

**BEFORE THE BOARD OF EDUCATION OF THE
MT. DIABLO UNIFIED SCHOOL DISTRICT
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA**

**RESOLUTION APPROVING PROPOSED DECISION
OF ADMINISTRATIVE LAW JUDGE AND IMPLEMENTING
CERTIFICATED LAYOFF**

RESOLUTION NO. 18/19-57

WHEREAS, on February 25, 2019, this Board of Education of Mt. Diablo Unified School District adopted Resolution No. 18/19-44 to reduce and discontinue particular kinds of certificated services not later than the end of the 2018-2019 school year; and

WHEREAS, by letter dated March 15, 2019, the Superintendent and/or her designee served notice to this Board of Education that certain certificated employees listed therein receive notice that their services will not be required for the ensuing 2019-2020 school year, pursuant to Education Code sections 44949 and 44955; and

WHEREAS, by notice dated March 7, 2019, the Superintendent and/or her designee served notices to those certificated employees, including those listed in Attachment A of the Proposed Decision and others, that their services will not be required for the 2019-2020 school year, pursuant to Education Code sections 44949 and 44955; and

WHEREAS, each of those certificated employees was advised that he or she could request a hearing before the Board of Education to determine if there was cause for not reemploying them for the 2019-2020 school year and that failure to request a hearing within the time specified shall constitute a waiver of their right to a hearing and he or she shall accordingly be terminated in accordance with Resolution No. 18/19-44; and

WHEREAS, certain certificated employees requested a hearing and layoff proceedings were held in accordance with sections 44955 and 44949 of the Education Code before an Administrative Law Judge who conducted an evidentiary hearing and submitted a Proposed Decision relating to those proceedings, which decision is attached hereto as Attachment 1; and

WHEREAS, the District rescinded a number of layoff notices prior to the commencement of the layoff hearing which occurred on April 15, 2019; and

WHEREAS, pursuant to sections 44955 and 44949 of the Education Code, this Board has received and considered the findings set forth in the Proposed Decision issued on May 2, 2019 by the Honorable Melissa G. Crowell, Administrative Law Judge, in the matter of the Teacher Layoff Hearing of Mt. Diablo Unified School District, OAH No. 2019021027; and

WHEREAS, the Proposed Decision contains Judge Crowell's determination that sufficient cause exists for the elimination of the remaining 55.7 Full Time Equivalent certificated positions whose layoffs were not rescinded and recommends that notice be given to the

employees holding those positions that their services will not be required for the 2019-2020 school year; and

WHEREAS, the particular kinds of services to be discontinued and reduced as referenced in Resolution No. 18/19-44 are each determined to be a particular kind of service within the meaning of Education Code section 44955; and

WHEREAS, with the exception of courses requiring Bilingual Cross-Cultural Language and Development (BCLAD) certificates, Bilingual School Counselors, International Baccalaureate Training and Experience, and an Adaptive Physical Education credential or supplementary authorization, the services of no certificated employee are being terminated, in whole or in part, while any probationary or other employee with less seniority is retained to render a service which said certificated employee is certificated and competent to render; 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 a service being performed by any employee with less seniority who is being retained; and

WHEREAS, sufficient cause exists for the termination of up to 55.7 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; and

WHEREAS, rights to reemployment are at times provided to certificated employees whose services were terminated as a result of layoff, however, this current Resolution does not supersede any prior resolution by this Board nor reinstates any right to further employment or reemployment, so that any employee previously notified of non-reelection or non-renewal for the following school year possesses no right to reemployment as a result of adoption of this current Resolution.

WHEREAS, Section 44949 of the Education Code requires the Governing Board to make the final determination as to the sufficiency of the cause and disposition; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Education hereby accepts the proposed decision of the Administrative Law Judge and adopts that proposed decision (Attachment A, hereto) as the decision of this Board of Education.

BE IT FURTHER RESOLVED that as a result of the adoption or modification of the Proposed Decision, a maximum of 55.7 Full Time Equivalent Positions shall be eliminated.

BE IT FURTHER RESOLVED that the employment of each of the certificated employees listed in Attachment A of the Proposed Decision as well as those who may have waived their right to hearing is hereby terminated effective June 30, 2019.

BE IT FURTHER RESOLVED that this decision is effective immediately and that the Superintendent or his designee(s) is directed and authorized to give appropriate notice, on or before May 14, 2019 in the manner prescribed in Education Code section 44949, to those employees whose positions will be lost by virtue of this action that their services are terminated, and to take such other actions as are necessary and appropriate to implement this Resolution.

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 previously determined to not reelect that employee.

BE IT FURTHER RESOLVED that the adoption of the Proposed Decision shall not be considered procedural in the nature or the promulgation of Board of Education policy. Moreover, any and all principles set forth in the decision shall be strictly limited to the current layoffs and to the individuals in the named decision and shall not be interpreted to apply globally to all District employees outside of the current layoff context.

PASSED AND ADOPTED by the following vote of the Board of Education of the Mt. Diablo Unified School District of Contra Costa County, State of California, this 13th day of May 2019.

AYES: _____
NOES _____
ABSTENTIONS: _____
ABSENT: _____

BY: _____
Joanne Durkee
President of the Board of Education of the
Mt. Diablo Unified School District

Attested to:

Nellie Meyer, Ed.D.
Secretary of the Board of Education of the
Mt. Diablo Unified School District

Attachment 1: Proposed (Adopted) Decision of the Administrative Law Judge