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OAKLAND UNIFIED  
SCHOOL DISTRICT

Community Schools, Thriving Students

# Memo

**To** Board of Education

**From** Gary Yee, Ed.D., Acting Superintendent  
By: Maria Santos, Deputy Superintendent, Instruction, Leadership & Equity-in-Action  
Vernon Hal, Deputy Superintendent, Business & Operations

**Board Meeting Date** September 25, 2013

**Subject** **Application for Exemption from the Required Expenditures for Classroom Teachers' Salaries – FY 2010-2011**

**Action Requested** Approval of the District's Application for the Exemption from the Required Expenditures for Classroom Teachers' Salaries for the Fiscal Year 2010-2011 and authorization to submit same to County Superintendent of Schools.

**Background** The 2010-2011 Audit Report provided to the District on June 19, 2013 by the State Controller's Office ("SCO") shows a deficiency of \$10,866,092 in the calculation of classroom teacher's salary totals (Education Code Section 41372). The District is requesting an exemption from the requirements of Section 41372 for FY 10-11 due to financial hardship.

**Discussion** The State Controller's Office audit found that for FY 2010-11, the District spent 51.92% of the required 55% on expenditures for classroom teacher's salaries. The deficiency amount is \$10,866,092. The County Superintendent can waive the deficiency for "serious hardship." The District is requesting a waiver from ACOE.

**Recommendation** Approval of the District's Application for Exemption from the Required Expenditures for Classroom Teacher's Salaries for the Fiscal Year 2010-2011 and authorization to submit same to the Alameda County Superintendent of Schools.

**Attachments**

- CEA Waiver
- Finding 11-41
- Letter to ACOE

## Application for Exemption from the Required Expenditures for Classroom Teachers' Salaries

*Pursuant to Education Code Section 41372*

To: County Superintendent of Schools

For **2010-11** fiscal year, the **Oakland Unified School District** did not spend the minimum percentage of its budget on classroom teacher salaries as required by *EC* Section 41372. We are requesting an exemption from this requirement as provided by law.

Reason for request (Check one):

**X** Serious hardship to the school district

(Please attach a written explanation, the district's latest interim report, and a multiyear projection for the current and two subsequent fiscal years that reflects the financial impact of meeting the requirement of *EC* 41372.)

Payment of classroom teacher salaries that are in excess of those paid by other comparable school districts

(Please attach a classroom teacher salary & benefits comparison for at least three other comparable school districts. The comparison should include annual classroom teacher salaries paid at the beginning, average, and maximum salary levels plus the average annual employer contributions for health & welfare benefits.)

Deficiency is less than \$1,000.00 (exemption is automatically approved)

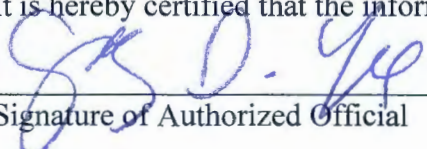
### **A. Deficiency Amount**

(Source: Form CEA)

- |   |                       |
|---|-----------------------|
| 1. Enter the minimum percentage for your district type.<br>(60% Elementary/ 50% High School/ 55% Unified) | <u>55.00 %</u>        |
| 2. Enter the percentage spent by your district.   | <u>51.92%</u>         |
| 3. Percentage below the minimum.<br>(Line 1 minus line 2)   | <u>3.08%</u>          |
| 4. Enter the district's current expense of education (Form CEA)   | <u>\$ 352,795,195</u> |
| 5. Deficiency Amount.<br>(Line 3 times line 4)  | <u>\$ 10,866,092</u>  |

### **B. Certification of the School District Governing Board**

It is hereby certified that the information contained in this application is true and correct.

  
\_\_\_\_\_  
Signature of Authorized Official

*Acting Superintendent and  
Secretary, Board of Education*  
\_\_\_\_\_  
Title

Gary Yee, Ed.D.

Print Name of Authorized Official

\_\_\_\_\_  
Date

**C. Decision of the County Superintendent of Schools**  
(Completed by the County Superintendent of Schools or Designee)

Based on my review of the information contained with this application, I have taken the following action with respect to the school district named on this application (Check one):

\_\_\_\_\_ I am granting the request for exemption from the requirements of *Education Code* Section 41372.

\_\_\_\_\_ I am granting a partial exemption from the requirements of *Education Code* Section 41372. The amount not exempted is \$\_\_\_\_\_ (A written explanation of the reason(s) for approving a partial exemption is attached.)

\_\_\_\_\_ I am denying the request for exemption from the requirements of *Education Code* Section 41372. (A written explanation of the reason(s) for denying the exemption is attached.)

It is hereby certified that the information contained in this application has been reviewed and is true and correct.

\_\_\_\_\_  
Signature of County Superintendent

\_\_\_\_\_/\_\_\_\_\_  
County Office/Date

\_\_\_\_\_  
Signature of Authorized Designee

\_\_\_\_\_/\_\_\_\_\_  
Title of Authorized Designee/Date

**FINDING 11-41—  
Minimum percentage  
requirement for  
classroom teacher  
salary not met  
(61000)**

The Standards and Procedures for Audits of California K-12 Local Education Agencies (section 19829.5(a)), require that if, during the year preceding the year audited, the District had 101 or more of Average Daily Attendance, and, during the year audited, the District was subject to the provisions of Education Code section 41372, that, pursuant to the provisions of Education Code section 74374, the auditor determine whether, after applicable audit adjustments, the District met the current expense of education percentage requirements for expenditure for payment of salaries of classroom teachers as set forth in Education Code section 41372.

We found that the District did not properly calculate its classroom compensation totals. The District's Form CEA identified a total deficiency amount of \$15,331,195. The District reviewed its calculation and identified that it had charged employees' salaries to the incorrect object codes and functions. After making the corrections/adjustments, the District reduced its total deficiency amount to \$8,285,434. The auditor reviewed the supporting documents provided by the District and accepted the recategorization of the portion of an employee's salary that related to the instruction function. However, the District did not provide sufficient evidence to support all employees' salaries that it recategorized to the instruction function, and the auditor rejected 35 employees' salaries that the District had recategorized. As a result, the total deficiency amount, as calculated by the auditor, is \$10,866,092.

Based on the auditor's calculation, the District's cost of education expenditures for classroom compensation for FY 2010-11 was 51.92%, which is under the required minimum percentage amount of 55%. As a result, the District is not in compliance with the minimum percentage requirement for payment of salaries of classroom teachers as required by Education Code section 41372.

California Education Code section 41372 states:

- (a) For the purposes of this section: (a) "Salaries of classroom teachers" and "teacher" shall have the same meanings as prescribed by Section 41011 provided, however, that the cost of all health and welfare benefits provided to the teachers by the school district shall be included within the meaning of salaries of classroom teachers.
- (b) "Current expense of education" means the gross total expended (not reduced by estimated income or estimated federal and state apportionments) for the purposes classified in the final budget of a school district (except one which, during the preceding fiscal year, had less than 101 units of average daily attendance) submitted to and approved by the county superintendent of school pursuant to Section 42127 for certificated salaries other than certificated salaries for pupil transportation, food services, and community services; classified salaries other than classified salaries for pupil transportation, food services, and community services; employee benefits other than employee benefits for pupil transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than



for pupil transportation and food services; and community services, contracted services, and other operating expenses other than for pupil transportation, food services, and community services. "Current expense of education," for purposes of this section shall not include those expenditures classified as sites, building, books, and media and new equipment (object of expenditure 6000 of the California School Accounting Manual), the amount expended from categorical aid received from the federal or state government which funds were granted for expenditures or requiring disbursement of the funds without regard to the requirements of this section, or expenditures for facility acquisition and construction; and shall not include the amount expended pursuant to any lease agreement for plant and equipment or the amount expended from funds received from the federal government pursuant to the "Economic Opportunity Act of 1964" or any extension of this act of Congress.

There shall be expended during each fiscal year for payment of salaries of classroom teachers:

- (1) By an elementary school district, 60 percent of the district's current expense of education.
- (2) By a high school district, 50 percent of the district's current expense of education.
- (3) By a unified school district, 55 percent of the district's current expense of education.

If the county superintendent of schools having jurisdiction over the district determines, on the basis of an audit conducted pursuant to Section 41020, that a school district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom teachers during the preceding fiscal year, the county superintendent of schools shall, in apportionments made to the school district from the State School Fund after April 15 of the current fiscal year, designate an amount of this apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount designated by the county superintendent of schools shall be deposited in the county treasury to the credit of the school district, but shall be unavailable for expenditure by the district pending the determination to be made by the county superintendent of schools on any application for exemption which may be submitted to the county superintendent of schools. If it appears to the governing board of a school district that the application of the preceding paragraphs of this section during a fiscal year results in serious hardship to the district, or in the payment of salaries of classroom teachers in excess of the salaries of classroom teachers paid by other districts of comparable type and functioning under comparable conditions, the board may apply to the county superintendent of schools in writing not later than September 15<sup>th</sup> of the succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section for the fiscal year on account of which the application is made. Upon receipt of this application, the county superintendent of schools shall grant the district exemption for any amount that is less than one thousand dollars (\$1,000). If the amount is one thousand dollars (\$1,000) or greater, the county superintendent of schools may grant an exemption from the requirements for the fiscal year on account of which the application is made. If the exemption is

granted by the county superintendent of schools, the designated moneys shall be immediately available for expenditure by the school district governing board. If no application for exemption is made or exemption is denied, the county superintendent of schools shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year. The county superintendent of schools shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end.

California Education Code section 41374 states:

Notwithstanding any other provision of law to the contrary, Section 41372 shall not apply to any elementary school district, high school district, or unified school district, which maintains no individual class session with pupils in attendance exceeding the numbers, for the particular grade levels, following:

- (a) An elementary school district—twenty-eight (28) pupils.
- (b) A high school district—twenty-five (25) pupils.
- (c) A unified school district—twenty-eight (28) pupils in respect to grades kindergarten through 8, inclusive; and twenty-five (25) pupils in respect to grades 9 through 12, inclusive.

As used in this section the phrase "individual class session" shall not include any class session held in grades kindergarten through 8, inclusive, in courses in visual and performing arts, industrial arts, and physical education. The phrase shall not include any class session held in grades 9 through 12, inclusive, in courses in commercial arts, visual and performing arts, industrial arts, vocational arts, and physical education. The phrase "individual class session" shall not include any class session held in grades 9 through 12, inclusive, for which two or more individual class groups which come within the descriptions specified by the first paragraph of this section and subdivision (a) or (b), or both, are assembled together in the same room for joint lectures or demonstrations.

Notwithstanding the provision of subdivisions (b) and (c), grades 7, 8, and 9 of junior high school shall be deemed to be high school grades for purposes of this section.

Title 5, *California Code of Regulations*, Chapter 16, Article 2 – Period of Retention states, in part:

Section 16025 Class 3 – Disposable Records.

All records not classified as Class 1 – Permanent or Class 2 – Optional shall be classified as Class 3 – Disposable, including but not limited to detail records relating to:

- (a) Records Basic to Audit, including those relating to attendance, average daily attendance, or a business or financial transaction (purchase orders, invoices, warrants, ledger sheets, cancelled checks and stubs, student body and cafeteria fund records, etc.), and detail records used in the preparation of any other report.

Section 16026 Retention Period

A Class 3 – Disposable record shall not be destroyed until after the third July 1 succeeding the completion of the audit required by Education Code 41020 or of any other legally required audit...

California Education Code section 35250 states, in part:

The governing board of every school district shall:

- (d) Make or maintain such other records or reports as are required by law.

California Education Code section 35254 states, in part:

The governing board of any school district may make photographic, microfilm, or electronic copies of any records of the district. The original of any records of which a photographic, microfilm, or electronic copy has been made may be destroyed... except that no original record that is basic to any required audit shall be destroyed prior to the second July 1<sup>st</sup> succeeding the completion of the audit.

This is a repeat of prior year audit Finding 08-44. Note that FY 2008-09 and FY 2009-10 were not audited.

Recommendation

The District should:

- Ensure that the minimum percentage requirements for classroom teacher salaries are met.
- Ensure that employee salaries are charged to the correct object and function codes.
- Review the ratio of classroom teacher salaries to the District's current expense of education to ensure it is supported and properly calculated.

District Response

- The District is developing procedures to review the Classroom Education Allocation calculation during budget development and periodically throughout the year to ensure that the minimum percentage requirements are met.
- The District is in the process of reviewing personnel work assignments and coding to ensure that they are coded to the correct object and function codes.



September 25, 2013

Alameda County Office of Education  
313 W. Winton Avenue, Room 348  
Hayward, CA 94544

Attention: Damon Smith, Associate Superintendent Business Services  
Jeff Potter, Executive Director

**RE: Exemption from the Required Expenditures for Classroom Teachers' Salaries for the fiscal year 2010-2011**

The 2010-2011 Audit Report submitted to the Board of Education on June 19, 2013 reflects a deficiency in the amount of \$10,866,092 in the calculation of classroom compensation totals, as required by Education Code Section 41372. Oakland Unified School District is requesting an exemption from paying the deficiency amount due to financial hardship.

Below is the District's multi-year projections for 3<sup>rd</sup> Interim (2012-13), with a "reserve amount" for the 2010-11 CEA deficiency in the amount of \$10,866,092 (highlighted in green). This additional cost would cut deeply into OUSD 2012-13 General Fund Unrestricted Reserve Balance. If the scenario was carried out to 2013-14 and 2014-15 the District would continue to struggle to meet the 2% required reserve for economic uncertainty for a district the size of Oakland Unified.

**General Fund (Unrestricted) Reflecting Reserve Amount for CEA Audit Fees**

	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>
REVENUES	228,501,338	227,834,368	228,692,078
EXPENDITURES	(228,191,661)	(227,827,709)	(228,692,046)
<b>Net Incr/(Decr) in Fund Bal</b>	<b>309,678</b>	<b>6,659</b>	<b>32</b>
Beginning Fund Balance	32,869,087	33,178,765	33,185,424
<b>ENDING FUND BALANCE</b>	<b>33,178,765</b>	<b>33,185,424</b>	<b>33,185,456</b>
<b>COMPONENT OF ENDING FUND BALANCE</b>			
Ending Fund Balance (from above)	33,178,765	33,185,424	33,185,456
Nonspendable	(150,000)	0	0
Restricted	0	0	0
Other commitments	(20,443,905)	(5,056,012)	(20,676,332)
Stabilization Arrangements	0	(150,000)	(150,000)
Assigned	0	(15,706,564)	0
Reserve for Economic Uncertainty	(12,584,860)	(12,272,848)	(12,359,124)
<b>Reserve for CEA Auding finding</b>	<b>(10,866,092)</b>	<b>(10,866,092)</b>	<b>(10,866,092)</b>
<b>Unassigned/Unappropriated</b>	<b>(10,866,092)</b>	<b>(10,866,092)</b>	<b>(10,866,092)</b>

Daniel B. Menyon, Controller  
Oakland Unified School District  
Financial Services Division  
Daniel.Menyon@Ousd.k12.ca.us

CC: Vernon Hal, Deputy Superintendent of Business Services  
Carlene Naylor, State Trustee  
Jacqueline Minor, District's Legal Counsel  
Gloria Gamblin, Interim Chief Financial Officer