STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD
UNFAIR PRACTICE CHARGE

INSTRUCTIONS: File the original and one copy of this charge form in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached to each copy. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB’s website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES NO ✓

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION ✓ EMPLOYER PUBLIC?

| a. Full name: | Oakland Education Association, CTA/NEA |
| b. Mailing address: | c/o California Teachers Association, Legal Department, 1705 Murchison Drive, Burlingame, CA 94010 |
| c. Telephone number: | 650.552.5415 |
| d. Name and title of person filing charge: Mandy Hu, Staff Attorney | E-mail Address: mhu@cta.org |
| Telephone number: | 650.552.5415 |
| e. Bargaining unit(s) involved: | Certificated Employees |

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION ✓ EMPLOYER

| a. Full name: | Oakland Unified School District |
| b. Mailing address: | 1000 Broadway, Suite 680, Oakland, CA 94607 |
| c. Telephone number: | (510) 879-8200 |
| d. Name and title of agent to contact: Dr. Kyla Johnson-Trammell, Superintendent | E-mail Address: superintendent@ousd.org |
| Telephone number: | (510) 879-8200 |
| Fax No.: | |

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

| a. Full name: | |
| b. Mailing address: | |

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Government Code section 18524.)

| a. Full name: | |
| b. Mailing address: | |
| c. Agent: | |

An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569.

PERB-61 (7/22/2014)
5. GRIEVANCE PROCEDURE

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes [ ] No [ ]

6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

[ ] Educational Employment Relations Act (EERA) (Gov. Code sec. 3540 et seq.)
[ ] Ralph C. Dills Act (Gov. Code sec. 3512 et seq.)
[ ] Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code sec. 3560 et seq.)
[ ] Meyers-Milias-Brown Act (MMBA) (Gov. Code sec. 3500 et seq.)

[ ] Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Pub. Utilities Code sec. 99560 et seq.)

[ ] Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code sec. 71630 - 71639.5)

[ ] Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code sec. 71800 et seq.)

b. The specific Government or Public Utilities Code section(s), or PERB regulation section(s) alleged to have been violated is/are:

Government Code Section 3543.5 (b) & (c)

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (a copy of the applicable local rule(s) MUST be attached to the charge):

d. Provide a clear and concise statement of the conduct allegedly constituted an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and not conclusions of law. A statement of the remedy sought must also be provided. (Use and attach additional sheets of paper if necessary.)

See Attached Statement of Charges

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief and that this declaration was executed on February 15, 2022 (Date)
at ____________________________________________.

Oakland, CA (City and State)

John Green (Type or Print Name)

Primary Contact Staff (Signature)

Title, if any:

Mailing address: 1211 Embarcadero, Suite 204, Oakland, CA 94606

Telephone Number: 510.536.5850 E-Mail Address: jgreen@cta.org

PERB-61 (7/22/2014)
STATEMENT OF CHARGE

During the six months preceding the filing of this unfair practice charge, the Oakland Unified School District (the "District"), by its own actions and those of its agents, has unlawfully breached its duty to bargain in good faith with the Oakland Education Association, CTA/NEA (the "Association") in violation of the Educational Employment Relations Act ("EERA"), Government Code § 3543.5(c).

Specifically, when the District implemented its decision to close, merge, or truncate grades in numerous schools on February 8, 2022 (referred herein as "school closures" or "the decision to close schools"), the District (1) unilaterally repudiated an agreement that the District and Association bargained in 2019 regarding the limits on and procedures for the District’s closure of schools; (2) failed to bargain in good faith with the Association, including by categorically refusing the Association’s demand to bargain the negotiable effects and impacts of its decision to close schools, as well as the decision itself. In so doing, the District also denied the Association its rights under Government Code § 3543.5(b).

These unlawful acts are evidenced by, but not limited to, the following:

BACKGROUND

1. At all relevant times, the District has been a public school employer within the meaning of Government Code § 3540.1(k).

2. At all relevant times, Association has been an employee organization within the meaning of Government Code § 3540.1(d), and the exclusive representative of an appropriate unit of certificated employees of the District within the meaning of Government Code § 3540.1(e).
3. The District and Association ("the parties") have a collective bargaining agreement ("CBA") operative for the period between July 1, 2018 and June 30, 2021.

4. In November 2021, the parties negotiated a successor agreement that extends the 2018-2021 CBA until October 2022, though it has not yet been ratified.

**Restrictions on School Closures Under the 2019 Resolution**

5. In February and March of 2019, the Association’s bargaining unit members participated in a lawful seven-day strike after the Association and District exhausted impasse procedures on contract negotiations.

6. The strike resolved with an agreement between the Association and District, which included, among other things, the District’s agreement to implement a resolution of its Board of Education ("Board") to prohibit school closures unless the District first engaged in a 9-month planning process.

7. The language of the board resolution regarding school closures was negotiated by the parties as a condition of settling the strike.

a. At the bargaining table on February 26, 2019, the District and the Association addressed the issue of school closures. Afterward, the Association memorialized its position in these negotiations in an email that one of the Association’s negotiators, Muni Citrin, sent to one of the District’s negotiators, District Chief of Staff Curtiss Sarikey. A true and correct copy of the email from Muni Citrin to Curtiss Sarikey dated February 26, 2019 is attached as Exhibit A. Among other things the parties discussed were that “[t]here must be a clear timeline and process for identifying, deciding on, and moving any closure/consolidation that maximizes community involvement and mitigates negative impact.”

b. On February 28, 2019, then-President of the Board Aimee Eng sent a draft of the resolution to the Association and invited the Association’s editing and feedback. A true and correct copy of President Eng’s invitation to edit the draft resolution is attached as Exhibit B.
c. Between February 28, 2019 and March 1, 2019, the parties exchanged several comments, suggestions, and edits on the draft language of the proposed resolution.

d. On March 1, 2019 at 10:55 a.m., President Eng sent Mr. Citrin another draft of the resolution. A true and correct copy of President Eng's March 1, 2019 draft and email to Mr. Citrin is attached as Exhibit C.

e. Shortly thereafter, the parties came to an agreement on the language of the resolution.


9. On March 20, 2019, the Board passed the agreed-upon school closures resolution, which was designated “Board of Education Resolution 1819-0178 – Improving Community Engagement for Proposed School Changes.” A true and correct copy of Resolution 1819-0178 is attached as Exhibit D.

10. The language of Resolution 1819-0178 is substantively identical to the language that the parties drafted together.

11. Resolution 1819-0178 included the District’s resolution not to approve any additional mergers, closures, or consolidations of District schools for approximately five months. Exhibit D at 3.

12. Resolution 1819-0178 also put limitations on school closures as follows:

   BE IT FURTHER RESOLVED, that no closure, merger, or consolidation would occur without inclusion of a planning period (no less than a school year or 9 months) between the vote to approve the action and its implementation, unless a recommendation has been brought forward by a team representing multiple stakeholders from the impacted school communities to accelerate the implementation; and

   BE IT FURTHER RESOLVED, that prior to the Board’s final decision, staff shall present to the Board a preliminary financial analysis of foreseeable impacts of the proposed changes on the district’s budget, including student and staff projected attrition or growth, as well as projected costs associated with services, staffing and any facility improvement costs deemed necessary to implement the proposed changes; and
BE IT FURTHER RESOLVED, to ensure the successful transition of students who are displaced by school closures, students will have access to priority enrollment, individual student and family “case management” will be provided to support the transition to welcoming schools, and student progress will be monitored.

Exhibit D at 4 (emphasis added).

THE DISTRICT IMPLEMENTS A DECISION TO CLOSE SCHOOLS IN FEBRUARY 2022

13. At its meeting on December 15, 2021, the Board considered Resolution 2122-0026, which proposed to direct the District Superintendent to present to the Board at the soonest possible opportunity a list of school consolidations sufficient to achieve at least $8 million in savings. A true and correct copy of the original version of Resolution 2122-0026 is attached as Exhibit E. The Board did not approve Resolution 2122-0026 at the December 15, 2021 meeting.

14. At its meeting on January 12, 2022, the Board considered and approved a revised version of Resolution 2122-0026. A true and correct copy of the revised version of Resolution 2122-0026 is attached as Exhibit F. The revised version proposed to “simply direct the Superintendent to bring forward a list of the school consolidations (i.e., closures or mergers) that could be reasonably implemented by Fall 2022 and/or Fall 2023. It would then be up to the Board to determine whether to consolidate all, some, or none of the schools on the list. The revised version of the resolution also directs the Superintendent to bring forward such a list at the soonest ‘reasonable’ opportunity and makes it explicit that this timeline is not constrained by prior Board resolutions or actions.” Exhibit F, Board Cover Memorandum at 2.

15. Specifically, the Board resolution stated, “The [Board] hereby directs the Superintendent to present to the Board – at the soonest reasonable opportunity . . . notwithstanding the requirements of . . . Resolution No. 1819-0178 (Improving Community Engagement for
Proposed School Changes) or any prior Board direction or action – a list of the school consolidations (i.e., closures or mergers) that can be reasonably implemented by Fall 2022 and/or Fall 2023.” Exhibit F, Resolution 2122-0026 at 2 (emphasis added). The emphasized text makes explicit the Board’s decision to repudiate its earlier resolution, which was the result of the District’s agreement with the Association.

16. At a Board meeting on January 31, 2022, the Superintendent presented to the Board a list of fourteen schools targeted for closure, merger, or grade truncation. The Superintendent proposed that six schools be closed at the end of the current school year (i.e., June 2022), and an additional two be closed at the end of the follow school year (June 2023).

**THE DISTRICT IGNORES THE ASSOCIATION’S DEMANDS TO BARGAIN**

17. On February 3, 2022, the Association sent the District its first demand to bargain the issue of school closures. The demand stated as follows:

The Oakland Education Association hereby demands to bargain the decision to waive Board Policy 19-0481\(^1\) and close or consolidate 16 schools on an accelerated timeline. As you know, BP 19-0481 was adopted as part of the resolution of our 2019 strike over wages, class sizes and school closures, including the accelerated (or “ambush”) closure of Roots International Academy.

The District has communicated to unit members and the community that school closures are driven by teacher wages and cited the District’s poor teacher retention as an additional motivating factor.

The subject of school closures is of such concern to our members that tremendous conflict has occurred, including a hunger strike by unit members, nightly protests and a growing number of wildcat actions. Collective bargaining would provide a structured forum for resolving concerns.

The District’s obligation to negotiate the decision to waive Board Policy 19-0481 does not significantly abridge its freedom to redesign the delivery of instructional services, as evidenced by the successful merger of Howard Elementary and Roses in Concrete.

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\(^1\) The Association’s reference to “Board Policy 19-0481” is meant to refer to what is called in this unfair practice charge “Board Resolution 1819-0178.” The District’s file identification number for Board Resolution 1819-0178 is Legislative File Id. No. 19-0481. See Exhibit F at 1.
Community School, which followed the BP 19-0481 process and resulted in a net increase in student enrollment.

Please advise me if the District intends to honor its legal obligation to bargain with us.

A true and correct copy of the February 3, 2022 demand to bargain is attached as Exhibit G.

18. At 3:57 p.m. on February 8, 2022, the District responded to the Association’s demand to bargain by categorically refusing to bargain either its decision to close schools or the impacts and effects of that decision. A true and correct copy of the District’s response to the Association’s February 3, 2022 demand to bargain is attached as Exhibit H. The District’s response ignored the issue of Resolution 1819-0178 entirely. The entirety of the District’s response was as follows:

This letter is the Oakland Unified School District’s (“OUSD”) response to the California Teachers Association (“CTA”) demand to bargain Board of Education Resolution No. 2122-0030. In your February 3, 3033 [sic] correspondence, you expressed the Oakland Education Association (“OEA”) demand “to bargain OUSD’s decision to close and/or consolidate public schools.” OUSD disagrees with OEA’s position that the decision to close schools is subject to negotiations with OEA. Moreover, the impact of school closures has been contemplated in the negotiation of successor contract agreements and therefore the impact of school closure on OEA members is addressed in our collective bargaining agreement.

19. Despite the District’s assertion that “the impact of impact of school closures has been contemplated in the negotiation of successor contract agreements and therefore the impact of school closure on OEA members is addressed in our collective bargaining agreement,” the parties have not had the opportunity to bargain the impacts and effects of the proposed school closures. Upon information and belief, the section of the CBA referenced by the District is Section 12.9, which addresses only the impact of school closures on the reassignment of teachers at closing and receiving schools. A true and correct copy of Section 12.9 of the 2018-2021 CBA is attached as Exhibit I. No other provision in the CBA specifically addresses the impacts of school closures, which could include changes in class size, work hours, workload for reassigned
teachers or receiving schools, safety concerns in overcrowded classrooms, and/or disruptions to the evaluation process. Furthermore, Section 12.9 has been in the CBA in a substantially similar form since at least 1999. It is not reasonable for the District to take the position that, having negotiated a single impact of school closures more than twenty years ago, it satisfied its obligation to bargain in good faith with the Association regarding the closures it proposed in 2022.

20. Half an hour after the District sent this response, at 4:35 p.m., the Association made a second demand to bargain “(1) the decision to waive Board Policy 19-0481, (2) the decision to close or consolidate 16 schools, and (3) the impacts and effects of the decision to close or consolidate schools.” A true and correct copy of the February 8, 2022 demand to bargain is attached as Exhibit J. To date, the District has not responded to the second demand to bargain.

THE DISTRICT IMPLEMENTS DECISION TO CLOSE AND CONSOLIDATE SCHOOLS

21. The Board began a meeting an hour after the District refused the Association’s demand to bargain, at 5 p.m. on February 8, 2022.

22. At the conclusion of this meeting, the District’s Board voted to implement an amended list of the school closures proposed in the Superintendent’s January 31, 2022 list. The amended list includes (1) the closure of two schools in June 2022; (2) the closure of five schools in June 2023; (3) truncation of the middle school grades in two schools; and (4) a consolidation of two schools in June 2022. The Board has yet to release meeting minutes or an adopted resolution from this meeting, but the closures listed in this paragraph are not reasonably subject to dispute and have been widely reported in the news media. See, e.g., “Oakland students, teachers, community to fight 11 school closures, mergers, reductions,” EdSource, published February 9,
23. The District did not undertake any of its obligations under Resolution 1819-0178 (see supra ¶ 12) prior to implementing its decision to close, consolidate, and truncate grades in these schools.

24. The District initiated its decision to close, consolidate, or truncate grades in schools because of economic reasons. See, e.g., Ex. F at 1 ("[T]he large number of sites increases the District’s operational costs ... and spreads the District’s limited resources to thinly"; "The District needs to make more ongoing revenue available to provide competitive compensation"). The Board has held that an employer’s generalized concern about its future financial condition does not relieve it of the obligation to bargain. See, e.g., San Francisco Community College District (1979) PERB Dec. No. 105. Here, the District’s decision to close schools did not have a basis in legitimate business necessity.

**UNFAIR PRACTICES: BAD FAITH BARGAINING IN VIOLATION OF GOV. CODE § 3543.5(c) AND DENIAL OF ASSOCIATION’S RIGHTS IN VIOLATION OF GOV. CODE § 3543.5(b)**

25. The District’s unilateral change to the parties’ agreed-upon limits on school closures and consolidations, implementation of that change, and failure to give the Association notice and an opportunity to bargain the change, amounts to the District’s failure to bargain in good faith, in violation of Government Code § 3543.5(c).

26. The District’s refusal to bargain its decision to implement school closures or the effects and impacts of that decision also amounts to the District’s failure to bargain in good faith in violation of Government Code § 3543.5(c).

27. The District’s conduct also denied the Association its statutory right to bargain on behalf of unit members, and thus constitutes a violation of Government Code § 3543.5(b).
28. All allegations raised here are timely, because they occurred within six months of the filing of this charge.

WHEREFORE Charging Party requests that the Public Employment Relations Board issue an Order:

1. That the District violated Government Code §§ 3543.5 (b) and (c);

2. That the District immediately cease and desist from violating Government Code § 3543.5 (b) and (c);

3. That the District immediately cease and desist from implementing its plan to close, consolidate, or truncate grades in schools;

4. That the District post an appropriate notice at all places where such notices are regularly placed, including electronically, informing the community of PERB’s determination that the District violated the EERA;

5. That the District pay the Association its fees and costs incurred in bringing this action; and

6. For other appropriate and just relief.
Hi all,

Here are notes from our conversation concerning school closures:

Community transparency and decision-making pertaining to proposed school consolidations or closures:

1. Pause/Moratorium on Closures: There needs to be significant period of time in which there are no proposed additional closures following the recent difficult and contentious process
2. Criteria for future proposed closures and consolidations: There must be clear and agreed upon criteria for any future proposed closures and consolidations. These could include assessment of enrollment overtime, financial necessity, program development, risk of charterization.
3. There must be a clear timeline and process for identifying, deciding on, and moving any closure/consolidation that maximizes community involvement and mitigates negative impact
4. Decision Making Committee: There must be a committee with authority to determine whether agreed upon criteria or process is met for possible closure. This committee must include combination of educators, parents from impacted schools, students in the case of secondary, district representatives. The process for determining members of the committee must be clearly spelled out.
5. Enforcement: there must be a clear, transparent, neutral, and enforceable process for determining whether criteria and process is followed
6. There must be some agreement about specific ways to mitigate impact on Roots students and educators
Exhibit B
Hu, Mandy

From: Aimee Eng (via Google Docs) <drive-shares-noreply@google.com>
Sent: Thursday, February 28, 2019 1:00 AM
To: municitrin@gmail.com
Subject: School Consolidation Proces - Invitation to edit

Aimee Eng has invited you to edit the following document:

School Consolidation Proces

Open in Docs

Google Docs: Create and edit documents online.

Google LLC, 1600 Amphitheatre Parkway, Mountain View, CA 94043, USA

You have received this email because someone shared a document with you from Google Docs.
Still proofing and title is weird

--

(510) 747-8393 cell
RESOLUTION
OF THE
BOARD OF EDUCATION
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT
NO. 1819-

Community Engagement Criteria, Process, and Timeline to Expand Access to High Quality OUSD Schools for Every Student

WHEREAS, the OUSD Board of Education “Board” is responsible for ensuring that the Oakland Unified School District (OUSD) is a high-quality full-service community school district that serves the whole child, eliminates inequity, and provides each child with excellent teachers every day; and

WHEREAS, the Board recognizes the need to increase access to high quality district schools for the students and families of Oakland and to invest in the redesign and reconfiguration of OUSD; and

WHEREAS, the Board acknowledges that in order to stabilize and grow enrollment over time, the District must design high-quality programs to attract and retain Oakland’s diverse students, families and educators; and

WHEREAS, the Board believes that those closest to students at a school - educators, families, students, and community members - are generally in the best position to know the specific academic, social, and emotional needs of their students, and how best to address those needs; and

WHEREAS, the Board is committed to empowering school communities to be active and engaged partners in decisions around possible expansions, school redesigns, mergers, consolidations and closures; and

WHEREAS, the Board recognizes that it has a fiduciary responsibility to operate a central office and the number and type of schools that it can sustain over time; and

WHEREAS, on June 20, 2018, the Board adopted the Blueprint for Quality Schools Work Plan (Resolution 1718-0207) which reaffirmed the district’s Quality Community School Standards, and provided for a process and timeline for selection, planning, and implementation phases; and
WHEREAS, on June 20, 2018 the Board also adopted the “Considerations for School Selections in Blueprint for Quality Schools Work Plan (Resolution 1718-0208), which included: “Guiding Equity Principles for School Changes”, “School Selection Approach Considerations”, “Qualitative Data”, and “Quantitative Data”; and

WHEREAS, the Resolution recognizes that the “Blueprint for Quality Schools is an iterative process involving further input and development based on potential Board policies and further engagement with sites and community”; thus, the Board shall receive semi-annual updates on improvements to the process based; and

THEREFORE, BE IT RESOLVED that the Superintendent shall convene an ad hoc stakeholder group comprising up to 15 individuals, including but not limited to students, families, labor partners, including 2-3 representatives from the Oakland Education Association (as selected by the OEA President), principals, community members and district staff; and

BE IT FURTHER RESOLVED, the ad hoc stakeholder committee shall revisit the “criteria to identify schools being considered for expansion, redesign, merger, consolidation, or closure, and make recommendations to the Superintendent and Board to revise Resolution 1718-0208, “Considerations for School Selection in the Blueprint for Quality Schools Work Plan”;

BE IT FURTHER RESOLVED, the ad hoc committee shall review the Blueprint for Quality Schools Work Plan and make recommendations on overall improvements to the process set forth in the Work Plan to the Superintendent and Board; and

BE IT FURTHER RESOLVED, the ad hoc committee shall establish a transparent engagement process with school site stakeholders for future cohorts (e.g. certificated and classified staff, families, students, principals and community partners) of affected school sites, including the School Site Council; and

BE IT FURTHER RESOLVED, the ad hoc committee will meet for the first time no later than April 15, 2019 and present recommendations on the criteria, process, and transparent school engagement process no later than June 30, 2019;

BE IT FURTHER RESOLVED, for the 2019-20 year, the Board will postpone decisions on Cohort 2 and will not vote to approve any additional mergers, closures or consolidations of OUSD schools any sooner than August 15, 2019 with an implementation date no earlier than August 1, 2020; and
BE IT FURTHER RESOLVED, that no closure, merger, or consolidation would occur without a full planning year between the vote to approve the action and its implementation, unless a recommendation has been brought forward by a team representing multiple stakeholders from the impacted school communities to accelerate the implementation; and

BE IT FURTHER RESOLVED, that prior to the Board’s final decision, staff shall present to the Board a financial analysis of the impact of the proposed changes on the district’s budget, including student and staff projected attrition or growth, as well as costs associated with necessary services and staffing to implement the changes; and

BE IT FURTHER RESOLVED, the Board shall receive regular updates on adherence to selection criteria, compliance with, and quality of the engagement process from staff and teams of stakeholders from the impacted school communities;

BE IT FURTHER RESOLVED, to ensure the successful transition of students who are impacted by changes to their schools, students will have access to priority enrollment, and individual student and family “case management” will be provided to support the transition to welcoming schools; and student progress will be monitored.
Resolution on Improving Community Engagement for Proposed School Changes

March 13, 2019

To: Board of Education

From: Aimee Eng

SUBJECT Resolution on Improving Community Engagement for Proposed School Changes

ACTION Adoption by the Board of Education of Resolution 1819-0178 – Improving Community Engagement for Proposed School Changes - which recommends the Superintendent or designee consult with an ad hoc stakeholder group on recommendations for improvements to the criteria, Blueprint timeline and process, and school level engagement process from April 14 to June 30, 2019. In addition, for the 2019-20 year, the Board will postpone the future vote on Cohort 2 and will not, prior to August 15, 2019, vote to approve any additional mergers, closures or consolidations of OUSD schools that have not already been voted on by the Board. Finally, the Board would direct the Superintendent to present preliminary financial analysis prior to any vote on school changes and provide regular updates to the Board on the progress of the ad hoc committee, and adherence to criteria and engagement process in subsequent years.

BACKGROUND On June 20, 2018, the Board passed the Blueprint for Quality School Work plan (Resolution 1718-0207) and the Considerations for School Selections in the Blueprint for Quality Schools Work Plan (Resolution 1718-0208). Since then, the Board has voted on decisions for Cohort 1 schools and staff has begun the process of engagement for Cohort 2 schools. There have been lessons learned in the process and now is an opportune time to revisit the criteria, process, and timeline and consider any updates that will help to improve the community engagement process for proposed school changes.

DISCUSSION The Board shall discuss whether there is collective desire to

FISCAL IMPACT No immediate fiscal impact.

RECOMMENDATION Adoption by the Board of Education of Resolution 1819-0178

Attachment: Resolution 1819-0178
RESOLUTION
OF THE
BOARD OF EDUCATION
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT
NO. 1819-0178

Improving Community Engagement for Proposed School Changes
(As Amended)

WHEREAS, the OUSD Board of Education “Board” is responsible for ensuring that the Oakland Unified School District (OUSD) is a high-quality full-service community school district that serves the whole child, eliminates inequity, and provides each child with excellent teachers every day; and

WHEREAS, the Board recognizes the need to increase access to high quality district schools for the students and families of Oakland and to invest in the redesign and reconfiguration of OUSD; and

WHEREAS, the Board acknowledges that in order to stabilize and grow enrollment over time, the District must design high-quality programs to attract and retain Oakland’s diverse students, families and educators; and

WHEREAS, the Board believes that those closest to the students at a school - educators, families, students, and community members - are generally in the best position to know the specific academic, social, and emotional needs of their students, and how best to address those needs; and

WHEREAS, the Board is committed to empowering school communities to be active and engaged partners in advising around possible school expansions, redesigns, mergers, consolidations and closures; and

WHEREAS, the Board recognizes that it has a fiduciary responsibility to operate a central office and the number and type of schools that it can sustain over time; and

WHEREAS, on June 20, 2018, the Board adopted the Blueprint for Quality Schools Work Plan (Resolution 1718-0207) which reaffirmed the district’s Quality Community School Standards, and provided for a process and timeline for selection, planning, and implementation phases; and
WHEREAS, on June 20, 2018 the Board also adopted the “Considerations for School Selections in Blueprint for Quality Schools Work Plan” (Resolution 1718-0208), which included: “Guiding Equity Principles for School Changes”, “School Selection Approach Considerations”, “Qualitative Data”, and “Quantitative Data”; and

WHEREAS, the Resolution recognizes that the “Blueprint for Quality Schools is an iterative process involving further input and development based on potential Board policies and further engagement with sites and community”; thus, the Board shall receive semi-annual updates on improvements to the process; and

NOW, THEREFORE, BE IT RESOLVED that the Board recommends the Superintendent or designee consult with an ad hoc stakeholder group, a time-limited advisory committee, comprising up to 15 individuals, including but not limited to students, families, labor partners, including 2-3 representatives from the Oakland Education Association (as selected by the OEA President), principals, community members and district staff; and

BE IT FURTHER RESOLVED, the ad hoc stakeholder committee shall review the “criteria” to identify schools being considered for expansion, redesign, merger, consolidation, or closure, and make recommendations to the Superintendent on possible revisions and updates to Resolution 1718-0208, “Considerations for School Selection in the Blueprint for Quality Schools Work Plan”; and

BE IT FURTHER RESOLVED, the ad hoc committee shall review the Blueprint for Quality Schools Work Plan and make recommendations on overall improvements to the process set forth in the Work Plan to the Superintendent; and

BE IT FURTHER RESOLVED, the ad hoc committee shall make recommendations to the Superintendent regarding an engagement process to be followed at school sites in future cohorts which should include participation of multiple stakeholders such as certificated and classified staff, families, students, principals and community partners of affected school sites, and/or the School Site Council; and

BE IT FURTHER RESOLVED, the consultations on the criteria, process, and school engagement process will take place between April 15, 2019 and June 30, 2019;

BE IT FURTHER RESOLVED, for the 2019-20 year, the Board will postpone the future vote on Cohort 2 and will not, prior to August 15, 2019, vote to approve any additional mergers, closures or consolidations of OUSD schools that have not already been voted
on by the Board, any subsequent votes relating to mergers, closures, or consolidations will be implemented after August 1, 2020; efforts shall be made to incorporate preliminary thinking emerging from the ad hoc committee into the school engagement process for Cohort 2 schools and the 2019-20 school year will be designated as a planning year for identified schools in Cohort 2; and

BE IT FURTHER RESOLVED, that no closure, merger, or consolidation would occur without inclusion of a planning period (no less than a school year or 9 months) between the vote to approve the action and its implementation, unless a recommendation has been brought forward by a team representing multiple stakeholders from the impacted school communities to accelerate the implementation; and

BE IT FURTHER RESOLVED, that prior to the Board’s final decision, staff shall present to the Board a preliminary financial analysis of foreseeable impacts of the proposed changes on the district’s budget, including student and staff projected attrition or growth, as well as projected costs associated with services, staffing and any facility improvement costs deemed necessary to implement the proposed changes; and

BE IT FURTHER RESOLVED, the Board shall direct the Superintendent to provide regular updates on the ad hoc committee process and their recommendations, as well as the adherence to selection criteria and quality of the engagement process in future cohorts; and

BE IT FURTHER RESOLVED, to ensure the successful transition of students who are displaced by school closures, students will have access to priority enrollment, individual student and family “case management” will be provided to support the transition to welcoming schools, and student progress will be monitored.

PASSED AND ADOPTED this 20th day of March, 2019, at a Special Meeting of the Governing Board by the following vote:

PREFERENTIAL AYE: None
PREFERENTIAL NOE: None
PREFERENTIAL ABSTENTION: None
PREFERENTIAL RECUSE: None
AYES: Gary Yee, Roseann Torres, Shanthi Gonzales, James Harris, Vice President Jody London, President Aimee Eng
NOES: Jumoke Hinton Hodge
ABSTAINED: None
RECUSED: None
ABSENT Josue Chavez, Yota Omosowo (Student Directors)

CERTIFICATION
We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Special Meeting of the Board of Education of the Oakland Unified School District, held on March 20, 2019.

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<td>19-0451</td>
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Aimee Eng, President, Board of Education 3/21/19
Kyla Johnson Trammell, Secretary, Board of Education 3/21/19
Exhibit E
Board Cover Memorandum

To
Board of Education

From
Shanthi Gonzales, Board President
Gary Yee, Board Member

Meeting Date
December 15, 2021

Subject
Resolution No. 2122-0026 - Quality Instruction and Student Supports, Adequate Staffing, Competitive Compensation, and Long-Term Fiscal Stability

Ask of the Board
Introduction of Resolution No. 2122-0026 - Quality Instruction and Student Supports, Adequate Staffing, Competitive Compensation, and Long-Term Fiscal Stability as a new legislative matter

Background
All students deserve safe schools with strong instruction and strong social-emotional supports - all things which require adequate staffing. However, underenrolled schools cannot support a sufficient number of staff to offer a strong instructional program nor can they properly serve as community schools. Underenrolled schools also draw a disproportionate amount of resources to operate, which means that other, fully enrolled schools receive less revenue than they would otherwise, which negatively impacts these schools’ ability to properly serve as community schools and offer strong instructional programs.

The District’s large number of sites increases the District’s deferred maintenance costs and spreads the District’s limited resources for deferred maintenance too thinly, which negatively impacts the District’s ability to maintain qualify facilities for all students. (Measure Y, which was approved in 2020, will cover less than a quarter of the District’s $3.4 billion in facilities needs.) Similarly, the large number of sites also increases the District’s operational costs (e.g., custodial, transportation, IT) and spreads the District’s limited resources for operations too thinly, which negatively impacts the ability to provide quality services to schools.

Other districts with a similar enrollment have significantly fewer schools and fewer teachers and other districts with a similar number of school have significantly higher enrollment. The District currently operates 38 elementary, middle, and K-8 schools with projected 2022-23 enrollment of fewer than 400 students, of which 12 are projected to enroll less than 250 students.
While the District has received a significant portion of one-time funding in response to the COVID-19 pandemic, its long-term financial challenges remain—particularly the longstanding issues of declining enrollment, increasing pension costs, and failure of the state and federal governments to fully fund special education costs—and have yet to be conclusively addressed. The District needs to make more ongoing revenue available to fund sufficient staffing levels and supports at all schools and provide continuously competitive compensation, especially given the current statewide labor storage and the likelihood of significant inflationary pressures in the near future. Moreover, without making such ongoing revenue available, the District cannot stay solvent, operate such a disproportionately high number of schools, and avoid making programmatic reductions that fundamentally undermine the ability of the District to operate and provide a basic level of instruction to all of its students, particularly those students with the highest needs. It is also likely that a decision to consolidate schools this year (2021-22) may make the District eligible for $10 million in unrestricted funding under Assembly Bill No. 1840 ("AB 1840").

Discussion

The proposed Resolution aims to identify at least $8 million in ongoing savings in order to employee sufficient staff to operate the District and its schools and to provide the necessary instructional offerings to students, to help the District offer competitive compensation, to repair and maintain quality school facilities, to more effectively use the District’s limited resources, and to help address the District’s long-term financial challenges. The Resolution proposes to do so by directing the Superintendent to present the Board at the soonest possible opportunity (e.g., a Special Board meeting) a list of school consolidations sufficient to achieve at least an estimated $8 million in ongoing savings. Should the Board then vote to consolidate schools, the Resolution would then direct the Superintendent to bring forward a proposal, no later than May 2022, for how the newly available facilities shall be utilized for District purposes.

Fiscal Impact

No direct fiscal impact. If the Board of Education ultimately enacts all proposed school consolidations, there would be potentially $3 million in ongoing savings starting in 2022-23 and an additional $5 million in ongoing savings starting in 2023-24. An additional $10 million in one-time funds may be available under AB 1840 if the Board of Education ultimately enacts at least some of proposed school consolidations this fiscal year.

Attachment

- Resolution No. 2122-0026 - Quality Instruction and Student Supports, Adequate Staffing, Competitive Compensation, and Long-Term Fiscal Stability
RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT

Resolution No. 2122-0026

Quality Instruction and Student Supports, Adequate Staffing, Competitive Compensation, and Long-Term Fiscal Stability

WHEREAS, all students deserve safe schools with strong instruction and strong social-emotional supports - all things which require adequate staffing;

WHEREAS, underenrolled schools cannot support a sufficient number of staff to offer a strong instructional program nor can they properly serve as community schools;

WHEREAS, underenrolled schools also draw a disproportionate amount of resources to operate, which means that other, fully enrolled schools receive less revenue than they would otherwise, which negatively impacts these schools’ ability to properly serve as community schools and offer strong instructional programs;

WHEREAS, given that Measure Y will cover less than a quarter of the District’s $3.4 billion in facilities needs, the large number of sites increases the District’s deferred maintenance costs and spreads the District’s limited resources for deferred maintenance too thinly, which negatively impacts the District’s ability to maintain qualify facilities for all students;

WHEREAS, the large number of sites increases the District’s operational costs (e.g., custodial, transportation, IT) and spreads the District’s limited resources for operations too thinly, which negatively impacts the ability to provide quality services to schools;

WHEREAS, as illustrated in the table below, other districts with a similar enrollment have significantly fewer schools and fewer teachers and other districts with a similar number of schools have significantly higher enrollment:

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<tr>
<th>District</th>
<th>2020-21 Enrollment</th>
<th>2020-21 Number of Schools</th>
<th>2020-21 Average School Size</th>
<th>2018-19 Teacher: Student Ratio*</th>
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<tbody>
<tr>
<td>Riverside USD</td>
<td>39,443</td>
<td>47</td>
<td>839</td>
<td>21.6</td>
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<tr>
<td>Santa Ana USD</td>
<td>43,917</td>
<td>54</td>
<td>813</td>
<td>20.0</td>
</tr>
<tr>
<td>Moreno Valley USD</td>
<td>31,593</td>
<td>39</td>
<td>810</td>
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<tr>
<td>Fremont USD</td>
<td>34,782</td>
<td>43</td>
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<td>Fontana USD</td>
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<td>Oakland USD</td>
<td>35,489</td>
<td>81</td>
<td>438</td>
<td>11.7</td>
</tr>
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</table>

*Most recent data available
WHEREAS, the District currently operates 38 elementary, middle, and K-8 schools with projected 2022-23 enrollment of fewer than 400 students, of which 12 are projected to enroll less than 250 students;

WHEREAS, although the District has received a significant portion of one-time funding in response to the COVID-19 pandemic, its long-term financial challenges remain - particularly the longstanding issues of declining enrollment, increasing pension costs, and failure of the state and federal governments to fully fund special education costs - and have yet to be conclusively addressed;

WHEREAS, the District needs to make more ongoing revenue available to fund sufficient staffing levels and supports at all schools and provide continuously competitive compensation, especially given the current statewide labor storage and the likelihood of significant inflationary pressures in the near future;

WHEREAS, without making such ongoing revenue available, the District cannot stay solvent, operate such a disproportionately high number of schools, and avoid making programmatic reductions that fundamental undermine the ability of the District to operate and provide a basic level of instruction to all of its students, particularly those students with the highest needs; and

WHEREAS, a decision to consolidate schools this year (2021-22) as provided in this Resolution may make the District eligible for $10 million in unrestricted funding under Assembly Bill No. 1840 ("AB 1840").

NOW, THEREFORE, BE IT RESOLVED, in order to employee sufficient staff to operate the District and its schools and to provide the necessary instructional offerings to students, to help the District offer competitive compensation, to repair and maintain quality school facilities, to more effectively use the District's limited resources, and to help address the District's long-term financial challenges, the Board of Education ("Board") hereby directs the Superintendent to present the Board at the soonest possible opportunity (e.g., a Special Board meeting) a list of school consolidations that are estimated to achieve a minimum of $3 million in ongoing savings starting in 2022-23 and an additional $5 million in ongoing savings starting in 2023-24;

BE IT FURTHER RESOLVED, should the Board vote to consolidate one or more of those schools, the Superintendent shall bring forward a proposal to the Board, no later than May 2022, for how the newly available facilities shall be utilized for District purposes.

PASSED AND ADOPTED on ________________, 2022, by the Governing Board of the Oakland Unified School District by the following vote:

PREFERENTIAL AYE:

PREFERENTIAL NOE:

PREFERENTIAL ABSTENTION:

PREFERENTIAL RECUSE:
AYES:

NOES:

ABSTAINED:

RECUSED:

ABSENT:

CERTIFICATION

We hereby certify that the foregoing is a full, true, and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on __________, 2022.

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OAKLAND UNIFIED SCHOOL DISTRICT

____________________________
Shanthi Gonzales
President, Board of Education

____________________________
Kyla Johnston-Trammell
Superintendent and Secretary, Board of Education
Board Cover Memorandum

To        Board of Education

From      Shanthi Gonzales, Board President
          Gary Yee, Board Member

Meeting Date  January 12, 2022

Subject   Resolution No. 2122-0026 - Quality Instruction and Student Supports, Adequate Staffing, Competitive Compensation, and Long-Term Fiscal Stability

Ask of the Board

Approval by the Board of Education of Resolution No. 2122-0026 - Quality Instruction and Student Supports, Adequate Staffing, Competitive Compensation, and Long-Term Fiscal Stability

Background

All students deserve safe schools with strong instruction and strong social-emotional supports - all things which require adequate staffing. However, underenrolled schools cannot support a sufficient number of staff to offer a strong instructional program nor can they properly serve as community schools. Underenrolled schools also draw a disproportionate amount of resources to operate, which means that other, fully enrolled schools receive less revenue than they would otherwise, which negatively impacts these schools' ability to properly serve as community schools and offer strong instructional programs.

The District's large number of sites increases the District's deferred maintenance costs and spreads the District's limited resources for deferred maintenance too thinly, which negatively impacts the District's ability to maintain quality facilities for all students. (Measure Y, which was approved in 2020, will cover less than a quarter of the District's $3.4 billion in facility needs.) Similarly, the large number of sites also increases the District's operational costs (e.g., custodial, transportation, IT) and spreads the District's limited resources for operations too thinly, which negatively impacts the ability to provide quality services to schools.

Other districts with a similar enrollment have significantly fewer schools and other districts with a similar number of schools have significantly higher enrollment.

While the District has received a significant portion of one-time funding in response to the COVID-19 pandemic, its long-term financial challenges remain—particularly the longstanding issues of declining enrollment, increasing pension costs, and failure of the state and federal governments to fully fund special education costs—and have yet to be conclusively addressed. The District needs to make more ongoing revenue available to provide competitive compensation, especially given the current statewide labor
storage, competition from nearby districts, and the likelihood of significant inflationary pressures in the near future. Moreover, without making such ongoing revenue available, the District cannot stay solvent, operate such a disproportionately high number of schools, and avoid making programmatic reductions that fundamentally undermine the ability of the District to operate and provide a basic level of instruction to all of its students, particularly those students with the highest needs.

It is likely that a decision this year (2021-22) to consolidate schools may make the District eligible for $10 million in unrestricted funding under Assembly Bill No. 1840 ("AB 1840").

Discussion

The resolution directs the Superintendent to present that Board with a list of school consolidations to create budget savings in order to employ sufficient staff to operate the District and its schools and to provide the necessary instructional offerings to students, to help the District offer competitive compensation, to repair and maintain quality school facilities, to more effectively use the District’s limited resources, and to help address the District’s long-term financial challenges.

The original resolution, as introduced on December 15, 2021, directed the Superintendent to present the Board with “a list of school consolidations . . . estimated to achieve a minimum of $3 million in ongoing savings starting in 2022-23 and an additional $5 million in ongoing savings starting in 2023-24.” It also directed it to be done “at the soonest possible opportunity (e.g., a Special Board meeting).”

The revised version of the resolution now before the Board changes this to simply direct the Superintendent to bring forward a list of the school consolidations (i.e., closures or mergers) that could be reasonably implemented by Fall 2022 and/or Fall 2023. It would then be up to the Board to determine whether to consolidate all, some, or none of schools on the list. The revised version of the resolution also directs the Superintendent to bring forward such a list at the soonest “reasonable” opportunity and makes it explicit that this timeline is not constrained by prior Board resolutions or action. Additionally, the revised version includes an update chart of comparative districts and some changes to the whereas clauses.

The revised version maintains the direction to bring forward a proposal, no later than May 2022, for how the to-be-available facilities shall be utilized for District purposes should the Board then vote to consolidate schools.

Fiscal Impact

No direct fiscal impact. The projected fiscal impact of school consolidations will be included with the list of the school consolidations is presented to the Board. An additional $10 million in one-time funds may be available under AB 1840 if the Board ultimately enacts at least some of proposed school consolidations this fiscal year. [Please note an earlier published version of the fiscal impact stated that there would be at least $6 million in estimated ongoing savings. The projected savings will not be known until the list of schools to possibly consolidate is determined.]

Attachment

- Resolution No. 2122-0026 - Quality Instruction and Student Supports, Adequate Staffing, Competitive Compensation, and Long-Term Fiscal Stability
RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT

Resolution No. 2122-0026

Quality Instruction and Student Supports, Adequate Staffing, Competitive Compensation, and Long-Term Fiscal Stability

WHEREAS, all students deserve safe schools with strong instruction and strong social-emotional supports - all things which require adequate staffing;

WHEREAS, underenrolled schools cannot support a sufficient number of staff to offer a strong instructional program nor can they properly serve as community schools;

WHEREAS, underenrolled schools also draw a disproportionate amount of resources to operate, which means that other, fully enrolled schools receive less revenue than they would otherwise, which negatively impacts these schools’ ability to properly serve as community schools and offer strong instructional programs;

WHEREAS, given that Measure Y will cover less than a quarter of the District’s $3.4 billion in facility needs, the large number of sites increases the District’s deferred maintenance costs and spreads the District’s limited resources for deferred maintenance too thinly, which negatively impacts the District’s ability to maintain quality facilities for all students;

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WHEREAS, the District currently operates 38 elementary, middle, and K-8 schools with projected 2022-23 enrollment of fewer than 400 students, of which 12 are projected to enroll less than 250 students;

WHEREAS, although the District has received a significant portion of one-time funding in response to the COVID-19 pandemic, its long-term financial challenges remain - particularly the longstanding issues of declining enrollment, increasing pension costs, and failure of the state and federal governments to fully fund special education costs - and have yet to be conclusively addressed;

WHEREAS, the District needs to make more ongoing revenue available to provide competitive compensation, especially given the current statewide labor storage, competition from nearby districts, and the likelihood of significant inflationary pressures in the near future;

WHEREAS, without making such ongoing revenue available, the District cannot stay solvent, operate such a disproportionately high number of schools, and avoid making programmatic reductions that fundamentally undermine the ability of the District to operate and provide a basic level of instruction to all of its students, particularly those students with the highest needs; and

WHEREAS, a decision this year (2021-22) to consolidate schools as provided in this Resolution may make the District eligible for $10 million in unrestricted funding under Assembly Bill No. 1840 (“AB 1840”).

NOW, THEREFORE, BE IT RESOLVED, in order to employ sufficient staff to operate the District and its schools and to provide the necessary instructional offerings to students, to help the District offer competitive compensation, to repair and maintain quality school facilities, to more effectively use the District’s limited resources, and to help address the District’s long-term financial challenges, the Board of Education (“Board”) hereby directs the Superintendent to present the Board - at the soonest reasonable opportunity (if needed, at one or more Special Board meetings called for this purpose), notwithstanding the requirements of Resolution No. 2021-0037 (Reparations for Black Students), Resolution No. 1819-0178 (Improving Community Engagement for Proposed School Changes), or any prior Board direction or action - a list of the school consolidations (i.e., closures or mergers) that can be reasonably implemented by Fall 2022 and/or Fall 2023; and

BE IT FURTHER RESOLVED, the Board directs the Superintendent to forward a proposal to the Board, no later than May 2022, for how the newly available facilities shall be utilized for District purposes should the Board vote to consolidate one or more of those schools.

PASSED AND ADOPTED on ________________, 2022, by the Governing Board of the Oakland Unified School District by the following vote:

PREFERENTIAL AYE:

PREFERENTIAL NOE:

PREFERENTIAL ABSTENTION:

PREFERENTIAL RECUSE:
AYES:

NOES:

ABSTAINED:

RECUSED:

ABSENT:

CERTIFICATION

We hereby certify that the foregoing is a full, true, and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on ____________, 2022.

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OAKLAND UNIFIED SCHOOL DISTRICT

__________________________
Shanthi Gonzales
President, Board of Education

__________________________
Kyla Johnston-Trammell
Superintendent and Secretary, Board of Education
Hu, Mandy

From: Green, John
Sent: Monday, February 7, 2022 10:51 AM
To: Quiñonez, Jesús; Hu, Mandy
Subject: FW: OEA Demand to Bargain School Closures
Attachments: OEA Demand to Bargain School Closures.pdf

-----Original Message-----
From: Keith Brown <president@oaklandea.org>
Sent: Thursday, February 3, 2022 4:55 PM
To: Kyla Trammell <kyla.johnson@ousd.org>
Cc: Robin Sasada <robin.sasada@ousd.org>
Subject: OEA Demand to Bargain School Closures

February 3, 2022

Dear Superintendent Johnson-Trammell,

The Oakland Education Association hereby demands to bargain the decision to waive Board Policy 19-0481 and close or consolidate 16 schools on an accelerated timeline. As you know, BP 19-0481 was adopted as part of the resolution of our 2019 strike over wages, class sizes and school closures, including the accelerated (or “ambush”) closure of Roots International Academy.

The District has communicated to unit members and the community that school closures are driven by teacher wages and cited the District’s poor teacher retention as an additional motivating factor.

The subject of school closures is of such concern to our members that tremendous conflict has occurred, including a hunger strike by unit members, nightly protests and a growing number of wildcat actions. Collective bargaining would provide a structured forum for resolving concerns.

The District’s obligation to negotiate the decision to waive Board Policy 19-0481 does not significantly abridge its freedom to redesign the delivery of instructional services, as evidenced by the successful merger of Howard Elementary and Roses in Concrete Community School, which followed the BP 19-0481 process and resulted in a net increase in student enrollment.

Please advise me if the District intends to honor its legal obligation to bargain with us.

Sincerely,

Keith D. Brown

Newcomer Teacher, Bret Harte Middle School President, Oakland Education Association

CC: OEA Executive Board
February 3, 2022

Dear Superintendent Johnson-Trammell,

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The subject of school closures is of such concern to our members that tremendous conflict has occurred, including a hunger strike by unit members, nightly protests and a growing number of wildcat actions. Collective bargaining would provide a structured forum for resolving concerns.

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Please advise me if the District intends to honor its legal obligation to bargain with us.

Sincerely,

Keith D. Brown
Newcomer Teacher, Bret Harte Middle School
President, Oakland Education Association

CC: OEA Executive Board
Exhibit H
TO: Keith Brown, President; John Green, Executive Director, CTA
FROM: Kyla Johnson-Trammell, Superintendent; Joshua R. Daniels, Chief Governance Officer
DATE: February 8, 2022
RE: Response to Demand to Bargain School Closure

This letter is the Oakland Unified School District’s (“OUSD”) response to the California Teachers Association (“CTA”) demand to bargain Board of Education Resolution No. 2122-0030. In your February 3, 3033 correspondence, you expressed the Oakland Education Association (“OEA”) demand “to bargain OUSD’s decision to close and/or consolidate public schools.” OUSD disagrees with OEA’s position that the decision to close schools is subject to negotiations with OEA. Moreover, the impact of school closures has been contemplated in the negotiation of successor contract agreements and therefore the impact of school closure on OEA members is addressed in our collective bargaining agreement.

If you have any questions, please feel free to contact Jenine Lindsey, Executive Director of Labor Relations & ADR at Jenine.lindsey@ousd.org.

cc:
John Green, CTA
Jenine Lindsey, Labor Relations
AGREEMENT BETWEEN
OAKLAND UNIFIED SCHOOL DISTRICT AND
OAKLAND EDUCATION ASSOCIATION

Representing Teachers and Other Certificated Classifications

For the Period
July 1, 2018 through June 30, 2021

Oakland Unified School District (OUSD)
1000 Broadway
Oakland, CA 94607

Oakland Education Association (OEA)
272 E. 12th Street
Oakland, CA 94606
(510) 763-4020
Fax (510) 763-6354
12.8.12 The Employer will provide information to the Association prior to consolidations. Such information will include the sites where consolidations will take place, and any other pertinent information, which may be available.

12.9 Transfer/Consolidation Due To School Closure/Replacement

12.9.1 Unit members according to their seniority will have the option of being assigned to schools to which students from the closed school have been placed if positions are created due to the attendance of students from the closed school.

12.9.2 In the event all unit members cannot follow the students from the school due to changes in enrollment, the process set forth in this Article shall be followed.

12.9.3 Should the unit member not exercise this option, they will follow the process set forth in this Article.

12.9.4 If closure is based on inability to use the facility, when the facility is rebuilt, all unit members who were in the original school shall have first opportunity to be assigned to the new facility. If more unit members desire to return than there are positions available, the assignment factors shall be considered.

12.9.4.1 After the unit members in the original school have had an opportunity to be assigned to the new facility, if vacancies still remain, then procedures for filling a vacancy under this Article shall be followed.

12.9.5 Unit members assigned to a school prior to grade reconfiguration (grade level changes) shall have the option of remaining at the school after reconfiguration. An exception would be allowed if the unit members do not have the credential required for the new grade level configuration.

12.9.5.1 In the event that all the unit members cannot remain after the reconfiguration due to enrollment decreases, the consolidation factors will be used to determine who is to be consolidated.

12.9.5.2 Unit members who wish to follow their students to another school, due to enrollment shifts required by reconfiguration, shall be granted the opportunity to do so, in accordance with the process set forth in this Article.

12.9.5.3 Unit members who do not want to continue in their assignments, due to reconfiguration, shall have the first opportunity to accept current vacancies for which they are qualified according to the process set forth in this Article.

12.9.6 Should the unit member not exercise the option to be considered or not be selected for a position in the New School, he/she may select a position from the Position List referenced in Section 12.1, unless such selection conflicts with the assignment factors (contained in Section 12.4). The Position List will be presented to the unit member before the end of the current school year. The unit member shall select in order of preference, up to his or her first five (5) choices from the Position List. If more than one unit member selects the same position, the unit member with the most seniority shall have preference.

12.9.7 A unit member not selected for a position in the New School under this section may appeal the decision pursuant to the appeal procedures enumerated in Section 12.7.4 above.

12.10 Classroom Teacher Assignment

12.10.1 Classroom teachers shall be given written notice of their tentative assignment for the following school year no later than ten (10) days prior to the last student day of the school year. Such tentative assignment shall include tentative grade, class, subject, and room assignment.
Exhibit J
From: Keith Brown <president@oaklandea.org>
Sent: Tuesday, February 8, 2022 4:35 PM
To: Kyla Trammell <kyla.johnson@ousd.org>
Cc: Jenine Lindsey <jenine.lindsey@ousd.org>; Green, John <JGreen@cta.org>; Robin Sasada <robin.sasada@ousd.org>
Subject: OEA Amended Demand to Bargain School Closures

February 8, 2022

Dear Superintendent Johnson-Trammell,

The Oakland Education Association is clarifying and amending our February 3 letter. We demand to bargain: (1) the decision to waive Board Policy 19-0481, (2) the decision to close or consolidate 16 schools, and (3) the impacts and effects of the decision to close or consolidate schools. As you know, BP 19-0481 was adopted as part of the resolution of our 2019 strike over wages, class sizes and school closures, including the accelerated (or “ambush”) closure of Roots International Academy.

The District has communicated to unit members and the community that school closures are driven by teacher wages and cited the District’s poor teacher retention as an additional motivating factor.

The subject of school closures is of such concern to our members that tremendous conflict has occurred, including a hunger strike by unit members, nightly protests and a growing number of wildcat actions. Collective bargaining would provide a structured forum for resolving concerns.

The District’s obligation to negotiate the decision to waive Board Policy 19-0481 does not significantly abridge its freedom to redesign the delivery of instructional services, as evidenced by the successful merger of Howard Elementary and Roses in Concrete Community School, which followed the BP 19-0481 process and resulted in a net increase in student enrollment.

Please advise me if the District intends to honor its legal obligation to bargain with us.

Sincerely,

Keith D. Brown

Newcomer Teacher, Bret Harte Middle School

President, Oakland Education Association
CC: Jenine Lindsey, Exec. Director of Labor Relations & ADR
February 8, 2022

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President, Oakland Education Association

CC: Jenine Lindsey, Exec. Director of Labor Relations & ADR
OEA Executive Board

www.oaklandea.org
PROOF OF SERVICE
State of California, County of, San Mateo

I am employed in County of San Mateo, State of California. I am over the age of 18 and not a party to the within action; my business address is: 1705 Murchison Drive, Burlingame, California, 94010.

On February 15, 2022, I served the foregoing document described as Unfair Practice Charge, (Oakland Education Association, CTA/NEA v. Oakland Unified School District) on all interested parties in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed as follows:

Dr. Kyla Johnson – Trammell, Superintendent
Oakland Unified School District
1000 Broadway, Suite 680
Oakland, CA 94607
superintendent@ousd.org

☑ BY MAIL
I am "readily familiar" with practice of collection and processing correspondence for mailing in this office. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Burlingame, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ BY OVERNIGHT
By overnight courier, I arranged for the above-referenced document(s) to be delivered to an authorized overnight courier service for delivery to the addressee(s) above, in an envelope or package designated by the overnight courier service with delivery fees paid or provided for.

☐ BY FACSIMILE
I arranged for the above-entitled document(s) to be sent by facsimile from facsimile number (650) 552-5019 to the above-listed facsimile number(s) prior to 5:00 p.m. The facsimile machine I used complied with the applicable rules of court. Pursuant to the applicable rules, I caused the machine to print a transmission record of the transmission, to the above facsimile number(s) and no error was reported by the machine. A copy of this transmission is attached hereto.

☑ BY EMAIL
By electronic mail transmission this date to the email address(es) listed above.

Executed on February 15, 2022, at Burlingame, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

/s/ Rachel A. Quiles