MEMORANDUM  
March 10, 2017

TO: Anthony J. Martinez, Ph.D., Interim Superintendent of Schools

FROM: Angel E. Gallardo, Ed.D., Assistant Superintendent, Human Resources

SUBJECT: Resolution No. 35 (2016/17) – Reducing or Discontinuing Particular Kinds of Services, deviating from the Seniority Order, and Establishment of Tiebreaking Criteria

The attached Resolution is being presented for the Board's approval to reduce or discontinue Particular Kinds of Services, deviating from the seniority order, and establishment of tiebreaking criteria.

Therefore, I recommend adoption of the following motion:

That the Board of Education approve the attached Resolution No. 35 (2016/17) to reduce or discontinue Particular Kinds of Services, deviating from the seniority order, and establishment of tiebreaking criteria.

Approved for presentation to the Board of Education: March 13, 2017

Anthony J. Martinez, Ph.D.
Interim Superintendent of Schools
Secretary to the Board of Education

Angel E. Gallardo, Ed.D.
Assistant Superintendent,
Human Resources
MONTEBELLO UNIFIED SCHOOL DISTRICT
RESOLUTION NO. 35 (2016/2017)

REDUCTION OR DISCONTINUANCE OF PARTICULAR KINDS OF SERVICES,
DEVIATING FROM THE SENIORITY ORDER AND ESTABLISHMENT OF TIEBREAKING CRITERIA

WHEREAS, on February 16, 2017, the Montebello Unified School District adopted Resolution No. 30 (2016-17) reducing or discontinuing particular kinds of services, deviating from the seniority order and establishing tiebreaking criteria; and

WHEREAS, the Montebello Unified School District has determined that revisions were necessary to Resolution No. 30 (2016-17) reducing or discontinuing particular kinds of services, deviating from the seniority order and establishing tiebreaking criteria; and

WHEREAS, this Resolution No. 35 (2016-17) reducing or discontinuing particular kinds of services, deviating from the seniority order and establishing tiebreaking criteria shall control and Resolution No. 30 (2016-17) shall be replaced and hereafter declared null and void; and

WHEREAS, the Montebello Unified School District’s Board of Education, upon the recommendation of the Superintendent, has determined that it is in the best interest of the District, and the welfare of students thereof, and it has become necessary to reduce or discontinue particular kinds of services herein enumerated; and

WHEREAS, it is the opinion of this Board that the following kinds of services be reduced or discontinued for the 2017-2018 school year; and

WHEREAS, it is the opinion of this Board that it is necessary by reason of the following reductions and discontinuances of service to decrease the number of certificated employees by the equivalent of 176 FTE non-management certificated employees for the 2017-2018 school year; and

WHEREAS, in determining the services to be reduced, the Board has considered all assured and/or attrition known as of the time of this Resolution, and the reductions set forth herein are in addition to any known and assured attrition; and

WHEREAS, this Board has determined that due to a significant population of English language learners with specialized educational needs, a specific and compelling need exists to employ and retain certificated employees who have permanent clear authorization to teach English Learner ("EL") students as determined by the California Commission on Teacher Credentialing, and the special training and experience that comes therewith; and

WHEREAS, compliance with the provisions of California Education Code sections 44253.1 et seq. and the Williams Settlement requires EL students be served by certificated employees with appropriate EL Authorizations; and

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WHEREAS, this Board is authorized by Education Code Section 44955 to deviate from terminating certificated employees in order of seniority where the District demonstrates a specific need for personnel to teach a specific course of study; and

WHEREAS, the Board has determined that it has a need to retain certificated employees as identified in Exhibit A, because they possess specialized training or experience that more senior employees do not possess; and

WHEREAS, the Board has determined that as between employees with the same seniority date, the order of terminations shall be based solely on the basis of the needs of the District and the students thereof, as determined by the Board-adopted criteria set forth in Exhibit B; and

WHEREAS, the Education Code requires that various actions be taken and notices be forwarded prior to March 15th of each school year regarding layoffs of certificated personnel resulting from reductions of particular kinds of services.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Education of the Montebello Unified School District, that for the 2017-2018 school year, the particular kinds of services to be provided by said District shall be and hereby are reduced to the extent set forth herein below as follows:

1. Pursuant to Education Code sections 44949 and 44955, the following particular kinds of services shall be reduced or discontinued at the close of the 2017-2018 school year. These services, listed by full-time equivalent (FTE) positions, and performed by certificated employees are as follows:

   Multiple Subjects 150 FTE
   English 5 FTE
   Social Science 5 FTE
   Art 2 FTE
   Music 2 FTE
   Physical Education 5 FTE
   Health 2 FTE
   Intervention Facilitator, State and Federal Programs 5 FTE

Total Non-Management K-12 Certificated FTE: 176 FTE

2. The Superintendent or his designee is hereby directed to serve notices of layoff in accordance with and in the manner prescribed by Education Code section 44955 and 44949. In addition, the Superintendent or his designee is authorized, where deemed necessary, to issue additional notices of layoff to certain other employees whose rights may be affected.

3. An exception from the order of layoff may be sought because of the special training and experience of certain certificated employees which others with more seniority do not
possess as described in **Exhibit A**, a copy of which is attached hereto and by this reference incorporated herein.

4. The Board of Education has determined that, as between certificated employees who first rendered service in a probationary position on the same date, the order of layoff of said employees shall be determined by reference to the tiebreak criteria as described in **Exhibit B**, a copy of which is attached hereto and by this reference incorporated herein.

5. Due to the reduction or discontinuance of particular kinds of services, the legal number of employees of the District noticed pursuant to Education Code sections 44955 and 44949, as applicable, will not be reemployed for the 2017-2018 school year. Furthermore, the Superintendent, or his designee, is delegated the authority to take all actions necessary and proper for the accomplishment of the purposes of this Resolution.

6. Resolution No. 30 (2016-17) shall be declared null and void, and replaced by this Resolution No. 35 (2016-17), and that this Resolution No. 35 (2016-17) shall control the District’s reduction or discontinuance of particular kinds of services, deviating from the seniority order and establishment of tiebreaking criteria as set forth herein.

**PASSED AND ADOPTED ON** March 13, 2017, at a special meeting of the Governing Board of the Montebello Unified School District, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

I, Joanna Flores, clerk of the Governing Board of the Montebello 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 March 13, 2017.

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Clerk, Governing Board of the
Montebello Unified School District
Exhibit “A” to Layoff Resolution

CERTIFICATED PERMANENT AND PROBATIONARY PERSONNEL WHOM THE DISTRICT SHALL SEEK TO EXEMPT FROM THE ORDER OF LAYOFF BY VIRTUE OF THEIR CREDENTIALS, COMPETENCE, ASSIGNMENT, EXPERIENCE OR CERTIFICATION

The Montebello Unified School District Governing Board will seek to deviate from the order of certificated layoff pursuant to Education Code section 44955 because of special training, experience, or credential that others with more seniority do not possess:

1. Certificated personnel who possess an authorization to teach English Learners (BCLAD, CLAD or its equivalent under previous provisions of law).

2. Certificated personnel who possess a credential authorizing service in Special Education who are presently assigned within Williams Compliance Regulations and who are teaching within the scope of that credential, and who will be assigned within the scope of that credential for the 2017-18 school year.

3. Certificated personnel who possess a credential authorizing service in Language, Speech and Hearing, who are presently assigned within the scope of that credential, and who will be assigned within the scope of that credential for the 2017-18 school year.

4. Certificated personnel who possess a Single Subject Credential authorizing service in Math, Science or Foreign Language who are presently assigned within the scope of that credential, and who will be assigned within the scope of that credential for the 2017-18 school year.

5. Certificated personnel, who are currently assigned to teach Transitional Kindergarten settings, and who will be assigned to teach Transitional Kindergarten settings for the 2017-18 school year.

6. Certificated personnel who are trained in Project Based Learning (PBL) through the Buck Institute and who will be assigned to a Pathway within the scope of PBL instruction for the 2017-18 school year.
Exhibit “B” to Layoff Resolution

DETERMINATION OF SENIORITY AMONG CERTIFICATED EMPLOYEES WITH THE SAME SENIORITY DATE ("Tie-Breaker Resolution")

Education Code section 44955 requires the Board of Education, 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

Education Code section 44955 requires that upon the request of any employee whose order of termination is determined as stated above, the Board of Education 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 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.

Resolution No. 35 (2016/2017) establishes the tie-breaking criteria for employees with like dates of hire into a probationary status, as follows:

1. The 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 12 below.

2. 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. The criteria set forth in paragraphs 4 through 12 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, employees possessing a Bilingual Cross-Cultural Language and Development authorization (BCLAD) or its equivalent (i.e., the Bilingual Cross Cultural Certificate (BCC), or the Bilingual Specialist Credential), will be regarded as having seniority for purposes of determining seniority order than certificated employees currently possessing the Cross-Cultural Language and Development authorization (CLAD) or its equivalent.

5. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then certificated employees possessing a Certificate of Completion of Staff Development (CCSD) (e.g., authorization/certification pursuant to
SB 1969 or SB 395 or its equivalent) or its equivalent will be regarded as having greater seniority for purposes of determining seniority order than certificated employees currently not having any authorization to teach English Learners.

6. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then the employees who possess a clear professional, standard, or general teaching credential, will be regarded as having greater seniority for purposes of determining seniority order, than employees possessing only a preliminary credential.

7. Assuming that the preceding paragraphs do not resolve all ties between certificated employees having the same seniority date, then employees with the following subject matter authorizations, in order of preference, will be regarded as having greater seniority for purposes of determining seniority order:

   a. Special Education
   b. Language, Speech and Hearing
   c. Science
   d. Math
   e. Foreign Languages
   f. Music
   g. Art
   h. Pupil Personnel Services – Psychologist

8. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then the employees who completed more than one credential will be regarded as having greater seniority for purposes of determining seniority order.

9. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then the employee with the most complete years of teaching experience in the Montebello Unified School District will be regarded as having greater seniority for purposes of determining seniority order.

10. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then the employees who completed their student teaching service in the Montebello Unified School District will be regarded as having greater seniority for purposes of determining seniority order.

11. Assuming that the preceding paragraphs do not resolve all ties between employees having the same seniority date, then all remaining ties may be broken by a fair and random method such as the drawing of lots.