

**BEFORE THE
GOVERNING BOARD
MORENO VALLEY UNIFIED SCHOOL DISTRICT**

In the Matter of the Statement of Reduction in Force

Involving:

**CERTIFICATED EMPLOYEES OF MORENO VALLEY UNIFIED
SCHOOL DISTRICT,**

Respondents.

OAH No. 2024030695

PROPOSED DECISION

Administrative Law Judge Traci C. Belmore, State of California, Office of Administrative Hearings, heard this matter on April 19, 2024, in Moreno Valley, California.

Attorney Kerrie E. McNally represented the Moreno Valley Unified School District.

Attorney Carlos R. Perez represented respondents Emily Jones and Jena Holman, who were present at hearing.

The record closed and the matter was submitted for decision on April 19, 2024.

FACTUAL FINDINGS

1. Both respondents are probationary certificated employees of the Moreno Valley Unified School District (district).

2. On February 13, 2024, the district's Governing Board (board) adopted Resolution No. 2023-24-88 (reduction resolution), reducing or discontinuing particular kinds of services for the 2024-2025 school year, establishing tie-breaking criteria, and directing the district's superintendent to send appropriate notices to all employees whose positions may be affected by the reduction or discontinuation of services.

3. The tie-breaking criteria were listed as follows:

(a) BCLAD certification. +1 per year.

(b) Complete years of experience employed within the district as a full-time K-12 certificated employee. +1 per year.

(c) Number of supplementary authorizations. +1 per supplementary authorization.

(d) Number of valid teaching and/or special service credentials (Preliminary and Clear/Life credentials). +1 per preliminary credential, +2 per Clear/Life credential.

(e) Earned degrees beyond the BA/BS level from an accredited university. +1 per degree.

4. The reduction resolution identified the services to be reduced for the 2024-2025 school year as:

Professional Development Specialists 12 full time equivalent (FTE)

School Counselors 6 FTE

5. The services set forth in the reduction resolution are particular kinds of services that may be reduced or discontinued within the meaning of Education Code section 44955.

6. On March 14, 2024, Interim Chief Human Resources Officer Jason Barney provided written notice to eight certificated employees that their services would not be required for the 2024-2025 school year pursuant to Education Code sections 44949 and 44955, and that they had the right to request a hearing.

7. All those receiving notices submitted timely requests for hearing.

8. On March 22, 2024, Barney made and filed the District Statement of Reduction in Force in his official capacity as Interim Chief Human Resources Officer of the district.

9. Respondents were served with a Reduction in Force Packet, which included: a Statement to Respondent, the district's Statement of Reduction in Force, the reduction resolution, copies of relevant Education Code and Government Code sections, and a Notice of Participation form.

10. On April 2, 2024, respondents were served with a Notice of Hearing notifying them of the date and time set for hearing.

11. Respondents submitted Notices of Participation, and this hearing ensued.

12. Of the original eight respondents, six were able to resolve their layoff issue prior to the hearing, leaving Emily Jones and Jena Holman the sole respondents at hearing.

13. Both respondents are probationary full-time counselors for the district.

14. Barney credibly testified about the reduction resolution and the steps taken by the district to implement it. Barney participated in the preparation of the district's seniority list, noting each certificated employee's first date of paid service, job class description, assignment, permanency status, credentials, and certifications, and ranking employees in order of seniority.

15. Neither respondent objected to the seniority list.

16. No permanent or probationary employee with less seniority is being retained to render a service for which respondents are certificated and competent.

LEGAL CONCLUSIONS

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

2. Pursuant to Education Code section 44955, subdivision (b), when a governing board reduces particular kinds of services resulting in a decrease in the number of certificated, permanent employees, the services of a permanent employee may not be terminated if another employee with less seniority is retained to render a service that the more senior employee is "certificated and competent to render."

3. The seniority date of certificated employees is determined in accordance with Education Code section 44845, which provides: "Every probationary or permanent employee employed after June 30, 1947, shall be deemed to have been employed on the date upon which he first rendered paid service in a probationary position."

4. Cause exists under Education Code sections 44949 and 44955 for the reduction of particular kinds of services by the district for the 2024-2025 school year as set forth in the reduction resolution. The cause relates solely to the welfare of the district and its students, within the meaning of Education Code section 44949.

RECOMMENDATION

Notice may be given to both respondents that their services will not be required for the 2024-2025 school year.

DATE: April 29, 2024



TRACI C. BELMORE

Administrative Law Judge

Office of Administrative Hearings