

BEFORE THE
GOVERNING BOARD OF THE
MT DIABLO UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KATHERINE COYLE, MARJENE GRAZE,
LUIS LUCERO, MICHAEL
LAURICELLA, TARA BARTLETT,
BROOKE SAFRANEK, CAROLYN
MOORE, and CHRISTOPHER TOD,

Respondents.

OAH No. N 2008030582

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Concord, California, on April 29, 2008.

Marleen L. Sacks and James Scot Yarnell, Attorneys at Law, represented complainant.

Ernest H. Tuttle III, Attorney at Law, represented respondents.

The matter was submitted on April 29, 2008.

FACTUAL FINDINGS

1. Gary McHenry, Superintendent (Superintendent), made the accusation in his official capacity.
2. At all times mentioned herein, each respondent has been employed by the Mt. Diablo Unified School District (District) as a certificated employee.
3. At the hearing the accusation was dismissed as to all respondents who requested a hearing except those named in the caption. All temporary teachers will be released, except as set forth in Finding 9, below.
4. On March 14, 2008, written notice was given to the Governing Board of the District, pursuant to Education Code sections 44949 and 44955, of the Superintendent's recommendation that notice be given each respondent that his or her services would not be

required for the next school year (2008-2009). That letter stated the reasons for the recommendation.

5. Each respondent, in writing, requested a hearing to determine if there is cause for not reemploying him or her for the next school year.

6. Cause exists within the meaning of Education Code sections 44949 and 44955 for not reemploying respondents for the next school year because, by Resolution of the Governing Board adopted on March 11, 2008, the Governing Board determined it was necessary to reduce or eliminate certain particular kinds of services and that as a result of those reductions or eliminations it was necessary to decrease the number of certificated employees of the District to the extent set forth in the Resolution as of the close of the current school year.

The total number of F.T.E.'s¹ that are being cut is 98.5 F.T.E.'s including elementary teaching positions, middle School teaching positions, and high school teaching positions. After considering all the positively assured attrition, the number of certificated employees whose services will need to be reduced or eliminated was reduced to eight.

7. Cause for not reemploying respondents relates solely to the welfare of the Mt. Diablo Unified School District and the pupils thereof within the meaning of Education Code sections 44949 and 44955.

8. No permanent or probationary certificated employee of the Mt. Diablo Unified School District having less seniority than respondents will be retained to render a service which respondents are certificated, competent and legally entitled to render.

Marjene Graze's position is being reduced by 0.6 F.T.E.'s

9. All temporary teachers were give precautionary notices. All of them will be released except one. Cesley Ford-Frost was misclassified as a temporary teacher. She is a probationary teacher and will be retained. Her retention does not affect any other teacher's status on the "bumping list."

LEGAL CONCLUSIONS

By reason of the Factual Findings set forth above, cause exists for the Governing Board of the Mt. Diablo Unified School District, pursuant to Education Code sections 44949 and 44955, to give notice to respondents Graze (0.6 F.T.E.), Coyle, Lucero, Lauricella, Bartlett, Safranek, C. Moore, and C. Tod that their services will be reduced or eliminated for the 2008-2009 school year.

¹ Full-time equivalent

ORDER

Notice shall be given by the Governing Board to respondents Graze (0.6 F.T.E.), Coyle, Lucero, Lauricella, Bartlett, Safranek, C. Moore, and C. Tod that their services will be reduced or eliminated, pursuant to the Legal Conclusions above, by the District for the 2008-2009 school year.

DATED: May 1, 2008

Ruth S. Astle

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings