



OFFICE OF THE BOARD OF EDUCATION

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BOARD OF EDUCATION 2022

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March 15, 2022

Honorable L. Karen Monroe
Alameda County Superintendent of Schools
313 W. Winton Ave.
Hayward, CA 94544

Dear Superintendent Monroe:

On behalf of the Oakland Unified School District (“District” or “OUSD”), I submit this letter to you pursuant to Resolution No. 2122-0076 (Communication To Alameda County Superintendent L.K. Monroe Regarding Going Concern Determination), a copy of which is attached hereto. It is intended to (i) detail the recent actions taken by the OUSD Board of Education (“Board”) that have had a significant impact on the District’s financial standing, (ii) request that you consider withdrawing your November 8, 2022 going concern determination in light of these actions and their associated improvement to the District’s financial standing, and (iii) request that you or Trustee Luz Cazares give a presentation at the March 23, 2022 Board meeting regarding the basis for the going concern determination and the need for school consolidations and to respond to related questions from Board members.

Background

On November 8, 2021, you approved the District’s 2021-22 Adopted Budget. As part of the same letter, however, you determined that the District is a “Lack of Going Concern” pursuant to Education Code section 42127.6, subdivision (a). As a basis for this determination, you cited certain areas of concern,¹ including the following:

¹ Additional bases include unrecorded health benefits liability, differences with your office regarding the multi-year projections, and the use of one-time funding. Some of these have or are being addressed at the staff level. For instance, the remaining “bridge plan” expenses are not included in the 2nd interim budget and, starting in 2023-24, paid for with ongoing revenue.

- FTE Reductions Due to Enrollment Declines. The District's multi year projection ("MYP") in its 2021-22 Adopted Budget does not show any reductions in FTE despite the decline in enrollment.
- AB 1840 Funds. The District's decision not to consolidate schools in 2021-22 likely means that it will not receive its \$10 million conditional allocation under AB 1840.²
- Structural Deficit. The District's MYP (at the time of the determination) without one-time COVID resources show deficits in the unrestricted general fund and the combined restricted funds for both 2022-23 and 2023-24.
- Board Actions. In the past, the Board has not always enacted the necessary budget solutions and, when it has, those solutions have not always been implemented with fidelity.

As permitted by statute, you opted to exercise your authority to pursue the following three actions:

- Conducting a Financial/Budgetary Study. Conduct a study of the financial and budgetary conditions of the school district that includes, but is not limited to, a review of internal controls. If, in the course of this review, the county superintendent determines that the county superintendent's office requires analytical assistance or expertise that is not available through the school district, the county superintendent may employ, on a short-term basis, with the approval of the Superintendent, staff, including certified public accountants, to provide the assistance and expertise. The school district shall pay 75 percent and the county office of education shall pay 25 percent of these staff costs.
- Withholding Compensation. Withhold compensation of the members of the governing board of the school district and the school district superintendent for failure to provide requested financial information.
- Assigning FCMAT. Assign the County Office Fiscal Crisis and Management Assistance Team ("FCMAT") to review teacher hiring practices, teacher retention rate, percentage of provision of highly qualified teachers, and the extent of teacher misassignment in the school district, to provide the school district with recommendations to streamline and improve the teacher hiring process, teacher retention rate, extent of teacher misassignment, and provision of highly qualified teachers, and to perform any or all of the duties prescribed in statute, or to further review the causes that led to a finding of moderate or high risk of intervention and recommend corrective action. If a review team is assigned to a school district, the school district shall follow the recommendations of the team, unless the school district shows good cause for failure to do so. FCMAT may not recommend an action that would abrogate a contract that governs employment.

² Under Assembly Bill No. 1840 ("AB 1840"), the District was to receive three one-time annual allocations of unrestricted funds once the District satisfied certain conditions each fiscal year. The conditions for a particular fiscal year were to be included in the State's Annual Budget Act. For its 2021-22 allocation, one of the conditions was "[a]ffirmative action by the governing board to continue planning for, and timely implementation of, a school and facility closure and consolidation plan that supports the sale or lease of surplus property."

The District appealed your determination and your proposed three actions to the State Superintendent of Public Instruction (“SPI”) pursuant to Education Code section 42127.6, subdivision (b), on November 13, 2022. The SPI denied the appeal on November 23, 2021.

Recent Board Decisions and Their Financial Implications

During this fiscal year, the Board has made a number of difficult but financially impactful decisions.³

- October 27, 2021. The Board approved \$5.2 million in budget adjustments, as outlined in Resolution No. 2021-0128D (Reductions In Lieu of Cohort 3 School Consolidations).
- December 15, 2021. The Board approved the commitment of \$21.5 million in one-time funds to make the remaining payments on the District’s I-Bank and the State General Fund loans, as outlined in Resolution No. 2021-0163B (Committing Sufficient Funds to Fully Repay State Loans), which resolved at least \$2.1 million in ongoing expenditures (through 2025-26).
- January 26, 2022. The Board approved \$32.8 million in new budget adjustments, as outlined in Resolution No. 2122-0028 (Proposed Adjustments for 2022-23 Budget), for a total of \$40.1 million in adjustments when combined with the \$5.2 million in budget adjustments from Resolution No. 2021-0128D.
- January 26/31, 2022. The Board approved classified layoffs implementing the \$40.1 million in budget adjustments, as outlined in Resolution Nos. 2122-0122 (Classified Employees Reduction in Force Due to Lack of Funds and/or Lack of Work 2022-2023 Fiscal Year) and 2122-0122A (Amendment of Classified Employees Reduction in Force - Lack of Funds and/or Lack of Work - 2022-2023 Fiscal Year).
- February 8, 2022. The Board approved the closure of seven schools, one merger, and two grade truncations over the next two years, as outlined in Resolution No. 2122-0030 (School Consolidations for 2022-23 and 2023-24). The Board reaffirmed this decision at a meeting on February 18, 2022.
- March 9, 2022. The Board approved classified layoffs implementing the school consolidations, as outlined in Resolution Nos. 2122-0122B (Amendment of Classified Employees Reduction in Force - Lack of Funds and/or Lack of Work - 2022-2023 Fiscal Year).

These decisions directly address the key areas of concern you listed as the basis of the going concern determination.

- FTE Reductions Due to Enrollment Declines. A significant portion of the budget adjustments and classified layoffs were made in response to recent enrollment declines. The District does not need to make any certificated layoffs due to expected attrition.

³ The Board has also made other financially relevant decisions such as the decisions to lease the surplus sites of Tilden and Shands for housing.

- AB 1840 Funds. The decision to consolidate schools likely means that the District will receive \$10 million under AB 1840.⁴
- Structural Deficit. The budget adjustments addressed the District's structural deficit.⁵
- Board Actions. As demonstrated by the above listed above, the Board has enacted the necessary budget solutions and school consolidations to help the District make significant strides towards long-term financial strength and stability.

Additionally, the Board is committed to ensuring that its decisions are implemented as directed and with fidelity. For instance, it appears that approximately \$6.6 million of the budget adjustments approved via Resolution No. 2122-0028 are not yet ready to be incorporated into the budget; if necessary, I fully expect the Board to take additional action to ensure that these adjustments are incorporated into the final budget for 2022-23.

Withdrawal of Going Concern Determination

In light of these actions and their associated impact on the District's financial standing, I ask that you consider withdrawing the going concern determination. First, the District is not currently in such unusual financial distress that a going concern determination is appropriate. Second, the District is now in a stronger position to make the necessary fiscal and related decisions it will continue to need to make. Third, the District has made a number of difficult decisions and withdrawing the going concern determination will further validate those decisions.

A going concern determination is an unusually serious step and indicates an unusually serious concern regarding a district's financial standing. For instance, while dozens of districts in California have a qualified budget, very few were deemed to be a lack of going concern. Any basis for the lack of going concern in November 2021 no longer exists; as outlined above, the Board's decisions have resolved the key areas of concern that underscored that original basis. Most notably, OUSD is on much stronger financial footing than it was when the going concern determination was initially made.

While strong financial progress has been made, the District fully recognizes that it still has difficult decisions that it will need to make in the near future. The District will soon have to consider how it can provide further ongoing salary increases (beyond those reached in recent tentative agreements) to recruit and retain staff. The District's loss of enrollment due to COVID may continue (although, to date, it has been less severe than in many other districts) and the District will need to continue to adjust staffing and spending accordingly. And the District still needs to resolve its use of one-time revenue. Nonetheless, the breadth and depth of these

⁴ Please note that the resolution consolidating schools also dedicated any AB 1840 funding received by OUSD "to academic and socioemotional learning supports for all students at the consolidated schools and at the Welcoming Schools . . . , as well as for students needing such intervention at schools across the District based on the Black Students Thriving Indicators."

⁵ There is no ongoing structural deficit as of Second Interim. However, Second Interim does not incorporate the financial impact of a number of relevant financial components, including recently reached tentative agreements and school consolidations.

challenges are now more manageable and the District is now in a stronger place to tackle them.

As you know, the decisions outlined in this letter were very difficult for OUSD and the OUSD community. Board members, staff, and community members worked and advocated extremely hard to figure out what to do and what was the best result for the District. In the end, the Board—although at times quite divided—took each of the actions outlined in this letter because they were necessary to help improve the District's financial standing. Withdrawing the going concern determination would validate the necessity of those decisions. Similarly, future tough decisions (which, as noted above, the District will still need to make) will be made easier knowing that there will be corresponding improvements in the designation of OUSD and/or county oversight of the District.

Board Presentation

Pursuant to Resolution No. 2122-0076, I request that you or Trustee Luz Cazares give a presentation at a Board meeting on March 23, 2022 regarding the basis for the going concern determination and the need for school consolidations and to respond to related questions from Board members. If you plan on attending that meeting or a future meeting, please let me know at least the Friday before so that the agenda can be adjusted accordingly.

Thank you for your consideration.

Sincerely,



Gary Yee
President
Board of Education

Cc: Members, Board of Education
Dr. Kyla Johnson-Trammell, Superintendent

Board Office Use: Legislative File Info.	
File ID Number	22-0286
Introduction Date	2/9/2022
Enactment Number	22-0235
Enactment Date	2-23-2022 CJH



Board Cover Memorandum

To Board of Education

From Gary Yee, Board President

Meeting Date February 23, 2022

Subject Resolution No. 2122-0076 - Communication To Alameda County Superintendent L.K. Monroe Regarding Going Concern Determination

Ask of the Board Approval by the Board of Education of Resolution No. 2122-0076 - Communication To Alameda County Superintendent L.K. Monroe Regarding Going Concern Determination

Background On November 8, 2021, the Alameda County Superintendent L.K. Monroe approved the 2021-22 Adopted Budget for the Oakland Unified School District (“OUSD” or “District”). At the same time, however, Superintendent Monroe determined that the District was a “Lack of Going Concern” pursuant to Education Code section 42127.6, subdivision (a), which empowers a county superintendent to provide a written notice of going concern determination to the governing board of the school district “[i]f at any time during the fiscal year the county superintendent of schools determines that a school district may be unable to meet its financial obligations for the current or two subsequent fiscal years or if a school district has a qualified or negative certification.”

Upon making this determination, Superintendent Monroe proposed taking the following actions as permitted by law:

- Conduct a study of the financial and budgetary conditions of the school district that includes, but is not limited to, a review of internal controls,
- Assign FCMAT to perform certain reviews of the District’s finances and recommend corrective action, and
- Withhold compensation of the members of the Board and OUSD Superintendent Kyla Johnson-Trammell if the District fails to provide requested financial information;

Since Superintendent Monroe issued her going concern determination in November 2021, the OUSD Board of Education (“Board”) has taken certain actions that have had a significant impact on the District’s financial standing.

This item was introduced as a new legislative matter on February 9, 2022. The “WHEREAS” clauses of current proposed version has been revised from the original version.

Discussion The proposed Resolution would direct the Superintendent and Chief Governance Officer to prepare a letter to Superintendent Monroe that would (i) detail the actions

the Board has taken that have had a significant impact on the District's financial standing and (ii) request that Superintendent Monroe consider withdrawing her going concern determination in light of these actions and their associated improvement to the District's financial standing. The Resolution would authorize the Board President to sign the letter on behalf of the District.

Fiscal Impact N/A

Attachment

- Resolution No. 2122-0076 - Communication To Alameda County Superintendent L.K. Monroe Regarding Going Concern Determination

**RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2122-0076

**Communication To Alameda County Superintendent L.K. Monroe Regarding Going Concern
Determination**

WHEREAS, on November 8, 2021, the Alameda County Superintendent L.K. Monroe approved the 2021-22 Adopted Budget for the Oakland Unified School District (“OUSD” or “District”);

WHEREAS, at the same time, Superintendent Monroe determined that the District was a “Lack of Going Concern” pursuant to Education Code section 42127.6, subdivision (a), which empowers a county superintendent to provide a written notice of going concern determination to the governing board of the school district “[i]f at any time during the fiscal year the county superintendent of schools determines that a school district may be unable to meet its financial obligations for the current or two subsequent fiscal years or if a school district has a qualified or negative certification”;

WHEREAS, upon making this determination, Superintendent Monroe proposed taking the following actions as permitted by law:

- Conduct a study of the financial and budgetary conditions of the school district that includes, but is not limited to, a review of internal controls,
- Assign FCMAT to perform certain reviews of the District’s finances and recommend corrective action, and
- Withhold compensation of the members of the Board and OUSD Superintendent Kyla Johnson-Trammell if the District fails to provide requested financial information;

WHEREAS, since Superintendent Monroe issued her going concern determination in November 2021, the OUSD Board of Education (“Board”) has taken certain actions that have had a significant impact on the District’s financial standing; and

WHEREAS, the Board has directed and empowered the Superintendent to implement those actions and the Board is committed to monitoring and supporting such implementation to ensure that it is done with fidelity in this and future years.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby directs the Superintendent and Chief Governance Officer to prepare a letter to be sent to Superintendent Monroe and signed by the Board President on behalf of the District that (i) details the actions the Board has taken that have had a significant impact on the District’s financial standing and (ii) requests that Superintendent Monroe consider withdrawing her going concern determination in light of these actions and their associated improvement to the District’s financial standing.

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this ____ day of _____, 2022, 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 the Meeting of the Board of Education of the Oakland Unified School District held on _____, 2022.

Legislative File	
File ID Number:	22-0286
Introduction Date:	2/9/2022
Enactment Number:	
Enactment Date:	
By:	

OAKLAND UNIFIED SCHOOL DISTRICT

Gary Yee
President, Board of Education

Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education

**RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2122-0076

Communication To Alameda County Superintendent L.K. Monroe Regarding Going Concern Determination

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- Assign FCMAT to perform certain reviews of the District’s finances and recommend corrective action, and
- Withhold compensation of the members of the Board and OUSD Superintendent Kyla Johnson-Trammell if the District fails to provide requested financial information;

WHEREAS, since Superintendent Monroe issued her going concern determination in November 2021, the OUSD Board of Education (“Board”) has taken certain actions that have had a significant impact on the District’s financial standing; and

WHEREAS, the Board has directed and empowered the Superintendent to implement those actions and the Board is committed to monitoring and supporting such implementation to ensure that it is done with fidelity in this and future years.

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for the going concern determination and the need for school consolidations and to respond to related questions from Board members.

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this ____ day of _____, 2022, 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 the Meeting of the Board of Education of the Oakland Unified School District held on _____, 2022.

Legislative File	
File ID Number:	22-0286
Introduction Date:	2/9/2022
Enactment Number:	
Enactment Date:	
By:	

OAKLAND UNIFIED SCHOOL DISTRICT

Gary Yee
President, Board of Education

Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education

**RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2122-0076

**Communication To Alameda County Superintendent L.K. Monroe Regarding Going Concern
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NOW, THEREFORE, BE IT RESOLVED, the Board hereby directs the Superintendent and Chief Governance Officer to prepare a letter to be sent to Superintendent Monroe and signed by the Board President on behalf of the District that (i) details the actions the Board has taken that have had a significant impact on the District’s financial standing, (ii) requests that Superintendent Monroe consider withdrawing her going concern determination in light of these actions and their associated improvement to the District’s financial standing; and (iii) requests that Superintendent Monroe or Trustee Cazares give a presentation at a Board meeting in March regarding the basis

for the going concern determination and the need for school consolidations and to respond to related questions from Board members.

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this 23rd day of February, 2022, by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Aimee Eng, VanCedric Williams, Vice President Benjamin "Sam" Davis, President Gary Yee

NOES: Mike Hutchinson, Shanthi Gonzales, Clifford Thompson

ABSTAINED: None

RECUSED: None

ABSENT: Student Director Samantha Pal, Student Director Natalie Gallegos Chavez

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at the Meeting of the Board of Education of the Oakland Unified School District held on February
23, 2022.

Legislative File	
File ID Number:	22-0286
Introduction Date:	2/9/2022
Enactment Number:	22-0235
Enactment Date:	2-23-2022 CJH
By:	

OAKLAND UNIFIED SCHOOL DISTRICT



2-24-2022

Gary Yee
President, Board of Education



2-24-2022

Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education