

**BEFORE A
COMMISSION ON PROFESSIONAL COMPETENCE
SAN FRANCISCO UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA**

In the Matter of the Dismissal of:

KATELAND JEAN HARTE,

A Permanent Certificated Employee, Respondent.

OAH No. 2024010722

DECISION

A Commission on Professional Competence convened to hear this matter on August 2, 2024, by videoconference. The Commission's members are Jacqueline Gerosolimo, Devin Triplett, and Administrative Law Judge (ALJ) Holly M. Baldwin, State of California, Office of Administrative Hearings (OAH), who served as Chair.

Senior Deputy General Counsel Christine Lee represented complainant Amy Baer, Associate Superintendent of Human Resources, San Francisco Unified School District.

There was no appearance by or on behalf of respondent Kateland Jean Harte.

The record closed and the matter was submitted for decision on August 2, 2024.

FACTUAL FINDINGS

1. The San Francisco Unified School District (District) seeks to dismiss respondent Kateland Jean Harte from employment. Cause for dismissal under Education Code section 44932 is based on allegations of immoral conduct; persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or the governing board of the District; evident unfitness for service; and dishonesty.

2. Respondent is a permanent certificated employee of the District, teaching English at Galileo Academy of Science and Technology, a high school.

3. At a meeting of the San Francisco Board of Education (Board) on December 12, 2023, the Board approved a Statement of Charges against respondent alleging cause for dismissal under Education Code section 44932, and adopted a Resolution of Intent to Dismiss, directing that respondent would be dismissed from employment with the District 30 days after service of notice upon her, unless she filed a written request for hearing within that 30-day period. (At the same meeting, the Board also adopted a separate resolution immediately suspending respondent without pay, which is not a matter before the Commission.)

4. On December 15, 2023, respondent was personally served with a Notice of Intent to Dismiss, the Statement of Charges, and the Resolution of Intent to Dismiss.

5. Respondent timely requested a hearing. The matter was subsequently referred to OAH to set the matter for hearing and convene a Commission on Professional Competence pursuant to Education Code sections 44934 and 44944.

6. This matter was previously set for hearing on June 11 through June 13, 2024. On June 11, 2024, complainant's counsel and respondent appeared before ALJ Holly M. Baldwin, by videoconference and telephone. The hearing did not proceed on that date, because not all Commission members had yet been designated. The ALJ ordered that the hearing be continued, and determined that the matter would be reduced from three days to one day of hearing. While respondent and complainant's counsel were present, a date for the continued hearing was agreed upon: August 2, 2024, at 9:00 a.m. The ALJ confirmed with respondent her current contact information.

7. On June 11, 2024, the ALJ issued an Order Reducing Number of Days of Hearing, and Continuing Hearing, setting the continued hearing for August 2, 2024, at 9:00 a.m., by videoconference, with respondent allowed to appear by telephone if she was not able to appear by video. OAH served this order on respondent on June 11, 2024, by U.S. mail and email. Complainant also served respondent with a copy of this order on June 12, 2024, by U.S. mail and email. Prior to the hearing date of August 2, 2024, OAH provided videoconference and telephone access information to respondent and complainant's counsel by email.

8. Respondent did not appear at hearing on Friday, August 2, 2024.

9. Argument was heard on complainant's motion to dismiss respondent's request for hearing. The Commission deliberated and determined that respondent was properly served with notice of the continued hearing; declared respondent in default pursuant to Government Code section 11520; and deemed respondent to have withdrawn her request for hearing, as set forth below in Legal Conclusion 4.

10. On Sunday, August 4, 2024, after the record had closed in this matter, respondent sent an email message to OAH regarding her dismissal hearing, without

copying complainant's counsel. A notice of *ex parte* communication was issued by OAH and served on the parties pursuant to Government Code section 11430.50. Respondent's *ex parte* email message has not been considered by the Commission.

LEGAL CONCLUSIONS

1. Under Education Code section 44934, subdivision (b), the governing board of a school district seeking to dismiss a permanent employee of the district shall give notice to the employee of its intent to dismiss the employee at the expiration of 30 days from service of the notice, unless the employee demands a hearing.

2. Under Education Code section 44944, charges against respondent have been referred to the Commission to conduct a hearing. (*Id.*, subd. (c).) The Commission shall prepare a written decision containing findings of fact, determinations of issues, and a disposition that shall be, solely, one of the following: that the employee should be dismissed; that the employee should be suspended for a specific period of time without pay; or that the employee should not be dismissed or suspended. (*Id.*, subd. (d)(1).) The decision of the Commission shall be deemed to be the final decision of the governing board of the District. (*Id.*, subd. (d).)

3. In *Boliou v. Stockton Unified School District* (2012) 207 Cal.App.4th 170, the court of appeal examined the Education Code's procedures for permanent employee dismissal hearings. The court concluded that a commission on professional competence must conduct a hearing and act on the charges, but found that the hearing was not required to be an evidentiary hearing on the merits of the charges.

"[T]here is nothing in the statutory scheme that requires an evidentiary hearing *on the merits* of the charges in the

accusation. The most that can be said is the hearing had to be an “adjudicative proceeding.” An “adjudicative proceeding” means an evidentiary hearing for determination of facts pursuant to which an agency formulates and issues a decision.

(*Id.* at p. 177 (emphasis in original; internal citations omitted).)


4. The Commission has determined that proper notice of the hearing was given, and respondent failed to appear. (Factual Findings 7-9.) The Commission has declared respondent in default pursuant to Government Code section 11520, subdivision (a), under which the agency may take action following respondent’s failure to appear. (Factual Finding 9.) Respondent has been provided the opportunity to respond to the charges, and she has failed to do so. Respondent is deemed to have withdrawn her request for hearing. (Factual Finding 9.)

5. Pursuant to Education Code section 44937, respondent shall be dismissed from her employment with the District, effective January 14, 2024 (30 days after she was served with the notice of intent to dismiss on December 15, 2023) (see Factual Finding 4).

ORDER

Respondent Kateland Jean Harte is hereby dismissed from her position as a permanent certificated employee of the San Francisco Unified School District, as of January 14, 2024.

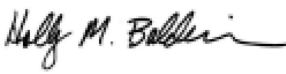
DATE: 08/13/2024


Jacqueline Gerosolimo (Aug 13, 2024 14:17 PDT)
JACQUELINE GEROSOLIMO
Commission Member

DATE: 08/13/2024


Devin Triplett (Aug 13, 2024 15:01 PDT)
DEVIN TRIPLETT
Commission Member

DATE: 08/16/2024


HOLLY M. BALDWIN
Commission Chair
Administrative Law Judge
Office of Administrative Hearings