

BEFORE THE
GOVERNING BOARD OF THE
CLOVERDALE UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARY-ELIZABETH KELLY

and

STEVEN STEWART,

Respondents.

OAH No. N2004030812

PROPOSED DECISION

Mary-Margaret Anderson, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Windsor, California on April 23, 2004.

Margaret M. Merchat, Attorney at Law, represented Superintendent Claudia Plumley-Frandsen.

James D. Allen, Attorney at Law, represented Respondents, who were present.

The record closed on April 23, 2004.

FACTUAL FINDINGS

1. Superintendent Claudia Plumley-Frandsen of the Cloverdale Unified School District (District) filed the Accusation in her official capacity.
2. Mary-Elizabeth Kelly and Steven Stewart (Respondents) are permanent certificated employees of the District.
3. By letter dated March 10, 2004, the Superintendent notified the District's Board of Trustees (Board) that she recommended that certain services need to be reduced or eliminated in the 2004/2005 school year.
4. On March 10, 2004, the Board adopted Resolution Number 204-06. The resolution sets forth the Board's decision that particular kinds of certificated services would need to be reduced or eliminated in the 2004-2005 school year. Specifically,

The Board decided to reduce or eliminate the following services:

<u>Particular Kind of Service</u>	<u>Full-Time Equivalent</u>
Drivers Education/Survival Skills	.20
Leadership/Child Care	.20
Woodshop	.20
AVID	.20
Social Studies	.20
Physical Education	.20
Math	.20
English I	.40
Intro. Home Economic	.20
Applied Science	.20
Elementary Instruction Services grades K-3	1.0
Elementary Instruction Services grades 4-6	1.0
Social Studies, grade 4	.40
EL Coordinator	.20
Special Education Coordinator	.20

The proposed reductions total five full-time equivalent positions.

5. By letter dated and hand delivered March 12, 2004, the Superintendent notified Respondents of the Board's resolution and that his or her services would be reduced or discontinued in 2004/2005.

Each Respondent made a timely request for a hearing.

Accordingly, an Accusation and a Notice of Hearing were prepared and timely served on each Respondent.

Each Respondent filed a timely Notice of Defense and this hearing followed.

6. The reason for the proposed reduction in services is financial. The District has been on "qualified status" with its county office of education for five years. This means that the District's budget does not show that its obligations can be met without depleting its savings. The District has been advised that it needs to cut \$600,000.00 in two years in order to remain solvent.

Superintendent Frandsen testified that the reductions relate solely to the interests of the district and its students. The District will continue to be able to meet state standards, including the requirements for physical education. Further, each certificated employees credentials, status and place on the "seniority list" was carefully considered. Respondents are both subject to "bumping" by an employee with more seniority.

LEGAL CONCLUSIONS

1. Jurisdiction for the subject proceeding exists pursuant to Education Code sections 44949 and 44955, and all notices and other requirements of those sections have been provided as required.


2. Cause exists to reduce the number of certificated employees of the Cloverdale Unified School District. The reduction or discontinuation of services is related solely to the welfare of the District and its pupils within the meaning of Education Code sections 44949 and 44955. The services are "particular kinds of services" that may be reduced or discontinued within the meaning of Education Code section 44955. The Board's decision was not arbitrary or capricious and was a proper exercise of the Board's discretion. It was not demonstrated that the reduction will cause the failure to comply with state mandates.

3. No employee with less seniority than either Respondent is being retained to render a service which either Respondent is certificated and competent to render.

ORDER

Notices may be given to Respondents Mary-Elizabeth Kelly and Steven Stewart that their services will not be required for the 2004-2005 school year.

DATED: April 28, 2004


MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings