

BEFORE BOARD OF TRUSTEES
GOLDEN VALLEY UNIFIED SCHOOL DISTRICT
MADERA COUNTY
STATE OF CALIFORNIA

In the Matter of the Employment Status of:

DANIEL ALLAN and
JILL DERKALOUSDIAN,

Respondents.

OAH No. 2008031030

PROPOSED DECISION

Robert Walker, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter in Madera, California, on April 28, 2008.

Robert Piacente, Legal Counsel, Fresno County Office of Education, represented the complainant, Sarah Koligian, Superintendent, Golden Valley Unified School District, Madera County, California.

Ernest H. Tuttle, III, Attorney at Law,¹ represented the respondents, Daniel Allan and Jill Derkalousdian.

The matter was submitted on April 28, 2008.

FACTUAL FINDINGS

1. Respondents, Daniel Allan and Jill Derkalousdian, are certificated district employees.

2. Not later than March 15, 2006, in accordance with Education Code sections 44949 and 44955,² the superintendent of the school district caused the governing board of the district and respondents to be notified in writing that it was recommended that respondents

¹ Ernest H. Tuttle, III, Attorney at Law, 750 East Bullard Avenue, Suite 101, Fresno, California 93710.

² All references to the Code are to the Education Code unless otherwise specified.

be notified that the district would not require their services for the ensuing school year. The notice stated the reasons for the recommendation. The recommendation was not related to respondents' competency.

3. A notice was delivered to each respondent, either by personal delivery or by depositing the notice in the United States mail, registered, postage prepaid, and addressed to respondent's last known address.

4. The notice advised each respondent of the following: He or she had a right to a hearing. In order to obtain a hearing, he or she had to deliver a request for a hearing in writing to the person sending the notice. The request had to be delivered by March 25, 2008, which was not less than seven days after the notice of termination was served. And the failure to request a hearing would constitute a waiver of the right to a hearing.

5. Respondents timely filed written requests for a hearing to determine whether there was cause for not reemploying them for the ensuing year. An accusation was timely served on respondents. Respondents were given notice that, if they were going to request a hearing, they were required to file a notice of defense within five days after being served with the accusation. Respondents filed timely notices of defense. All prehearing jurisdictional requirements were met.

6. The governing board of the district resolved to reduce or discontinue particular kinds of services. Within the meaning of Code section 44955, the services are "particular kinds of services" that can be reduced or discontinued. The recommendation to reduce or discontinue these services was not arbitrary or capricious but constituted a proper exercise of discretion.

7. The governing board of the district determined that, because particular kinds of services are to be reduced or discontinued, it is necessary to decrease the number of permanent employees in the district.

8. The district is not retaining any employee with less seniority than respondents have to render a service that respondents are certificated and competent to render.

LEGAL CONCLUSIONS

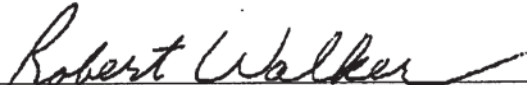
1. Jurisdiction in this matter exists under Code sections 44949 and 44955. All notice and jurisdictional requirements contained in those sections were satisfied.

2. Within the terms of Code sections 44949 and 44955, the district has cause to reduce or discontinue particular kinds of services and to give notices to respondents that their services will not be required for the ensuing school year. The cause relates solely to the welfare of the schools and the pupils.

ORDER

The district may give notice to the respondents that the district will not require their services for the ensuing school year.

Dated: May 1, 2008



ROBERT WALKER
Administrative Law Judge
Office of Administrative Hearings