

BEFORE THE GOVERNING BOARD
NORTH MONTEREY COUNTY UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARY THERESE GILL,

Respondent.

OAH No. 2012040081

PROPOSED DECISION

Mary-Margaret Anderson, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Moss Landing on April 16, 2012.

Kevin R. Dale, Attorney at Law, Atkinson, Andelson, Loya, Ruud & Romo, represented the North Monterey County Unified School District (District).

Respondent Mary Therese Gill represented herself.

The record closed on April 16, 2012.

SUMMARY

The Governing Board of the North Monterey County Unified School District decided to reduce or discontinue particular kinds of services provided by certificated employees for the 2012-2013 school year for financial reasons. The decision was not related to the competency and dedication of the employees whose services were proposed to be reduced or eliminated. The selection process complied with Education Code requirements.

FACTUAL FINDINGS

1. Sergio Montenegro filed the Accusation in his official capacity as Superintendent of the District.
2. Mary Therese Gill (Respondent) is a certificated employee of the District.
3. On March 8, 2012, the Governing Board of the District adopted Resolution No. 2011-1239, in which the Board resolved to reduce or discontinue certain particular kinds of services for the 2012-2013 school year. The decision was grounded in budgetary

concerns. The Board directed the Superintendent or his designee to send notice to all employees whose positions may be affected by the action.

The reduction of services is as follows:

High School Classroom Instructional Services	
Spanish Teaching Services	1.0 FTE
Social Science Teaching Services	1.0 FTE
Physical Education Teaching Services	1.0 FTE
High School Counseling Services	
Grade Level Coordinator Services	1.0 FTE
ROP Instructional Services	
ROP Computer Repair	.2 FTE
ROP Adobe/Web Design	.2 FTE
ROP Multimedia	.2 FTE
ROP Intro to Health	.2 FTE
ROP Certified Nursing Assistant (CNA) Program	.4 FTE
Other Positions	
Migrant Education Resource Teacher	1.0 FTE
Migrant Education Student Case Manager	1.0 FTE
Total:	7.2 FTE

4. On March 9, 2012, Superintendent Montenegro mailed written notice to five certificated employees that it had been recommended that notice be given them that their services would not be required for the 2012-2013 school year. All of the noticed employees filed timely requests for hearing, and an Accusation was filed and served. All of the noticed employees who requested a hearing filed a notice of defense.

5. On the hearing day all of the noticed employees, except Respondent, settled their cases with the District and withdrew their requests for hearing.

6. Respondent is presently a high school principal. She has been released from that position and has been reassigned to a physical education teaching position based upon her single subject physical education credential. Respondent's position on the seniority list causes her to fall within the one full-time equivalent (FTE) physical education position slated for reduction; therefore, she received a preliminary notice.

7. Respondent represented that she is currently on administrative leave from her position as high school principal, but that she is well aware of the master class schedule at the high school and related issues. She is concerned that the reduction of physical education teachers by one position will negatively affect the ability of staff to properly supervise students. She is therefore concerned that student safety might be compromised, particularly in the locker rooms.

8. Jamie Marantz is the District's Assistant Superintendent of Curriculum and Instruction. She did not discuss student safety in the physical education classes with anyone in the physical education department. Nonetheless, she credibly testified that the District will be able to provide the mandated physical education services despite the reduction of one FTE position.

9. No certificated employee junior in seniority to Respondent is being retained by the Board to perform services that Respondent is certificated and competent to render.

LEGAL CONCLUSIONS

1. All notices and other requirements of Education Code sections 44949 and 44955 have been provided as required. The District has therefore established jurisdiction for this proceeding as to Respondent.

2. Respondent did not demonstrate that the reduction of one FTE physical education position will violate state law or regulation, or that she is not properly the subject of the proposed reduction. Accordingly, the District may serve her with a final layoff notice.

3. Cause was established as required by Education Code section 44955 to reduce the number of certificated employees in 7.2 FTE positions due to the reduction or discontinuation of particular kinds of services. The decisions made relate solely to the welfare of the District's schools and pupils within the meaning of Education Code section 44949.

4. All contentions made by Respondent not specifically addressed above are found to be without merit and are rejected.

ORDER

Notice may be given to Respondent Mary Therese Gill that her services will not be required for the 2012-2013 school year because of the reduction or discontinuation of particular kinds of services.

DATED: April 26, 2012

MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings