

TO: BOARD OF EDUCATION

ACTION/MAJOR

03/13/03

FROM: JOHN E. DEASY/JOSEPH N. QUARLES/RICK BAGLEY

RE: AMEND RESOLUTION NO. 02-24: ANTICIPATED NON-RENEWAL OF  
CERTIFICATED TEMPORARY CONTRACTS EFFECTIVE JUNE 20, 2003

RECOMMENDATION NO. A.1

It is recommended that the Board of Education approve the anticipated non-renewal of the attached certificated temporary contracts, effective June 20, 2003. These employees are in addition to the employees originally listed in Resolution 02-24 on March 6, 2003.

COMMENT: In accordance with California Education Code, certificated temporary employees are released at the end of their contract period unless re-hired for another year of service. As a result formal March 15th notice of non-renewal is normally not required with respect to temporary employees.

However, given the Board's current action relative to the reduction or elimination of particular kinds of services, it is recommended that temporary employees whose positions will be reduced or eliminated, also be sent notices prior to March 15th.

**The two employees listed are in addition to those already notified pursuant to Board Resolution 02-24, which was adopted by the Board on March 6, 2003.**

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

ABSTENTIONS:

**BEFORE THE GOVERNING BOARD OF THE  
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT  
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA**

**RESOLUTION NUMBER 02-24**

**RESOLUTION REGARDING RELEASE OF EMPLOYEES SERVING IN  
CERTIFICATED STAFFING POSITIONS PURSUANT TO EMERGENCY PERMITS**

**WHEREAS**, the District currently employs various persons in certificated staffing positions serving solely pursuant to and possessing only emergency permits (sometimes also referred to as emergency credentials; Education Code Section 44300 et. seq.);

**WHEREAS**, the time served by employees serving in certificated staffing positions pursuant to, and possessing only emergency permits cannot be included in computing the service required as a prerequisite to attainment of or eligibility to classification as a permanent employee (Education Code Section 44911);

**WHEREAS**, persons holding solely emergency permits are employed pursuant to temporary contracts;

**WHEREAS**, employees' temporary contracts indicate an expiration date of June 30, 2003 at the latest;

**WHEREAS**, Education Code Section 44954 requires the Governing Board to notify certain temporary employees before the end of the school year of the District's decision to not reelect the employee for the next succeeding school year;

**WHEREAS**, if any of the below listed employees are later determined to be classified as probationary employees, Education Code Section 44929.21 authorizes the Board to give said employees notice, on or before March 15 of the employee's second complete consecutive school year of employment, of its decision to not reelect the employee for the next succeeding school year;

**WHEREAS**, as this Board reviews the educational priorities of this District and the methods and means of providing educational services and determines the kinds of personnel required, this Board intends to decrease, where possible, reliance upon employees serving in certificated staffing positions pursuant to and possessing only emergency permits or pre-intern certificates, and recognizes such effort to be consistent with state and federal laws, including but not limited to, the federal No Child Left Behind Act of 2001;

**WHEREAS**, in order to employ individuals holding emergency permits, public school

districts are required to conduct a diligent search with a result that the District has been unable to recruit a sufficient number of certificated teachers and must submit to the California Commission on Teacher Credentialing a Declaration of Need verifying that there is an insufficient number of certificated persons who meet the District's specified employment criteria for the positions as to which emergency permits are requested;

**WHEREAS**, the employment of persons holding only emergency permits is governed by and subject to such unavailability of other certificated individuals, yet this Board believes current circumstances indicate a significant probability exists that a sufficient number of certificated teachers will be available to perform the services of those emergency permit employees listed below, so that this district cannot fulfill the legal prerequisites contained within statutes and regulations upon which these individuals' continued employment is conditioned, the Board will not be able to approve the Declaration of Need as to these listed employees, and the individuals listed below will accordingly not be reemployed in this District;

**WHEREAS**, for the above reasons whether considered individually or cumulatively, this Board wishes to terminate the services of the below listed employees effective upon the close of this current school year;

**WHEREAS**, this Board wishes to provide notice to employees whose services will not be continued into next school year, of their nonreemployment and release from employment (effective upon the close of the current school year), so such individuals may commence considerations of employment alternatives elsewhere for next school year;

**WHEREAS**, this Board reserves the right to identify additional similarly situated employees as planning for educational services for the coming school year continues;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the persons listed in attached Exhibit "A", who are serving in certificated staffing positions pursuant to and possessing only emergency permits be released from employment with this school district effective upon each's last working day of this current school year or upon the expiration of any applicable temporary employment contract (whichever occurs first) and are not reelected for the next succeeding school year:

**BE IT FURTHER RESOLVED AND ORDERED** that the District Superintendent or the Superintendent's designee(s) provide notice to each of the above-named individuals of his or her release and non-reelection effective upon the close of the 2002-2003 school year or the expiration of any applicable temporary contract (whichever occurs first), and that his or her employment with the Santa Monica-Malibu Unified School District is thereby ended accordingly

**IN WITNESS** of the adoption of the foregoing Resolution, the members present and voting thereon, have hereunto set our hands this 13th day of March, 2003. Executed in Santa Monica,

Los Angeles County, CA.

Approval:

Dissenting:

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Abstaining:

Absent:

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I, John E. Deasy, Superintendent and Secretary to the Board of Education of the Santa Monica-Malibu Unified School District of Los Angeles County, California, do hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted by said Board at a duly scheduled meeting thereof.

DATED: \_\_\_\_\_

\_\_\_\_\_  
John E. Deasy  
Superintendent/Secretary  
to the Board of Education

**Santa Monica-Malibu Unified School District**  
*Department of Human Resources*

Board of Education Resolution 02-24  
*Exhibit "A"*

**Non-Reelection and Release of Employment of**  
*Temporary Certificated Employees*

Employee ID #:	SITE	FTE	Level or Subject
693963	Lincoln	1	English
986645	Malibu High School	1	Counselor
	TOTAL FTE	2	

TO: BOARD OF EDUCATION

ACTION/MAJOR  
03/13/03

FROM: JOHN E. DEASY/JOSEPH N. QUARLES/RICK BAGLEY

RE: RESOLUTION REGARDING REDUCTION OR DISCONTINUANCE OF PARTICULAR KINDS OF SERVICE (KINDERGARTEN THROUGH EIGHTH GRADE TEACHING SERVICES; COUNSELING SERVICES; ART TEACHING SERVICES; ENGLISH TEACHING SERVICES; SPANISH TEACHING SERVICES; HISTORY TEACHING SERVICES; SCIENCE TEACHING SERVICES; PHYSICAL EDUCATION TEACHING SERVICES AND MATH TEACHING SERVICES); DIRECTION TO NOTIFY AFFECTED EMPLOYEES OF RECOMMENDATION OF LAYOFF; ESTABLISHING ORDER OF SENIORITY (“TIE-BREAKING CRITERIA”); AND RELATED ACTIONS

RECOMMENDATION NO. A.2

It is recommended that the Board of Education approve Resolution 02-25 for the reduction or discontinuance of particular kinds of services (Kindergarten through eighth grade teaching services; counseling services; art teaching services, English teaching services, Spanish teaching services, history teaching services; science teaching services; physical education teaching services and math teaching services, effective June 20, 2003.

COMMENT: The Superintendent of Santa Monica-Malibu Unified School District recommends to the Governing Board that the employees listed on “Exhibit A” not be reemployed for the 2003/2004 school year and that the Board give notice as required by Education Code Sections 44949 and 44955 that their services will not be required. (See Exhibit A attached)

The reason for this recommendation is that the services enumerated in Resolution No. 02-25 are to be reduced or discontinued no later than the beginning of the 2003/2004 school year.

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

ABSTENTIONS:

**BEFORE THE GOVERNING BOARD OF THE  
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT  
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA**

**RESOLUTION NO. 02-25**

**RESOLUTION REGARDING REDUCTION OR DISCONTINUANCE OF PARTICULAR KINDS OF SERVICE (KINDERGARTEN THROUGH EIGHTH GRADE TEACHING SERVICES; COUNSELING SERVICES; ART TEACHING SERVICES; ENGLISH TEACHING SERVICES; SPANISH TEACHING SERVICES; HISTORY TEACHING SERVICES; SCIENCE TEACHING SERVICES; PHYSICAL EDUCATION TEACHING SERVICES AND MATH TEACHING SERVICES) ; DIRECTION TO NOTIFY AFFECTED EMPLOYEES OF RECOMMENDATION OF LAYOFF; ESTABLISHING ORDER OF SENIORITY (“TIE-BREAKING CRITERIA”); AND RELATED ACTIONS**

**WHEREAS**, pursuant to Education Code Section 44955, it is the opinion of this Board that it has become necessary to reduce or discontinue particular kinds of services; and

**WHEREAS**, this Board does not desire to reduce the services of permanent certificated employees based upon a reduction of average daily attendance during the past two years; and

**WHEREAS**, it is the opinion of this Board that the following particular kinds of services be reduced or discontinued for the 2003-2004 school year (in addition to the release and non-reemployment of emergency/waiver permit employees within the certificated service):

Particular Kinds of Services and Full-Time Equivalents

1. Reduce Kindergarten - Eighth Grade Teaching Services - 7.0 FTE
2. Reduce Counseling Services - 1.0 FTE
3. Reduce Art Teaching Services - 1.0 FTE
4. Reduce English Teaching Services - 4.6 FTE
5. Reduce Spanish Teaching Services - 3.0 FTE
6. Reduce History Teaching Services - 3.8 FTE
7. Reduce Science Teaching Services - 6.0 FTE
8. Reduce Math Teaching Services - 6.0 FTE
9. Reduce Physical Education Teaching Services – 1.0 FTE

TOTAL SERVICES REDUCED = 33.4 FTE

**WHEREAS**, it is the opinion of this Board that it is necessary by reason of the aforementioned reductions and discontinuances of service to decrease the number of certificated employees by the equivalent of **33.4 FTE** employees for the 2003-2004 school year;

**WHEREAS**, these discontinuances and reductions shall result in layoffs of certificated personnel in accordance with Education Code Sections 44955 and 44949;

**WHEREAS**, in determining the service to be reduced, the Governing Board has considered all assured and/or attrition known as of this time;

**WHEREAS**, the District currently employs various persons serving in certificated positions serving solely pursuant to and possessing only emergency permits (sometimes also referred to as “emergency credentials;” Education Code Section 44300 et. seq.);

**WHEREAS**, the time served by employees serving in certificated staffing positions pursuant to, and possessing only emergency/waiver permits cannot be included in computing the service required as a prerequisite to attainment of or eligibility to classification as a permanent employee, and such employees therefore are non-probationary and non-permanent employees pursuant to Education Code Section 44911 and administrative interpretations;

**WHEREAS**, it is the Board’s belief that individuals employed solely pursuant to emergency/waiver permits are not entitled to the rights of a probationary or permanent certificated employees within the layoff process and therefore they have been non-reelected by Resolution No. 02-25.

**WHEREAS**, due to the legal uncertainty as to whether employees possessing solely pre-intern credentials and/or emergency/waiver permits serving in the particular kind of service being reduced are entitled to be included in the layoff process, the Board has determined to, as a precaution, give said employees the same type of layoff notices as would be provided to probationary or permanent certificated employees despite the fact that said employees have no probationary seniority;

**WHEREAS**, the Education Code requires that various actions be taken and notices be forwarded no later than March 15th of each school year regarding layoffs of certificated personnel resulting from reductions of particular kinds of service;

**NOW, THEREFORE, BE IT RESOLVED**, that the above-listed services will be discontinued and reduced to the above-described extent no later than the beginning of the 2003-2004 school year;

**BE IT FURTHER RESOLVED** that it is the opinion of this Governing Board, in view of the foregoing, that it is necessary to decrease the number of permanent and probationary employees serving in positions requiring certification qualifications within Santa Monica-Malibu Unified School District at the close of this school year by a corresponding number of full-time equivalent positions as set forth hereinabove;

**BE IT FURTHER RESOLVED** that the Superintendent or his designee(s) is/(are) instructed to



take the steps necessary pursuant to the Education Code, including, in part, Sections 44949 and 44955, to reduce the certificated staff as set forth hereinabove;

**BE IT FURTHER RESOLVED** that for purposes of "bumping" rights and the determination of "competency" within the meaning of Education Code Section 44955(b) the Governing Board hereby delegates, pursuant to Education Code Section 35161, to the District Superintendent or the Superintendent's designee, the determination of such "competency" standards subject to any requirements within the Educational Employment Relations Act; and for purposes of criteria for resolving seniority ties within the meaning of Education Code Section 44955(b) (third paragraph), the Governing Board has adopted Resolution 02-26 which establishes "tie-breaking" criteria;

**BE IT FURTHER RESOLVED** that the Superintendent, or his designee, is delegated the authority to take all actions necessary and proper to the accomplishment of the purposes of this Resolution.

**BE IT FURTHER RESOLVED** that to the extent, if any, currently employed emergency/waiver permit holders are subject to this certificated layoff process, probationary and permanent employees who are regularly credentialed (preliminary, clear, or the like) will be regarded as having greater seniority for purposes of determining seniority order;

The foregoing Resolution was adopted by the Governing Board of the Santa Monica-Malibu Unified School District on the \_\_\_\_\_ day of \_\_\_\_\_, 2003, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
President, Governing Board of the  
Santa Monica-Malibu Unified School District

I, \_\_\_\_\_, Clerk of the Governing Board of the Santa Monica-Malibu Unified School District, do certify that the foregoing Resolution was regularly introduced, passed and adopted by the Governing Board at its special meeting held on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Secretary, Governing Board of the  
Santa Monica-Malibu Unified School District

**Santa Monica-Malibu Unified School District  
Department of Human Resources**

**Board of Education Resolution 02-25  
Exhibit "A"**

**List of Temporary Teachers with Emergency Credentials Who Will  
Receive Notices Due to Reduction or Elimination of Particular  
Kinds of Services (PKS)**

Employee ID #:	SITE	FTE	Level or Subject
738584	John Adams Middle School	100	Science
453164	John Adams Middle School	100	Math
393525	John Adams Middle School	100	History
979245	John Adams Middle School	100	Science
160830	John Adams Middle School	100	History
118505	John Muir	100	Elementary
908845	John Muir	100	Elementary
054479	John Muir	100	Elementary
732905	John Muir	100	Elementary
752904	Lincoln Middle School	100	PE
693963	Lincoln Middle School	100	English
421165	Malibu High School	100	English
425241	Malibu High School	100	Art
986645	Malibu High School	100	Counselor
045329	Olympic Continuation	100	History
563314	Santa Monica High School	100	Science
611444	Santa Monica High School	100	Science
641674	Santa Monica High School	100	Math
514688	Santa Monica High School	100	Spanish
397519	Santa Monica High School	100	Science
249202	Santa Monica High School	60	English
741083	Santa Monica High School	100	Spanish
741466	Santa Monica High School	80	History
344020	Santa Monica High School	100	Math
957539	Santa Monica High School	100	Math
046073	Santa Monica High School	100	Science
894903	Santa Monica High School	100	Math
319395	Santa Monica High School	100	Math
950537	Santa Monica High School	100	English
046121	Santa Monica High School	100	Spanish
794276	Santa Monica High School	100	English
781496	Webster	100	Elementary
373220	Webster	100	Elementary
858935	Will Rogers	100	Elementary
		33.4	

TO: BOARD OF EDUCATION ACTION/MAJOR  
03/13/03

FROM: JOHN E. DEASY/JOSEPH N. QUARLES/RICK BAGLEY

RE: ORDER OF TIE-BREAKING CRITERIA FOR RESOLVING SENIORITY TIES FOR CERTIFICATED PERSONNEL (KINDERGARTEN THROUGH EIGHTH GRADE TEACHING SERVICES; COUNSELING SERVICES; ART TEACHING SERVICES; ENGLISH TEACHING SERVICES; SPANISH TEACHING SERVICES; HISTORY TEACHING SERVICES; SCIENCE TEACHING SERVICES; PHYSICAL EDUCATION TEACHING AND MATH TEACHING SERVICES)

RECOMMENDATION NO. A.3

It is recommended that the Board of Education approve Resolution 02-26 for the order of tie-breaking criteria for resolving seniority ties for certificated personnel (kindergarten through eighth grade teaching services; counseling services; art teaching services; English teaching services, Spanish teaching services; history teaching services; science teaching services, physical education teaching services and math teaching services.

COMMENT: As the District prepares to implement the program reductions contained in the budget reductions, there is a requirement to have Board direction regarding the determination of seniority ties within the meaning of Education Code Sections 44955, subdivision (b) and Section 44846. Consequently, the Board must act to direct staff as to the specific criteria to be used in determining the order of termination between certificated employees who have the same seniority date.

MOTION MADE BY:  
SECONDED BY:

STUDENT ADVISORY VOTE:  
AYES:  
NOES:  
ABSTENTIONS:

BEFORE THE GOVERNING BOARD OF THE  
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT  
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

RESOLUTION NO. 02-26

**ORDER OF TIE-BREAKING CRITERIA FOR RESOLVING SENIORITY TIES FOR CERTIFICATED PERSONNEL (KINDERGARTEN THROUGH EIGHTH GRADE TEACHING SERVICES; COUNSELING SERVICES; ART TEACHING SERVICES; ENGLISH TEACHING SERVICES; SPANISH TEACHING SERVICES; HISTORY TEACHING SERVICES; SCIENCE TEACHING SERVICES; PHYSICAL EDUCATION AND MATH TEACHING SERVICES)**

**WHEREAS**, pursuant to Education Code Section 44955, the Board is required, as between employees who first rendered paid service to the District on the same date, to determine the order of termination solely on the basis of the needs of the District and its students; and

**WHEREAS**, Education Code Section 44955 requires that upon the request of any employee whose order of termination is determined as stated above, the governing board shall furnish in writing no later than five days prior to the commencement of the hearing held in accordance with Section 44949, a statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking each employee relative to the other employees in the group.

**NOW, THEREFORE, BE IT RESOLVED**, as follows:

1. That this Board determines that the needs of the District and the students of this District are best served by resolving seniority ties within the meaning of Education Code Sections 44955, subdivision (b) (third paragraph) and Section 44846, by applying the criteria set forth in paragraphs 4 through 10 below;
2. That as between employees who first rendered paid service to the district in a probationary position on the same date, the order of termination of said employees shall be determined by reference to the criteria which follow and the application thereof to each employee;
3. That the criteria set forth in paragraphs 4 through 10 below are listed in priority order and each criterion shall be used only if the preceding criteria do not delineate the order of termination;
4. As between certificated employees possessing the same seniority date as defined in Education Code Section 44845, and who possess a clear professional, standard, or general teaching credential, as opposed to employee's possessing only a preliminary credential, intern credential, pre-intern certificate, emergency permit or waiver, the employees possessing a clear professional, standard, or general teaching credential, will be regarded as having greater seniority for purposes of determining seniority order;

5. Assuming that the preceding paragraph does not resolve all ties between employees having the same seniority date, then employees only possessing a preliminary credential will be regarded as having greater seniority for purposes of determining seniority order than employees possessing only an intern credential, pre-intern certificate or emergency permit;
6. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then employees possessing only an intern credential, will be regarded as having greater seniority for purposes of determining seniority order than certificated employees currently holding only a pre-intern certificate or emergency permit;
7. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then employees possessing only a pre-intern credential, will be regarded as having greater seniority for purposes of determining seniority order than certificated employees currently holding only an emergency permit;
8. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then employees possessing a BCLAD certification will be regarded as having greater seniority for purposes of determining seniority order than certificated employees currently possessing CLAD certification. Similarly, certificated employees possessing CLAD certification will be regarded as having greater seniority for purposes of determining seniority order than certificated employees currently possessing LDS certification. Similarly, certificated employees possessing LDS certification will be regarded as having greater seniority for purposes of determining seniority order than certificated employees currently possessing SDAIE certification pursuant to SB 1969 or SB 395. Similarly, certificated employees possessing SDAIE certification pursuant to SB 1969 or SB 395 will be regarded as having greater seniority for purposes of determining seniority order than certificated employees not having any authorization to teach English Language Learners;
9. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then employees possessing multiple authorizations on credentials will be regarded as having greater seniority for purposes of determining seniority order than certificated employees having only single authorization credentials and supplemental authorizations. Similarly, employees possessing single authorization credentials and supplemental authorizations, will be regarded as having greater seniority for purposes of determining seniority order than certificated employees having only a single authorization;
10. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then employees with a Ph.D. from an accredited institution of higher education will be regarded as having greater seniority for purposes of determining seniority order than employees possessing a masters degree from an accredited institution of higher education. Similarly, employees with a masters degree from an accredited institution of higher education will be regarded as having greater seniority for purposes of determining seniority order than employees possessing a bachelors degree and an associate of arts/science

degree from an accredited institution of higher education. Similarly, employees with a degree bachelors degree and an associate of arts/science from an accredited institution of higher education will be regarded as having greater seniority for purposes of determining seniority order than employees possessing a bachelors degree from an accredited institution of higher education.

Such criteria shall be applied to rank the order of individuals for purposes of layoff and reemployment, subject to exceptions allowed by law;

The foregoing Resolution was adopted by the Governing Board of the Santa Monica-Malibu Unified School District on the \_\_\_\_\_ day of \_\_\_\_\_, 2003 by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
President, Governing Board of the  
Santa Monica-Malibu Unified School District

I, \_\_\_\_\_, Clerk of the Governing Board of the Santa Monica-Malibu Unified School District, do certify that the foregoing Resolution was regularly introduced, passed and adopted by the Governing Board at a special meeting held on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Secretary, Governing Board  
of the Santa Monica-Malibu Unified School District