

LONG BEACH UNIFIED SCHOOL DISTRICT

Resolution No. 020111 - B

REDUCTION OR ELIMINATION OF CERTAIN CERTIFICATED SERVICES (Education Code sections 44949 and 44955)

WHEREAS, Sections 44949 and 44955 of the Education Code require action by the Governing Board in order to reduce or eliminate services and permit the layoff of certificated employees; and,

WHEREAS, the Superintendent of the Long Beach Unified School District has recommended to the Governing Board that particular kinds of services be reduced or eliminated no later than the beginning of the 2011-2012 school year; and,

WHEREAS, the Governing Board has determined that a reduction or elimination of particular kinds of services is needed no later than the beginning of the 2011-2012 school year; and,

WHEREAS, as a result of the reduction or elimination of particular kinds of services, it will be necessary to reduce the number of certificated employees of the District; and,

WHEREAS, the District currently employs permanent, probationary, temporary/categorical, and substitute certificated employees; and,

WHEREAS, certain temporary/categorical certificated employees were previously employed by the District as probationary or permanent certificated employees prior to the current 2010-2011 school year; and,

WHEREAS, such employees who were previously employed by the District as probationary or permanent certificated employees who were laid off pursuant to Education Code sections 44949 and 44955 prior to the current 2010-2011 school year possess and maintain rights to the extent provided by Education Code sections 44956 (permanent) and 44957 (probationary); and,

WHEREAS, employment during the current 2010-2011 school year as a substitute, temporary, or categorical employee does not constitute a reinstatement of employment or affect any rights possessed by such employees under Education Code sections 44956 and 44957; and,

WHEREAS, the Governing Board has considered all positively assured attrition which has occurred to date, that is, all deaths, resignations, retirements and other permanent vacancies, in reducing these services and, in addition to the

attrition already assured, finds it necessary to reduce additional particular kinds of services; and,

WHEREAS, any additional attrition will be taken into account by Administration to determine whether the number of permanent and probationary employees affected by the reduction or elimination of particular kinds of services may be mitigated.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Long Beach Unified School District:

1. That all of the foregoing recitals are true and correct.
2. That because of the financial constraints resulting from revenue being insufficient to maintain the current levels of programs, and necessary program changes resulting therefrom, the Governing Board hereby determines to reduce or eliminate those positions set forth in **Exhibit A**, attached hereto and incorporated by reference herein, listing by level, subject field or classification, and full-time equivalent, those positions that shall be reduced or eliminated no later than the beginning of the 2011-2012 school year.
3. That because of the elimination and reduction of particular kinds of services listed in **Exhibit A** it is necessary to terminate at the end of the 2010-2011 school year certificated employees equal in number to the positions affected in the reduction or elimination of the above-described particular kinds of service.
4. That in identifying the particular kinds of services listed in **Exhibit A** for reduction or elimination, the Governing Board confirms that all programs and services performed by certificated employees of the District that are not so identified shall be maintained and staffed with individuals who are both competent and credentialed to perform such services. The Governing Board reserves the right to identify additional services for reduction or elimination.
5. That the seniority and qualifications of some of the employees in the services being reduced or eliminated are such that they have displacement rights by virtue of seniority, and that, unless permitted by law, no employee will be terminated while a less senior employee is retained to render a service which the more senior employee is both certificated and competent to render.
6. That in selecting those probationary and permanent certificated employees who shall receive notice of termination pursuant to this Resolution, Education Code section 44955 requires the Governing

Board to state specific criteria to be used in determining the order of termination of certificated employees who first rendered paid service to the Governing Board in a probationary position on the same date.

7. That the criteria to be used in determining the order of termination of certificated employees who first rendered paid service to the Governing Board in a probationary position on the same date are listed and described in **Exhibit B**, which is attached hereto and incorporated by reference herein.
8. That the criteria to be used in determining the order of termination of certificated employees who first rendered paid service to the Governing Board in a probationary position on the same date, listed and described in **Exhibit B**, are based solely on the needs of the Long Beach Unified School District and the students thereof.
9. That in selecting those probationary and permanent certificated employees who shall receive notice of termination pursuant to this Resolution, Education Code section 44955 allows the Governing Board to deviate from terminating a certificated employee in order of seniority by virtue of their competence, credential(s), assignment, and the specific needs of the District and its students.
10. That the criteria that will be applied to deviate from terminating certificated employees who may otherwise be terminated by order of seniority, are based on the needs of the students of the District, and will ensure that, unless permitted by law, no employee will be terminated while a less senior employee is retained to render service which the more senior employee is both certificated and competent to render.
11. That in observing the statutory rights of more senior certificated employees performing services in a subject matter or field identified by the District for reduction or elimination to displace a less senior certificated employee, a more senior certificated employee may displace a less senior certificated employee if it is established to the satisfaction of the District that the more senior certificated employee is competent and credentialed to render the services performed by a less senior certificated employee. Qualifications for a position must include status of "highly qualified" for the subject or field within the meaning of the No Child Left Behind Act, and appropriate certification qualifications (including appropriate English Language authorizations). In no event may a more senior employee displace a less senior employee unless the more senior

employee is both competent and credentialed for the entire assignment of the less senior employee.

12. That the Superintendent or his designated representative will send appropriate notices to all probationary and permanent employees possibly affected by virtue of the reduction and elimination of particular kinds of service. Said notices shall serve as notice that it has been recommended that each of their services will not be required for the 2011-2012 school year, pursuant to Education Code sections 44949 and 44955.
13. That the Superintendent or his designee shall notify all temporary and categorical certificated employees that if they claim they cannot be released pursuant to Section 44954, and they believe they are entitled to a hearing pursuant to Sections 44949 and 44955, they should request a hearing on the merits.
14. That said notices to temporary and categorical employees shall state that, in the event they claim they are, in fact, currently probationary or permanent certificated employees of the District, or otherwise believe they may participate in the certificated layoff hearing process, said notices also serve as notice that it has been recommended that each of their services will not be required for the 2011-2012 school year, pursuant to Education Code sections 44949 and 44955.
15. That there is no relative seniority among temporary/categorical certificated employees.
16. That employees currently classified as temporary or categorical have no right to displace probationary and permanent certificated employees.
17. That this Governing Board hereby affirms that individuals previously employed as probationary and permanent employees prior to the current 2010-2011 school year and who were laid off from such employment in a prior school year maintain the rights and privileges accorded to probationary and permanent employees laid off during any prior school year, to the extent those employees continue to hold a place on a 24- or 39-month reemployment list pursuant to Education Code sections 44956 and 44957, and that the Governing Board's current action shall in no way be deemed to impair those established rights.
18. That the action of this Governing Board will not, in any way, be considered to prejudice the rights of certificated employees to

whom notice will be given as to the Superintendent's consideration of any proposed decision by an administrative law judge in the event a hearing is requested by any employee.

ADOPTED, SIGNED AND APPROVED by the Governing Board of Long Beach Unified School District this 15th day of February, 2011.

President of the Governing Board for the
Long Beach Unified School District

I, Christopher Steinhauser, Clerk of the Governing Board of Long Beach Unified School District, do hereby certify that the foregoing Resolution was adopted by the Governing Board of said District at a meeting of said Board on the 15th day of February 2011, and that it was so adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Clerk of the Governing Board of
Long Beach Unified School District