

BEFORE THE  
GOVERNING BOARD OF THE  
MOUNT PLEASANT ELEMENTARY SCHOOL DISTRICT  
COUNTY OF SANTA CLARA  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KATIE ADAMS and various other  
certificated employees of the District,

Respondents.

OAH No. 2009020687

**PROPOSED DECISION**

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in San Jose, California on April 21, 2009.

Namita S. Brown, Attorney at Law, Lozano Smith, represented the Governing Board of the Mount Pleasant Elementary School District.

Christopher Schumb, Attorney at Law, represented all the respondents.

The matter was submitted on April 21, 2009.

**FACTUAL FINDINGS**

1. George Perez made the accusation in his official capacity as the Superintendent of the Mount Pleasant Elementary School District (District) and not otherwise.

2. Each of the named respondents was at all times mentioned herein, and now is, a certificated employee of the District.<sup>1</sup>

3. On February 11, 2009, the Governing Board of the District was given notice by the Superintendent of his recommendation that notice be given respondents that his/her services will be terminated at the close of the current school year.

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<sup>1</sup> A list of the respondents served with an accusation packet is attached.

4. On February 27, 2009, respondents were given written notice by the Superintendent that it was recommended that notice be given respondents that his/her services will be terminated at the close of the current school year.

5. Respondents timely requested, in writing, a hearing to determine if there is cause for terminating his/her services for the ensuing school year.

6. On February 25, 2009, the Governing Board adopted Resolution No. 08/09-08 as set forth in Attachment 1, directing the Superintendent or his designee to give notices to certificated employees that their services will not be required for the 2009-2010 school year.

7. The programs to be reduced or eliminated include 49.2 F.T.E.'s. This number was reduced to 36.4 F.T.E. The Governing Board rescinded the corresponding number of notices.

8. It was stipulated that all jurisdictional requirements were met.

9. Cause exists within the meaning of Education Code sections 44949 and 44955 for not reemploying respondents for the ensuing school year. In the opinion of the Governing Board, it will be necessary to decrease the number of certificated employees in the District on account of the above reduction or discontinuance of services. As a consequence, the Board has determined that the services of a corresponding number or less of the certificated employees of the District shall be terminated at the close of the current 2008-2009 school year.

10. The Governing Board by Resolution No. 08/09-14 dated February 11, 2009, has further determined that, as between employees who first rendered paid service on the same date, the order of termination listed on the seniority list has been based solely on the basis of the needs of the District and the students thereof. A lottery was used when the tie-breaking criteria resulted in more than one employee with the same date of hire being found to have the same number of points under the tie-breaking criteria.

11. No permanent or probationary certificated employee with less seniority is being retained to render a service, which the respondents, or any of them, are certificated and competent to render.

12. The cause for not reemploying respondents relates solely to the welfare of the schools in the District and the pupils thereof.

13. The District rescinded a number of notices. The names of those affected were read on the record.

14. The parties stipulated that there were no unresolved issues related to these layoff proceedings.

## LEGAL CONCLUSIONS

1. Cause for the termination of the particular kinds of service listed in Finding 6 (Attachment 1) and the corresponding positions exists in accordance with Education Code sections 44949 and 44955. It is determined that the cause relates solely to the welfare of the schools and their pupils.

2 Pursuant to Education Code section 44955, subdivision (b) only the Governing Board can determine the order of termination for employees who first rendered paid service to the district on the same date.

## ORDER

Notice may be given to respondents that their services will not be required for the 2009-2010 school year.

DATED: \_\_\_\_\_

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RUTH S. ASTLE  
Administrative Law Judge  
Office of Administrative Hearings