

BEFORE THE GOVERNING BOARD
MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

STEFANI HAZDOVAC,

Respondent.

OAH No. 2010030330

PROPOSED DECISION

Mary-Margaret Anderson, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Del Rey Oaks, California, on April 21, 2010.

Sarah Levitan Kaatz, Attorney at Law, Lozano Smith, represented the Monterey Peninsula Unified School District (District).

Michelle A. Welsh, Attorney at Law, Stoner, Welsh & Schmidt, represented Respondent Stefani Hazdovac.

The record closed on April 21, 2010.

SUMMARY

The Governing Board of the Monterey Peninsula Unified School District decided to reduce or discontinue particular kinds of services provided by certificated employees for the 2010-2011 school year for financial reasons. The decision was not related to the competency and dedication of the employees whose services were proposed to be reduced or eliminated. The selection process complied with Education Code requirements.

FACTUAL FINDINGS

1. Dr. Marilyn K. Shepard filed the Accusation in her official capacity as Superintendent of the District.
2. Respondent Stefani Hazdovac is a certificated employee of the District.
3. On March 8, 2010, the Governing Board of the District adopted Resolution No. 09/10-17, in which the Board resolved to reduce or discontinue the following particular kinds of services (PKS) for the 2010-2011 school year and directed the Superintendent or her

designee to send notice to certificated employees that their services would be terminated at the end of the 2009-2010 school year:

Regional Occupational Programs (ROP)

Computers in Business	1.0	F.T.E.
Computerized Office Technology	1.0	F.T.E.
Hospitality Co-op	.2	F.T.E.
Retail Co-op	.2	F.T.E.

Elementary Education

Elementary School Classroom Teachers (K-6)	16.0	F.T.E.
Elementary School Intervention Teachers (K-6)	9.0	F.T.E.
Elementary School English Language Intervention (K-6)	1.0	F.T.E.

Secondary Education

Anthropology/Psychology/Sociology (6-12)	2.0	F.T.E.
Art (6-12)	1.0	F.T.E.
Community Day School Teacher (6-12)	3.0	F.T.E.
Drama (6-12)	1.0	F.T.E.
Education Intervention/Opportunity Teacher (6-12)	3.0	F.T.E.
English (6-12)	4.0	F.T.E.
Social Science (6-12)	2.0	F.T.E.

<u>Management Trainee</u>	1.0	F.T.E.
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Certificated Management

Administrator on Special Assignment	2.0	F.T.E.
Assistant Principal Educational Options	1.0	F.T.E.
Assistant Superintendent Elementary Education	1.0	F.T.E.
Children Center Head Teacher	1.0	F.T.E.
Elementary Principal/EL Coordinator (Categorical)	1.0	F.T.E.
Middle School Principal	1.0	F.T.E.

Total Full-Time Equivalent Reduction = 52.4 F.T.E.

4. The reason for the Board's resolution is a projected reduced budget for the 2010-2011 school year. Judy Durand, Executive Director of Human Resources, credibly testified that the District's continuing budgetary concerns compelled the decision to reduce services for the 2010-2011 school year. The decision to reduce or discontinue the identified services was not arbitrary or capricious.

5. On March 11, 2010, the Superintendent gave written notice to certificated employees in 52.4 F.T.E. positions that it had been recommended that notice be given them that their services would not be required for the 2010-2011 school year. Many of the noticed employees, including Respondent, filed timely requests for hearing, and an Accusation was filed and served. Many of the employees, including Respondent, filed timely notices of defense.

6. Prior to the hearing, the District, following settlement negotiations, rescinded the Accusations against all of the noticed employees except Respondent. This hearing followed.

7. Respondent currently holds the 1.0 F.T.E. Computerized Office Technology position in the Regional Occupational Program that was noticed for reduction. Her class at Seaside High School includes instruction in computer technology, entry-level job skills and keyboarding. Respondent has taught this class for ten years, and prior to that was a classified employee with the District.

8. Respondent does not agree with the District's decision to eliminate her position and to lay her off. She decided not to agree to the settlement that the other employees signed, in order to pursue her right to due process of law. Further, Respondent asserts that the elimination of her position will result in the failure to provide the subject matter she teaches to students, a result that will not serve the District or its students.

9. It is true that service reductions will likely be detrimental to students in the District, but the District is required to operate in a fiscally sound manner. There will always be disagreements concerning which programs to cut and how extensive the cuts should be, but the Board is duty-bound to make these difficult decisions. Without fiscal integrity, the District cannot adequately serve its schools or its pupils. In these circumstances and in the absence of a showing that the District acted in an arbitrary or capricious manner, it is necessarily concluded that the service reductions, including of Respondent's undoubtedly very valuable position, are related to the welfare of the District's schools and its pupils.

10. No certificated employee junior in seniority to Respondent is being retained by the Board to perform services that Respondent is certificated and competent to render.

LEGAL CONCLUSIONS

1. All notices and other requirements of Education Code sections 44949 and 44955 have been provided as required. The District has therefore established jurisdiction for this proceeding as to Respondent.

2. Cause was established as required by Education Code section 44955 to reduce the number of certificated employees in 52.4 full-time equivalent positions due to the reduction or discontinuation of particular kinds of services. The decisions made relate solely

to the welfare of the District's schools and pupils within the meaning of Education Code section 44949.

3. All contentions made by Respondent not specifically addressed above are found to be without merit and are rejected.

ORDER

Notice may be given to Respondent Stefani Hazdovac that her services will not be required for the 2010-2011 school year because of the reduction or discontinuation of particular kinds of services.

DATED: _____

MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings