

BEFORE THE
GOVERNING BOARD OF THE
MANTECA UNIFIED SCHOOL DISTRICT
COUNTY OF SAN JOAQUIN
STATE OF CALIFORNIA

In the Matter of the Reduction in Force of:

CERTAIN CERTIFICATED PERSONNEL
EMPLOYED BY THE MANTECA UNIFIED
SCHOOL DISTRICT,

Respondents.

OAH No. 2009040345

PROPOSED DECISION

This matter was heard before Karen J. Brandt, Administrative Law Judge, Office of Administrative Hearings, State of California, in Manteca, California, on May 26, 2009.

Roberta L. Rowe, Attorney at Law, represented the Manteca Unified School District (District).

Thomas J. Driscoll, Jr., Attorney at Law, represented the respondents who are listed on Attachment A hereto (represented respondents). Listed on Attachment B are the respondents who were not represented by Mr. Driscoll (unrepresented respondents). The unrepresented respondents did not appear at the hearing on May 26, 2009.

Evidence was received, the record was closed, and the matter was submitted for decision on May 26, 2009.

Because this matter was continued pursuant to Education Code section 44949, subdivision (e), the May 7 date set forth in Education Code section 44949, subdivision (c)(3), was extended to June 4, 2009, and the May 15 date set forth in Education Code section 44955, subdivision (c) was extended to June 15, 2009.

FACTUAL FINDINGS

1. On March 10, 2009, the Governing Board of the District adopted Resolution 08/09-81, by which it determined that it was necessary to reduce or eliminate particular kinds of services currently provided by certificated employees, including 288.7 FTE certificated

employees and 19.0 FTE certificated administrators.¹ By reason of this reduction of particular kinds of services, the Governing Board determined that it will be necessary to terminate, at the end of the 2008-2009 school year, the employment of certain certificated employees of the District, and directed the Superintendent or his designee to send appropriate notices to all employees whose services will be terminated by virtue of the Governing Board's action. Resolution 08/09-81 superseded the previously adopted Board Resolutions 08/09-58, 08/09-61, 08/09-63, and 08/09-71.

2. On March 10, 2009, the Governing Board adopted Resolution 08/09-87, releasing and/or reassigning certificated administrators.

3. Prior to March 15, 2009, the District gave notice to 261 certificated employees that their services would be eliminated for the 2009-2010 school year.

4. The District and the represented respondents entered into a Comprehensive Stipulation (Comprehensive Stipulation) which is attached hereto as Attachment C and incorporated herein by reference.

5. Three unrepresented respondents requested a hearing – Matthew Tate, Paul Theriault and Kristen Thompson. Each of these unrepresented respondents was properly and timely served with an Accusation, Statement to Respondent, form Notice of Defense, Notice of Hearing and relevant statutes. None of these unrepresented respondents appeared at the hearing. They are bound by the decision adopted by the Governing Board in this matter.

6. There was no evidence that the District proposes to reduce any services that are mandated by state or federal laws or regulations below mandated levels.

7. There was no evidence that the District proposes to retain junior employees to render services that more senior respondents are certificated and competent to perform.

8. The District's reductions and discontinuances of particular kinds of services relate solely to the welfare of the District's schools and pupils.

9. Any other assertions put forth by respondents and not addressed above or in the Comprehensive Stipulation are found to be without merit and are rejected.

LEGAL CONCLUSIONS

1. The District complied with all notice and jurisdictional requirements set forth in Education Code sections 44949 and 44955.

¹ "FTE" stands for full-time equivalent.

2. The services identified in Resolution 08/09-81 are particular kinds of services that may be reduced or discontinued under Education Code section 44955. The Governing Board's decision to reduce or discontinue the identified services was neither arbitrary nor capricious, and was a proper exercise of its discretion. Cause for the reduction or discontinuance of services relates solely to the welfare of the District's schools and pupils within the meaning of Education Code section 44949.

3. Cause exists to reduce certificated employees of the District due to the reduction or discontinuance of particular kinds of services. The District properly identified the certificated employees to be laid off as directed by the Governing Board.

4. No junior certificated employee is scheduled to be retained to perform services that a more senior respondent is certificated and competent to render.

5. Cause exists to give notice to respondents in accordance with this decision and the Comprehensive Stipulation that their services will be reduced or will not be required for the 2009-2010 school year because of the reduction and discontinuance of particular kinds of services.

RECOMMENDATION

1. Cause exists for the reduction of certificated positions at the end of the 2008-2009 school year in accordance with Resolution 08/09-81 and the Comprehensive Stipulation.

2. Notice may be given to respondents that their services will be reduced or will not be required for the 2009-2010 school year. Notice shall be given in inverse order of seniority in accordance with the Comprehensive Stipulation.

DATED: May 28, 2009

KAREN J. BRANDT
Administrative Law Judge
Office of Administrative Hearings