

**BEFORE THE GOVERNING BOARD OF
THE LYNWOOD UNIFIED SCHOOL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA**

Resolution # 21-22/63

***Resolution of the Lynwood Unified School District Governing Board
Adopting Final Action on Dismissal of Classified Employees
Due to Lack of Funds and/or Lack of Work***

WHEREAS, the Governing Board (“Board”) of the Lynwood Unified School District (“District”) adopted a Resolution Approving Elimination/Reduction in Force of Certain Classified Positions Due to Lack of Funds and/or Lack of Work (“Classified Layoff Resolution”) on February 24, 2022, authorizing and directing the Superintendent, or the Superintendent’s designee, to initiate and pursue procedures necessary to provide notice to the affected employees of the Board’s decision to eliminate 33.0 FTE classified positions of the District pursuant to Education Code sections 45114, 45115, 45117, 45298 and 45308; and

WHEREAS, the Superintendent’s designee duly and properly served notice on the classified employees listed on Attachment “B” to this Resolution, on or before March 15, 2022, notifying them that the Board intended not to reemploy them for the 2022-2023 school year pursuant to the Classified Layoff Resolution, and included their re-employment and displacement rights, if any; and

WHEREAS, the employees listed on Attachment “B” were informed of their right to request a hearing, and that their failure to do so would constitute a waiver of said right; and

WHEREAS, a hearing was originally scheduled before the Office of Administrative Hearings, State of California, for April 26, 2022, in OAH Case No. 2022040122; and

WHEREAS, the hearing in OAH Case No. 2022040122 was continued from April 26, 2022, to May 19, 2022; and

WHEREAS, under Education Code section 45117, subdivision (c)(3)(A), the May 7, 2022, and May 15, 2022, dates prescribed in Education Code section 45117, subdivision (c)(3)(A), were extended until May 31, 2022, and June 7, 2022, respectively; and

WHEREAS, the Office of Administrative Hearings, State of California, scheduled and conducted a layoff hearing on May 19, 2022, in OAH Case No. 2022040122; and

WHEREAS, on or about May 25, 2022, the Administrative Law Judge (“ALJ”), Julie Cabos-Owen, issued a Proposed Decision (“Proposed Decision”) in the Matter of the Reduction in Force of Classified Employees of the District, OAH Case No. 2022040122, a true and correct copy of which is attached hereto as Attachment “A” and incorporated herein by reference; and

WHEREAS, pursuant to Education Code section 45117, none of the findings, recommendations, or determinations contained in the Proposed Decision shall be binding on the Board; and

WHEREAS, the Board has considered the findings, recommendations, or determinations contained in the Proposed Decision; and

WHEREAS, the proposed decision sets forth the determination that sufficient cause exists to reduce or eliminate the identified classified positions in the District due to lack of work and lack of funds, and that such cause relates solely to the welfare of the District's schools and pupils within the meaning of Education Code section 45117, subdivision (c)(3)(A); and

WHEREAS, Education Code section 45117 requires the Board to make the final determination as to the sufficiency of the cause and disposition regarding the classified employee reduction in force; and

WHEREAS, the District finds that the factual findings and legal conclusions set forth in the Proposed Decision constitute sufficient cause for not reemploying the employees listed on Attachment "B"; and

WHEREAS, the Board is prepared to adopt the Proposed Decision and finds that said cause relates to the welfare of the schools of the District and the pupils thereof; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Governing Board of the Lynwood Unified School District as follows:

- A. That the aforesaid Proposed Decision (Attachment "A") is hereby adopted as the final determination of the Board ("Final Decision"), and such Final Decision shall be effective immediately.
- B. That it is necessary to eliminate or reduce the services of the classified employees listed in Attachment "B," effective at the close of the 2021-2022 school year, because of a lack of funds and/or lack of work.
- C. That the adoption of the Final Decision shall not be considered the promulgation of District Board Policy.
- D. That the Superintendent or Superintendent's designee is authorized and directed to issue final notices to those classified employees listed in Attachment "B", on or before June 7, 2022, notifying them that they shall be released from their current position, effective at the close of the 2021-2022 school year.
- E. That the District Superintendent or Superintendent's designee, is authorized and directed to take any other actions necessary to effectuate the intent of this Resolution and Final Decision.

PASSED AND ADOPTED at the meeting of the Governing Board of the Lynwood Unified School District on June 3, 2022, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

President, Board of Education

I hereby certify that the foregoing is a true and correct copy of a Resolution of the Governing Board of the Lynwood Unified School District of Los Angeles County, California, adopted by said Governing Board at its meeting on June 3, 2022.

ATTACHMENT A

**BEFORE THE
GOVERNING BOARD OF THE
LYNWOOD UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA**

In the Matter of the Reduction in Force of:

**CLASSIFIED EMPLOYEES OF THE LYNWOOD UNIFIED SCHOOL
DISTRICT,**

Respondents.

OAH No. 2022040122

PROPOSED DECISION

Julie C. Bos-Owen, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on May 19, 2022. Chuong D. Nguyen, Attorney at Law with Olivarez Madruga Law Organization, LLP, represented Lynwood Unified School District (District). Respondents Dwayne Reed and Dandre Brim appeared and represented themselves.

No other Respondents appeared at the hearing. Of the respondents who submitted requests for hearing, the following resolved their issues prior to hearing: Arnulfo Casas, Salvador Choto, David Garcia, Maria Noriega, Gisela Ochoa, Maria Lilia Perez, and Cheryl Slayton. Respondents Carlos A. Garcia, Lynne K. Joyner Jenkins, and Antranese Taylor were served with the notices of hearing and continued hearing but did not appear.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on May 19, 2022.

The hearing of this matter was continued from April 26, 2022, until May 19, 2022, as described on the record and in written orders granting and confirming the continuances. Pursuant to Education Code section 45117, subdivision (c)(3)(A), the continuance extended the deadline for submission of the proposed decision until May 31, 2022.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Respondents are classified employees of the District.
2. On February 24, 2022, the Governing Board (Board) of the District adopted Resolution Number 21-22/42 (Resolution) to reduce or eliminate certain classified positions or services in the District no later than the beginning of the 2022-2023 school year. Specifically, the services and number of Full-time Equivalent (FTE) positions being reduced are as follows: Accounting Technician 2.0 FTE; Payroll Manager 1.0 FTE; Child Care Assistant 18.0 FTE; Director, Early Childhood Education 1.0 FTE; Early Childhood Education Program Specialist 2.0 FTE; Office Assistant II 3.0 FTE; Night Operations Supervisor 5.0 FTE; and Printing / Mailroom Assistant 1.0 FTE.
3. The Board further determined the reduction or elimination of certain classified positions or services consequently required a decrease in the number of classified employees by a corresponding number of FTE positions. The Board directed the District's Superintendent, Gudiel R. Crosthwaite, Ph.D., or a designee to take all

actions necessary and proper to accomplish the purposes of the Resolution and to notify the appropriate employees their services would not be required for the 2022-2023 school year.

4. On or before March 15, 2022, the District served preliminary layoff notices on classified employees, including Respondents, informing them of the elimination or reduction of their positions, effective the close of the current 2021-2022 school year, due to lack of work and/or lack of funds and advising them of their displacement and reemployment rights.

5. Between March 15 and March 28, 2022, Respondents (including Respondents Dwayne Reed and Dandre Brim) submitted requests for hearing, acknowledging service of the preliminary layoff notices and requesting a hearing to determine if there is cause for not reemploying them for the ensuing 2022-2023 school year.

6. On April 6, 2022, the Superintendent filed the Statement of Reduction in Force while acting in an official capacity.

7. On that same date, the District served each Respondent with the Statement of Reduction in Force, Statement to Respondent, a copy of the Resolution, copies of pertinent provisions of the Government and Education Codes, and a blank Notice of Participation form.

8. Respondents Dwayne Reed, Carlos A. Garcia, Lynne K. Joyner Jenkins, and Antranese Taylor timely submitted signed Notices of Participation.

9. Respondent Dandre Brim did not submit a signed Notice of Participation, but the District waived that requirement and stipulated to his participation in this hearing.

10. On April 14, 2022, the District served Notices of Hearing on Respondents. On April 20, 2022, the District served Notices of Continued Hearing on Respondents.

Propriety of Reduction or Elimination of Positions or Services

11. The decision to eliminate or reduce the positions or services identified in the Resolution and set forth in Factual Finding 2 was based on lack of work and lack of funds.

12. Both the lack of work and lack of funds stem from declining enrollment. In addition to general enrollment decline, Early Childhood Education (ECE) enrollment will significantly decrease as four-year-old ECE students are moving to transitional kindergarten. Lack of work ensues because the loss of students requires alignment of staffing levels with the number of students to be served. The declining enrollment simultaneously impacts average daily attendance (ADA) and consequentially the amount of funds the District receives per student. With decreased ADA and resulting decreased funding, the District must examine its operating costs, including staff employment costs, to maintain fiscal solvency.

13. Twice per year, the District is required to submit fiscal reports to the Los Angeles County Office of Education (LACOE). As required, the District submitted its 2021-2022 First Fiscal Report projecting operating deficits of \$26.9 million and \$24.7 million for the 2022-23 and 2023-24 school years, respectively.

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14. For the fiscal year 2021-22, classified employees' salaries totaled \$22.1 million.

15. On January 14, 2022, LACOE sent a letter to the District acknowledging the projected deficits and requiring the District to address its deficit spending through submission of a Board-approved Fiscal Stabilization Plan with its 2021-22 Second Interim Report. The District submitted its Second Interim Report to LACOE on March 15, 2022, projecting decreased deficits of \$17.3 million and \$18.2 million for the 2022-23 and 2023-24 school years, respectively. The District projected \$1.1 million in reduced expenditures for fiscal year 2022-23 based on the current proposed layoffs of certificated and classified employees.

16. Both the lack of work and lack of funds impacted the District's analysis regarding the classified positions subject to the current layoff. Several positions are being closed, including payroll manager (1.0 FTE) and night operations supervisors (5.0 FTE).

17. Despite the reduction and elimination of positions, the District will be able to meet staffing needs for the 2022-2023 school year.

18. The Board's decision to eliminate or reduce the positions or services identified in the Resolution and set forth in Factual Finding 2 was neither arbitrary nor capricious and constituted a proper exercise of discretion.

19. The elimination or reduction the positions or services identified in the Resolution and set forth in Factual Finding 2 relates solely to the welfare of the schools in the District and its students.

20. There was no evidence the reduction or elimination of the positions subject to layoff would reduce services below any mandated levels.

Seniority and Bumping

21. The District maintains a seniority list containing classified employees' seniority dates for each of the employees' past and current classifications/positions. The information on the seniority list is accurate.

22. The District used the seniority list to identify the least senior employees currently assigned to positions being reduced or eliminated as set forth in the Resolution. Once the most junior employees were identified, the District developed a list of employees subject to layoff.

23. After determining who would be subject to layoff, the District made a diligent effort to determine if any employee subject to layoff in a classification could be retained by the District in a prior classification. District created a bumping chart of affected employees and positions indicating whether the affected employees could bump into prior classifications/positions they may have held in the District. The bumping chart is accurate.

24. When the preliminary layoff notices were sent to affected employees, the District enclosed forms for certain employees notifying them of their right to elect to bump into (i.e., be reassigned to) a prior position or alternatively to accept their layoff in lieu of being returned to a prior position.

APPLICATION OF BUMPING TO NIGHT OPERATIONS SUPERVISOR POSITIONS

25. Since the night operations supervisor positions (5.0 FTE) were being closed, the District sought to determine if any of the classified employees in that position could bump into another prior position in the District.

26. For the 2022-23 school year all five of the current night operations supervisors will have a prior position available with the District. Four of the current night operations supervisors had prior positions in the District as custodians to which they could be reassigned and for which the District has vacancies. The fifth current night operations supervisor could be reassigned to a current position of locker room attendant.

RESPONDENTS DWAYNE REED AND DANDRE BRIM

27. Respondents Dwayne Reed and Dandre Brim raised no challenges to the District's lack of work or lack of funds.

28. Respondents Dwayne Reed and Dandre Brim stipulated to the accuracy of seniority dates in both of their classifications on the District's seniority list.

29. Respondents Dwayne Reed and Dandre Brim offered no evidence to challenge the accuracy of the bumping chart.

30. For 2021-2022 school year, Respondent Dwayne Reed is employed in the position of night operations supervisor (seniority date 8/10/2005). He was previously employed in the position of custodian (seniority date 12/7/1992).

31. For 2021-2022 school year, Respondent Dandre Brim is employed in the position of night operations supervisor (seniority date 12/17/2018). He was previously employed in the position of custodian (seniority date 5/31/2006).

32. Since Respondents Dwayne Reed's and Dandre Brim's current positions are being eliminated, the District offered them the right to elect to bump (i.e., reassignment) into their prior classification as custodians, for which they have classification seniority and for which the District will have vacancies.

33. If Respondents Dwayne Reed or Dandre Brim agree to be reassigned to their prior custodian position for the 2022-23 school year, they will not be laid off. However, if they do not agree to bump into their prior custodian position, they will be laid off.

LEGAL CONCLUSIONS

1. 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."

2. Education Code section 45117, subdivision (a)(1), provides:

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 . . . 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.

3. Pursuant to Education Code section 45117, subdivision (b), "A classified employee may request a hearing to determine if there is cause for not reemploying the employee for the ensuing year.

4. On or before March 15, 2022, the District sent Respondents notices, informing them of the elimination or reduction of their positions due to lack of work and/or lack of funds and advising them of their displacement and reemployment rights. Respondents requested a hearing to determine if there is cause for not reemploying them for the ensuing year. All notice and jurisdictional requirements of Education Code section 45117, subdivision (a)(1), were met.

5. At hearing, 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).)

6. The District established the reduction or elimination of classified services was based on a lack of work and a lack of funds. The District ascertained substantial budget deficits requiring considerable cuts to prevent financial insolvency. To address the deficits, the District identified classified positions for reduction or elimination. The

decision to reduce or discontinue the identified services was neither arbitrary nor capricious and was a proper exercise of discretion. Services will not be reduced below mandated levels. Consequently, cause exists to reduce or eliminate the identified classified positions in the District due to lack of work and lack of funds.

7. Cause for the reduction or elimination of services relates solely to the welfare of the District's schools and pupils within the meaning of Education Code section 45117, subdivision (c)(3)(A).

8. Cause exists, pursuant to Education Code section 45308, for reducing or eliminating Respondents' employment for the 2022-2023 school year based on a lack of work and a lack of funds, as set forth in Factual Findings 1 through 33 and Legal Conclusions 1 through 7.

ORDER

The Statements of Reduction in Force served on Respondents are sustained. Notice may be given to Respondents that their services will be reduced or eliminated for the 2022-2023 school year due to lack of work and/or lack of funds.

DATE: 05/25/2022

Julie Cabos-Owen

JULIE CABOS-OWEN

Administrative Law Judge

Office of Administrative Hearings

ATTACHMENT B

List of Classified Employees

Receiving Final Layoff Notice

- | | |
|---------------------------------|--------------------------|
| 1. Archille, Terri | 18. Noriega, Maria |
| 2. Avelar, Corina | 19. Parra, Paola Crystal |
| 3. Bloomfield, Veronica | 20. Perez, Maria Lilia |
| 4. Brim, Dandre | 21. Picon, Vanessa |
| 5. Carlos, Jicel | 22. Reed, Dwayne |
| 6. Casas, Arnulfo | 23. Rodriguez, Edward |
| 7. Choto, Salvador | 24. Rubio, Mireya |
| 8. Davila, Martha | 25. Sanchez, Luz |
| 9. Evans, Michael | 26. Sandoval , Magdalena |
| 10. Garcia, Carlos | 27. Silva, Josephine |
| 11. Garcia-Jones, Ariana | 28. Slayton, Cheryl |
| 12. Gonzalez, Diana | 29. Stewart, April |
| 13. Huerta, Veronica | 30. Taylor, Antranese |
| 14. Joyner Jenkins, Lynne | 31. Tolentino, Silvia |
| 15. Kimbrough, Nicole Elizabeth | 32. Walker, Chanel |
| 16. Melgoza, Precious | 33. Zamudio, Herminia |
| 17. Mendoza, Monica | |