

**Santa Monica-Malibu Unified School District
Board of Education
MEETING MINUTES**

**UNADOPTED
May 13, 2004**

A meeting of the Santa Monica-Malibu Unified School District Board of Education was held on Thursday, May 13, 2004 at 4:30 p.m. in the Board Room of the Administrative Offices, 1651 16th Street, Santa Monica, CA.

I CALL TO ORDER

- A. Roll Call
- B. Pledge of Allegiance

II PUBLIC COMMENTS FOR CLOSED SESSION ITEMS ONLY

No speakers

III CLOSED SESSION:

- Conference with Superintendent and Assistant Superintendents regarding 2003-2004 Strategies for Negotiations the Santa Monica-Malibu Classroom Teachers Association (SMMCTA), the Santa Monica Chapter, Local 660, of the Service Employees International Union (SEIU) and with Non-Represented Employees (management and confidential) pursuant to §GC 54957.6, as cited in the Brown Act
- Personnel Matters related to certificated employee discipline/dismissal/release pursuant to sections 54957(b) (1) of the Brown Act. Certificated Teacher Notice of Non-reelection pursuant to Education Code 44929.21 (b), and Certificated Administrative March 15th Notification, pursuant to Education Code 44951.

IV PUBLIC COMMENTS (limited to 20 minutes)

Public Comments is the time when members of the audience may address the Board of Education on items not scheduled on the meeting's agenda. All speakers are limited to three (3) minutes. When there is a large number of speakers, the Board may reduce the allotted time to two(2) minutes per speaker. The Brown Act (Government Code) states that Board members may not engage in discussion of issues raised during "VIII, Public Comments" except to ask clarifying questions, make a brief announcement, make a brief report on his or her own activities, or to refer the matter to staff.

No Speakers.

If you will require accommodation to participate in the Board meeting, please notify the Superintendent's Office at least one day prior to the meeting.

V MAJOR and DISCUSSION Items

As a general rule, items under MAJOR and DISCUSSION will be listed in order of importance as determined by the President, Vice President and Superintendent. Individual Board members may move to request a change in the order prior to consideration of any Major item. The Board may also move any of these items out of order to be heard immediately following PUBLIC COMMENTS if it appears that there is special interest by the public or as a courtesy to staff members making presentations to the Board.

- A.1 Adopt Resolution No.03-22 Regarding the Decision of Administrative Law Judge on Certificated Layoffs 1-4c

VI ADJOURNMENT

Moved by Ms. Brownley, seconded by Ms. Leon-Vazquez and voted unanimously to adjourn the meeting at 4:40 p.m.

The next regular meeting of the Board of Education is scheduled to be held on Thursday, May 20, at 7 p.m. in the Santa Monica City Council Chambers, 1685 Main Street, Santa Monica, CA, unless otherwise noticed.

Approved: 2/7/08



President



Superintendent

If you will require accommodation to participate in the Board meeting, please notify the Superintendent's Office at least one day prior to the meeting.

Board of Education Meeting Schedule

January through June, 2004

Month	1st Thurs.	2nd Thurs	3rd Thursday Discussion Mtg.	4th Thursday	Special Note:
January	1 Holiday no meeting	8 DO		22 DO	1/8 - school plans
February	5 MHS		19 SM	26 DO	
March	4 DO	11 DO	17 DO (Wednesday)	25 DO	18-19: Stairway of the Stars (Civic Auditorium)
April	1 MHS			22DO 29DO	4/5-16: Spring Break
May	6 DO	13 DO	20 SM		
June	3 DO			24 DO	6/3 - Recognition of Retirees 6/14-18: Graduation Week Activities

Meeting Dates Approved 6/26/03 : Updated 2/5/04

District Office (DO) 7/31, 8/21, 10/2, 12/4, 1/8/04, 1/22,**2/26**, 3/4,**3/11**,3/17,**3/25**,4/22, **4/29**, 5/6,**5/13**,6/3 and 6/24
 Malibu Meetings (MHS) 9/4, 11/6, 2/5, and 4/1 - Malibu High School Aud. 30215 Morningview Drive, Malibu.
 Santa Monica City Council Chambers (SM) 9/18, 10/16, 11/20, 2/19 and 5/20 - 1685 Main Street, Santa Monica.

Agenda Distribution:

A copy of the Table of Contents is posted 72 hours in advance of regularly scheduled Board of Education meetings and is also accessible to the public 24 hours/day at the District Office entrance, 1651 16th Street 16th Street, Santa Monica.

Complete Board of Education agendas are available in *pdf* format, on the District's website: www.smmusd.org.

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**Santa Monica-Malibu Unified School District
Board of Education**

May 13, 2004

I CALL TO ORDER - 4:30 p.m.

A Roll Call

Jose Escarce - President - excused absence

Emily Bloomfield - Vice President

Julia Brownley

Oscar de la Torre

Mike Jordan - Excused Absence

Maria Leon-Vazquez

Shane McCloud - Excused Absence

Bryce Maddock - Santa Monica High School

Camden Vilkin - Malibu High School Student Representative

_____ - Olympic High School Student Representative

B Pledge of Allegiance

Led by Julia Brownley

If you will require accommodation to participate in the Board meeting, please notify the Superintendent's Office at least one day prior to the meeting.

MAJOR ITEMS

TO: BOARD OF EDUCATION ACTION/MAJOR
05/13/04
FROM: SUPERINTENDENT / JOSEPH N. QUARLES / KATHY SCOTT
RE: ADOPT RESOLUTION 03-22 REGARDING THE DECISION OF
ADMINISTRATIVE LAW JUDGE ON CERTIFICATED LAYOFFS

RECOMMENDATION NO. A.1

It is recommended that the Board of Education approve the decision of the hearing officer, Ralph B. Dash, by adopting Resolution No. 03-22 regarding the matter attached herein.

COMMENT: On April 19, 2004, layoff hearings were held before Administrative Law Judge, Ralph B. Dash. Attorney Lawrence Trygstad, represented the respondents, SMMCTA unit members, who filed a Notice of Defense requesting a hearing. James Baca, Attorney at Law, represented the Santa Monica-Malibu Unified School District.

Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge's Finding of Facts, and proposed decision is attached herein for Board approval.

PUBLIC COMMENTS

Jim Jaffe

MOTION MADE BY: Ms. Brownley
SECONDED BY: Mr. de la Torre

STUDENT ADVISORY VOTE: N/A
AYES: All (4)
NOES: None (0)
ABSTENTIONS: None (0)

**BEFORE THE BOARD OF EDUCATION OF THE
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA
RESOLUTION NO. 03-22**

**RESOLUTION IMPLEMENTING CERTIFICATED LAYOFF (TERMINATING
SERVICES OF CERTIFICATED EMPLOYEES), ACTING
UPON PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE AND
PROVIDING DIRECTION TO ISSUE NOTIFICATIONS
TO EMPLOYEES WHOSE SERVICES ARE TERMINATED**

On the motion of Member Ms. Brownley, seconded by Mr. de la Torre, the following resolution is adopted:

RESOLVED, by the Board of Education of the Santa Monica-Malibu Unified School District that:

WHEREAS, on March 11, 2004, this Board adopted Resolution Number 03-10 reducing or discontinuing particular kinds of services; and

WHEREAS, on March 11, 2004 and before March 15, 2004 the Superintendent served notice to this Board of his recommendation that the employees listed herein below receive notice that their services will not be required for the ensuing school year (2004-2005), pursuant to Education Code Sections 44949 and 44955; and

WHEREAS, on or before March 15, 2004, the Superintendent's designated representative(s) served notices to the appropriate certificated employees, including those listed below, that it has been recommended that each of their services will not be required for the 2004-2005 school year, pursuant to Education Code Sections 44949 and 44955;

WHEREAS, said notices served upon those certificated employees listed below advised them that they could request a hearing before the Board of Education to determine if there was cause for not reemploying them for the 2004-2005 school year and that if they failed to timely request a hearing, that failure would constitute the waiver of the right to a hearing, and his/her services would accordingly be terminated pursuant to the recommendation;

WHEREAS, various employees requested a hearing and certificated employee layoff proceedings accordingly have occurred pursuant to Sections 44949 and 44955 of the Education Code, with an Administrative Law Judge having held an evidentiary hearing and then submitting a proposed decision relating to those proceedings;

WHEREAS, on April 19, 2004, a hearing on the layoffs was conducted by an Administrative Law Judge pursuant to the California Administrative Procedure Act, and a proposed decision was rendered on May 3, 2004; and

WHEREAS, this Board has received and considered the proposed decision of the Administrative Law Judge in OAH Case No. L2004030356 and any arguments submitted by or on behalf of the parties regarding that proposed decision;

WHEREAS, the Education Code provides that this Board shall make the final determination as to the sufficiency of the cause and disposition;

WHEREAS, the particular kinds of services to be discontinued and reduced as referenced in Board Resolution No. 03-10 are each determined to be a particular kind of service within the meaning of Education Code Section 44955;

WHEREAS, the particular kinds of services referenced in Board Resolution No. 03-10 will be discontinued and reduced within the meaning of Education Code Section 44955 not later than the beginning of the 2004-2005 school year;

WHEREAS, the services of no permanent employee (or other employee) are being terminated, in whole or in part, while any probationary employee, or any other employee with less seniority is being retained to render a service which said permanent (or other) employee is certificated and competent to render, within the meaning of Education Code Section 44955(b); the individuals whose employment is being terminated, in whole or in part, are not certificated and competent (within the meaning of Education Code Section 44955) to render the service being performed by any employee with less seniority who is being retained;

WHEREAS, sufficient cause exists for the termination of up to 24.9 full-time equivalent certificated positions, and pursuant to and within the meaning of Education Code Section 44949, said cause relates to the welfare of the schools and the pupils thereof;

NOW, THEREFORE, BE IT RESOLVED that this Board accepts the proposed decision of the Administrative Law Judge and adopts that proposed decision (a copy of which is attached) as the decision of this Board of Education;

BE IT FURTHER RESOLVED that sufficient cause exists for the termination of the services of the following certificated employees to the extent indicated (which constitutes each employee's entire employment with this District):

Pursuant to the adoption of the proposed decision of the Administrative Law Judge:

666871	(1.0 full time equivalent [FTE] position)
950537	(1.0 FTE)
514688	(1.0 FTE)
453164	(1.0 FTE)
752904	(1.0 FTE)
523119	(1.0 FTE)
552031	(1.0 FTE)
939504	(1.0 FTE)
609172	(1.0 FTE)
364637	(1.0 FTE)
301622	(1.0 FTE)
265974	(1.0 FTE)
471205	(1.0 FTE)
335447	(1.0 FTE)
647322	(.20 FTE)
917076	(1.0 FTE)
701058	(.50 FTE)
755718	(1.0 FTE)
188858	(1.0 FTE)
108068	(1.0 FTE)
308092	(.20 FTE)
010272	(1.0 FTE)
687789	(1.0 FTE)
088236	(1.0 FTE)
824252	(1.0 FTE)
894903	(1.0 FTE)
351512	(1.0 FTE)

BE IT FURTHER RESOLVED that the employment of each of the certificated employees listed above be and hereby is terminated effective upon the close of this school year, i.e., the end of the last working day as to each employee prior to July 1, 2004;

BE IT FURTHER RESOLVED that this decision is effective immediately and that the Superintendent or his designee(s) may take such actions as are necessary and appropriate to implement this Board's decision, including at least giving appropriate notice to those certificated employees listed above of the termination of their services because of discontinuances and reductions of particular kinds of services to take effect upon the close of this school year, with these notices being given on or before May 14, 2004, in the manner prescribed in Education Code Section 44949;

BE IT FURTHER RESOLVED that reemployment rights be afforded in accordance with the Education Code, if and when reemployment is offered and to the extent any reemployment rights are applicable to any of the above referenced employees, unless this Board has also determined to not reelect that employee.

IN WITNESS OF the adoption of the foregoing Resolution, we, the members present and voting thereon, have hereunto set our hands this 13th day of May, 2004.

**BOARD OF EDUCATION OF THE
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT**

Approval:
Ms. Bloomfield
Ms. Brownely
Mr. de la Torre
Ms. Leon-Vazquez

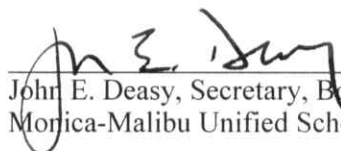
Dissenting:
NONE

Absent:
Dr. Escarce
Dr. Jordan
Mr. McLoud

Abstaining:
NONE

I, John E. Deasy, Secretary of the Board of Education of the Santa Monica-Malibu Unified School District, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly adopted by said Board at a meeting thereof, held on May 13, 2004, at the time and place and by the vote above stated, which Resolution is on file and of record in the office of said Board.

Date: May 13, 2004



John E. Deasy, Secretary, Board of Education of the Santa
Monica-Malibu Unified School District

Attachment: Proposed (adopted) decision of the Administrative Law Judge

BEFORE THE GOVERNING BOARD OF THE
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
STATE OF CALIFORNIA

In the Matter of the Employment Status of:

OAH No. L2004030356

Teachers of the Santa Monica-Malibu
Unified School District

Respondents.

PROPOSED DECISION

Ralph B. Dash, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on April 19, 2004, at Santa Monica, California.

James Baca, Attorney at Law, represented Santa Monica-Malibu Unified School District (hereinafter "District").

Lawrence Trygstad, Attorney at Law, represented Respondents Laura Alexander, Julie Bushman, Maritess Dolloso, Thor Evensen and Emily Kariya, certificated employees (teachers) of the District, the only teachers receiving notices of layoff that filed a Notice of Defense. All Respondents except Mr. Evensen were present at the hearing.

Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge makes the following Finding of Facts.

1. Joseph Quarels, Deputy Superintendent-Chief of Staff of the District, acting in his official capacity, caused all pleadings, notices and other papers to be filed and served upon Respondents pursuant to the provisions of Education Code Sections 44949 and 44955. The parties, by and through their counsel, stipulated that all pre-hearing jurisdictional requirements have been met.

2. On March 11, 2004, the District's Governing Board adopted a Resolution to reduce and discontinue the services of 24.9 Full Time Equivalent (FTE) certificated positions as follows:

Woodshop
Art

.2 FTE
2.0 FTE

English	7.0 FTE
Industrial Technology	0.5 FTE
Music	1.2 FTE
P.E.	4.0 FTE
Spanish	2.0 FTE
French	1.0 FTE
Japanese	1.0 FTE
Math	6.0FTE

TOTAL SERVICES REDUCED = 24.9 FTE

3. These services are “particular kinds of services” that may be reduced or discontinued within the meaning of Education Code section 44955. The Board’s decision to reduce or discontinue these particular kinds of services was not arbitrary or capricious, but constituted a proper exercise of discretion.

4. The reduction or discontinuation of these particular kinds of services related to the welfare of the District and its pupils. The reduction or discontinuation of particular kinds of services was necessary to decrease the number of certificated employees of the District as determined by the Board.

5. The Board properly considered all known attrition, resignations, retirements, deaths and requests for transfer in determining the actual number of necessary layoff notices to be delivered to its employees as of March 15, 2003. San Jose Teachers Association v. Allen, 144 Cal.App. 3d 627 at 636 (1983).¹

6. The District created two separate “seniority” lists. The first list named teachers who were temporary, interns or emergency permit holders by hire date (Exhibit 19). The second list named all probationary and permanent teachers in order of each one’s first date of paid service. The teachers on the first list who were credentialed to teach the above described services have not been re-employed for the ensuing school year. They were each given all notices required by law. Counsel for Respondents stipulated that both seniority lists were properly drawn.

Conclusions of Law

1. Jurisdiction for these proceedings exists pursuant to Education Code Sections 44949 and 44955.

2. The services set forth in Finding 2 are particular kinds of service which may be reduced or discontinued in accordance with applicable statutes and case law. A District may

¹ All layoffs were for particular kinds of service and not “average daily attendance” which might require positively assured attrition to be considered through May 15.

reduce services within the meaning of Education Code Section 44955, subdivision (b), "either by determining that a certain type of service to students shall not, thereafter, be performed at all by anyone, or it may 'reduce services' by determining that proffered services shall be reduced in extent because fewer employees are made available to deal with the pupils involved." Rutherford v. Board of Trustees (1976) 64 Cal.App.3d 167, 178-179.

3. Cause exists because of the reduction in particular kinds of services to reduce the District's teaching positions by 24.9 Full Time Equivalents and to give notice to the affected teachers pursuant to Education Code Section 44955. (Campbell v. Abbot [1978] 76 Cal.App.3d 796; Degener v. Governing Board [1977] 67 Cal.App.3d 689).

4. The District's decision to reduce or discontinue the services is neither arbitrary nor capricious, but rather a proper exercise of the District's discretion.

5. No junior certificated employee is scheduled to be retained to perform services which a more senior employee is certificated and competent to render.

ORDER

As a result of the reductions of services, the District may give notice to teachers Laura Alexander, Julie Bushman, Maritess Dolloso, Thor Evensen and Emily Kariya that their services will not be required for the 2004-2005 school year.

Dated: April 28, 2004



RALPH B. DASH
Administrative Law Judge
Office of Administrative Hearings