, Chief Human Resources Officer

Approved by: Lisa Allen, Superintendent

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

RESOLUTION NO. 3403

**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 3384 on February 15, 2024, 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 145.63695 full time equivalent classified positions, including vacancies, 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, 2024, indicating that the Board did not intend to retain them to the extent indicated in the Resolution and Notice for the 2024-2025 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 22, 2024, by the Office of Administrative Hearings, State of California, for three (3) classified employees who timely requested a hearing and appeared for the hearing; and

WHEREAS, a Proposed Decision dated April 25, 2024, was submitted by the Honorable Sean Gavin, 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 in full 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. 3384, and provided in the precautionary layoff notices issued to them by March 15, 2024, 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 2024-25 school year in the amounts specified in Resolution No. 3384 and provided in the precautionary layoff notices issued to those employees. 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 2023-2024 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 8th day of May, 2024, by the following vote:

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

Lavinia Grace Phillips
President of the Board of Education

ATTESTED TO:

Lisa Allen
Secretary of the Board of Education

ATTACHMENT A

	Last Name	First Name
1	Lau	Genevie Lei
2	Rincon	Silvia
3	Santiago	Marilou
4	McKenzie	Rayne
5	Garcia	Isabel
6	Hall	Gayla
7	Rebollo Esquivel	Yoselin
8	Granado	Maritza
9	Blackshire	Christy
10	Cuevas De Lopez	Imelda
11	Kumar	Sunita
12	Singh	Jasmine
13	Yang	Alie
14	Asuncion	Vince
15	Karuzas	Susannah
16	Kelly	Conor
17	Lavine	Lara
18	Valencia	Nicole
19	Yamamoto	Catie
20	Young	Samania

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 Reduction in Force of Classified
Employees:**

**VINCE ASUNCION; CHRISTY BLACKSHIRE; SUSANNAH
KARUZAS; LARA LAVINE; MARILOU SANTIAGO; and CATIE
YAMAMOTO, Respondents**

OAH No. 2024040444

PROPOSED DECISION

Sean Gavin, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on April 22, 2024, from Sacramento, California.

Courtney de Groof, Attorney at Law, represented the Sacramento City Unified School District (District).

Respondents Vince Asuncion, Susannah Karuzas, and Catie Yamamoto (collectively, "respondents") each appeared without an attorney. Before the hearing, respondents Christy Blackshire, Lara Lavine, and Marilou Santiago withdrew their requests for hearing, and the matter proceeded in their absence.

Evidence was received and the hearing concluded on April 22, 2024. The record was held open until April 23, 2024, to allow the District to submit redacted copies of Exhibits 6, 7, 9, 12, 13, and 15. The District did so, the record closed, and the matter submitted for decision on April 23, 2024.

FACTUAL FINDINGS

Jurisdictional Matters

1. Lisa Allen is the District's Interim Superintendent. Cancy McArn is the District's Chief Human Resources (HR) Officer. The actions of Superintendent Allen, Ms. McArn, District staff, and the Board of Trustees (Board) were taken solely in their official capacities.

2. On February 15, 2024, the Board adopted Resolution No. 3384, pursuant to which it resolved to eliminate or reduce 145.63695 total full-time equivalent (FTE) positions "due to a lack of work and/or lack of funds and/or due to the expiration of a specially funded program(s)." The Resolution directed Superintendent Allen or her authorized designee to send appropriate notices to all employees whose positions would be affected by the reduction in force. At the time, the District employed respondents as Board-Certified Behavior Analysts (BCBAs).

3. On March 8, 2024, Ms. McArn, acting as Superintendent Allen's designee, served respondents with a "Notice of Layoff" (Notice) notifying them: "This letter serves to inform you that your position of Board Certified Behavior Analyst at 8 Hours per day, X=12 months per year, at Special Education has been eliminated." A copy of the Resolution was served with the Notice.

4. Respondents timely filed Requests for Hearing. On March 25, 2024, the District served respondents with Statements of Reduction in Force and related information. Respondents timely requested a hearing to contest the Statements of Reduction in Force. Jurisdiction for the subject proceedings exists pursuant to Education Code section 45117.

Cause to Eliminate or Reduce Services

5. At hearing, Ms. McArn, Janea Marking, and Jake Hansen testified for the District. Ms. Marking is the District's Chief Business Operations Officer. Mr. Hansen is a personnel specialist in the HR department. They explained the reasons the Board voted to eliminate or reduce services for the 2024/2025 school year, including eliminating seven BCBA positions. The District operates 77 school sites, serving students from early Head Start through adult education. The District employs approximately 4,500 certificated, classified, and management personnel.

6. Ms. McArn oversees all human resources and labor relations matters for the District, including the layoff process. On February 15, 2024, she presented information to the Board about the process of laying off classified employees. She explained to the Board that, for financial reasons, the District should eliminate 145.63695 FTE positions for the 2024/2025 school year. She recommended eliminating seven of the District's nine BCBA positions because the funding for those positions was scheduled to expire in September 2024. Specifically, the BCBA positions were funded through the Elementary and Secondary School Emergency Relief (ESSER) program, which the federal government provided to address the impact of COVID-19 on schools. Ms. McArn explained she recommended eliminating and reducing services solely to ensure the District's ongoing financial stability and therefore the general welfare of the students. The District will continue to provide all legally mandated

services. At hearing, Ms. McArn testified consistently with her presentation to the Board.

7. Ms. Marking's duties include strategic planning and ensuring the District's financial stability. On March 7, 2024, she presented information to the Board about its budget status and outlook for the 2023/2024 school year through the 2025/2026 school year. She explained to the Board that, based on projected declining enrollment, increasing salaries and benefits, and rising costs of providing services such as special education, the District would face a budget shortfall by the 2025/2026 school year unless it took action to cut its expenses. In her budget calculations, she accounted for the anticipated September 2024 expiration of ESSER funding. At hearing, Ms. Marking testified consistently with her presentation to the Board. She further explained the District's proposed elimination of services, including eliminating seven BCBA positions, was part of its effort to "right size" and "do more with less." In her opinion, without eliminating and reducing services, the District may not be able to balance its budget in the near future.

8. Mr. Hansen's duties include handling certificated and classified staffing issues and participating in the District's budget development process (BDP). As part of the layoff process, he oversaw the team that documented information from BDP meetings and incorporated that information into decisions about which employees to lay off. Specifically, regarding the BCBA positions, Mr. Hansen and his team reviewed seniority data for the District's nine BCBAAs based on their respective hire dates. They confirmed that the seven least senior were sent layoff notices. The least senior included all respondents: Ms. Yamamoto was third most senior, Ms. Karuzas was fifth most senior, and Mr. Asuncion was seventh most senior. Finally, Mr. Hansen confirmed

the District considered attrition, including resignations and retirements, when selecting the employees to receive layoff notices.

9. None of the District's witnesses knew how the District intended to provide the services the laid-off BCBA's previously provided. They believed the District's Special Education Department and Chief Budget Officer would have that information. However, all witnesses believed the Board's decision to eliminate and reduce services was necessary to ensure the District can continue to meet its obligations to its students in the short-term future.

Respondents' Evidence

10. Respondents each testified at hearing. Collectively, they expressed confusion about how the District will replace their services next year. Specifically, they explained BCBA's must supervise all registered behavior therapists (RBTs) at a minimum of five percent of the RBTs' time. Respondents were each able to supervise two or three RBTs at any given time. They believe the District currently employs 23 RBTs and intends to hire even more for next year. Moreover, BCBA's provide functional behavior assessments (FBAs) for students with Individual Education Plans (IEPs). Respondents believe the need for FBAs will only increase next year and in the near future. Therefore, they predict the District will have to use third parties to replace the services respondents presently provide. Based on their knowledge of the industry, they estimate contracting for those services will cost the District significantly more money than retaining the BCBA positions. They submitted a written summary of their position, which includes the explanation:

Board Certified Behavior Analysts hold a credential that allows them to provide evidence-based interventions with

fidelity. Ethical guidelines, Ed-Code, and SELPA [Special Education Local Plan Area], recommend that Behavior Intervention be provided by qualified individuals such as BCBA[s]. A new BPSB [Black Parallel School Board] settlement includes BCBA[s] as an essential service to help curve the significant disproportionality that is happening in our school district. This includes high disciplinary actions for students with color and placement of more restrictive settings.

Analysis

11. The District may lay off classified employees based on a lack of work or lack of funds. (Ed. Code, § 45308, subd. (a).) The District's witnesses credibly testified that, based on their budget projections, including the anticipated September 2024 expiration of ESSER funds, the District determined it was necessary to eliminate or reduce 145.63695 FTE positions, including seven of its nine BCBA positions. The District's witnesses also credibly testified that they selected the seven least senior BCBA's to lay off, which included respondents.

12. Respondents did not contest their respective seniority dates or the District's authority to lay off classified employees. Rather, respondents argued the District's plan is shortsighted and will ultimately cost the District more money when it must contract with third parties to replace the services the BCBA's currently provide. However, even if respondents' arguments are correct, questioning the wisdom of the District's budgetary decision is not a basis on which they can challenge their layoffs. Rather, managing the District's budget by eliminating positions that are no longer consistent with projected budgetary demands is related to the welfare of the schools

and their pupils. As a result, the law requires that the District's layoff notices to respondents be confirmed.

LEGAL CONCLUSIONS

1. Pursuant to Education Code section 45117, subdivision (a)(1):

No later than March 15 and before a classified employee is given notice by the governing board of a school district that the employee's services will not be required for the ensuing year due to lack of work or lack of funds, 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, or, in the case of a school district that has no superintendent, by the clerk or secretary of the governing board of the school district, 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.

2. On March 8, 2024, the District Superintendent's designee sent respondents a Notice that it was recommended they be laid off from their positions. The Notices stated the reasons respondents' services would not be required for the ensuing year, and informed them of their displacement rights, if any, and their

reemployment rights. The District's Notices satisfied the notice and jurisdictional requirements of Education Code section 45117, subdivision (a)(1).

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

Classified employees shall be subject to layoff for lack of work or lack of funds. 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.

4. As discussed above, the District laid off respondents based on its near term projected budget shortfall. The District's layoffs were related to the welfare of the schools and the pupils of the schools and constituted a layoff for "lack of funds" as that term is used in Education Code section 45308, subdivision (a).

5. Respondents were among the seven least senior employees in the classification subject to elimination or reduction. Therefore, they were properly selected for receipt of layoff notices.

//

//

//

RECOMMENDATION

Sufficient cause exists to eliminate seven of the District's nine BCBA positions, including those held by each of the respondents. Notice may be given to respondents that their services will not be required for the 2024/2025 school year because of a lack of funds.

DATE: April 25, 2024


Sean Gavin (Apr 25, 2024 16:50 PDT)

SEAN GAVIN

Administrative Law Judge

Office of Administrative Hearings

ATTACHMENT C

	Last Name	First Name
1	Lau	Genevie Lei
2	Rincon	Silvia
3	Santiago	Marilou
4	McKenzie	Rayne
5	Garcia	Isabel
6	Hall	Gayla
7	Rebollo Esquivel	Yoselin
8	Granado	Maritza
9	Blackshire	Christy
10	Cuevas De Lopez	Imelda
11	Kumar	Sunita
12	Singh	Jasmine
13	Yang	Alie
14	Asuncion	Vince
15	Karuzas	Susannah
16	Kelly	Conor
17	Lavine	Lara
18	Valencia	Nicole
19	Yamamoto	Catie
20	Young	Samania

Board of Education Executive Summary

Human Resource Services

Adopt Resolution No. 3403: Resolution Regarding Proposed Decision of Administrative Law Judge and Implementing Classified Layoffs
May 8, 2024



I. Overview/History of Classified Layoffs for 2024-2025 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 February 15, 2024, in Board Resolution No. 3384. The approved classified reductions totaled 145.63695 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 98 precautionary 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, 12 employees will lose District employment as a result of this layoff. Through this process 25 employees were reassigned into a position of the same capacity and 53 took a voluntary reduction to remain at their site at a reduced amount of hours. Of the 98 employees who received a precautionary layoff notice, six timely submitted a request for a hearing. Of the six employees who timely requested a hearing/Notice of Participation, three participated in the hearing.

The Classified Layoff hearing took place on April 22, 2024 and was presided over by Administrative Law Judge, Honorable Sean Gavin, of the Office of Administrative Hearings.

On April 26, 2024, the District received Administrative Law Judge, Honorable Sean Gavin proposed decision dated April 25, 2024.

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. 3403: Resolution Regarding Proposed Decision of Administrative Law Judge and Implementing Classified Layoffs
May 8, 2024



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 Sean Gavin was tasked with determining whether the District satisfied the requirements of Education Code sections 45117 and 45308 when it issued layoff notices to the three employees who appeared for hearing. The remaining precautionary layoff notices sent to employees were not at issue in the layoff hearing, and the District may proceed with finalizing layoff notices to those employees as set forth in Resolution No. 3403.

V. Major Initiatives:

It is recommended that the Board adopt the proposed decision and authorize staff to send 20 final layoff notices to affected employees according to same, per the attached resolution.

VI. Results:

With the adoption of Resolution No. 3403, 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, 2024 as required by law.