

BEFORE THE
MARIN COUNTY SUPERINTENDENT OF SCHOOLS
COUNTY OF MARIN, STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KATHLEEN POLLARD,

Respondent.

OAH No. 2010030674

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in San Rafael, California on April 6, 2010.

Robert J. Henry, Attorney at Law, Lozano Smith, represented the Marin County Office of Education.

There was no appearance by or on behalf of respondent Kathleen Pollard.

The matter was submitted for decision on April 6, 2010.

FACTUAL FINDINGS

1. Mary Jane Burke made the accusation in her official capacity Marin County Superintendent of Schools.

2. Respondent Kathleen Pollard is employed by the Marin County Office of Education as a certificated employee.

3. On March 9, 2010, the Marin County Board of Education adopted Resolution No. 784. The board resolved to ratify the decision of the Superintendent to reduce or eliminate 17.32 full-time equivalent (FTE) positions of specified particular kinds of services for the 2010-2011 school year. The resolution directed the Superintendent to send notices to all affected certificated employees that their services would not be required for the 2010-2011 school year.

4. By letter dated March 11, 2010, the Superintendent gave written notice to respondent pursuant to Education Code sections 44949 and 44955 that her services would not be required for the 2010-2011 school year. The stated reason was the reduction of particular kinds of services.

5. Respondent filed a timely request for a hearing to determine if there was cause to terminate her services for the ensuing school year.

6. An accusation was served on respondent. She timely filed a notice of defense. All prehearing jurisdictional requirements were met.

7. In its resolution, the Board ratified the Superintendent's action to reduce or discontinue the following services for the 2010-2011 school year:

<u>Services</u>	<u>FTE Reduction</u>
Alternative Education Teacher	1.0 FTE
School Nurse	1.32 FTE
Special Day Class Teacher or Severe or Non-Severely Handicapped Teacher	9.0 FTE
Speech Therapist	6.0 FTE
Total Full-Time Equivalent Reduction	17.32 FTE

8. The services set forth above are particular kinds of services that may be reduced or discontinued within the meaning of Education Code section 44949. None of the reductions is for a mandated service.

9. The decision to reduce or discontinue the services was based on the following factors: the transfer of Special Education preschool programs from the County Office of Education to the Novato Unified School District and the San Rafael Elementary School District for 2010-2011 school year; a reduction in referrals to County Office of Education programs; a reduction in contracts with the County Office of Education; and, a reduction in the need to provide direct services. The decision to reduce or discontinue services is a proper exercise of discretion.

10. Respondent is a Speech Therapist. She is a first-year employee with a seniority date of August 19, 2009.

11. No employee junior to respondent is being retained to provide services which she is credentialed and competent to render.

12. The reduction or discontinuation of services is related to the welfare of the County Office of Education and of its pupils.

LEGAL CONCLUSIONS

1. All notices and other procedural requirements of Education Code sections 44949 and 44955 have been provided. Jurisdiction for this proceeding exists.

2. Because of the reduction or elimination of particular kinds of services, cause exists pursuant to Education Code section 44955 to give notice to respondent that her services will not be required for the 2010-2011 school year. This cause solely relates to the welfare of the schools and the pupils thereof within the meaning of Education Code section 44949.

ORDER

Notice may be given to respondent Kathleen Pollard that her services will not be required for the 2010-2011 school year.

DATED: April 19, 2010

MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings