

OAKLAND UNIFIED SCHOOL DISTRICT
OFFICE OF THE SUPERINTENDENT
September 12, 2012

File ID No. 12-2364
Introduction Date September 12, 2012
Enactment No. 12-2365
Enactment Date September 12, 2012
By o.f.

TO: Board of Education

FROM: Patricia Williams, Chairperson, Measure B
Tony Smith, Ph. D, Superintendent
Timothy White, Associate Superintendent for Facilities Planning &
Management

SUBJECT: General Waiver - Term Limits for Two Members of the Measure B
Independent Citizens' School Facilities Bond Oversight Committee

ACTION REQUESTED:

Approval by the Board of Education of Resolution No. 1213-0015 - General Waiver - Term Limits for Two Members of the Measure B Independent Citizens' School Facilities Bond Oversight Committee.

BACKGROUND:

California Education Code section 15282(a) limits the members of the CBOC to serving no more than two (2) consecutive terms. Under the provisions of Education Code sections 33050- 33053, the District may request the State Board of Education to waive all or part of any section of the Education Code that is properly waivable. The specific language of 15282, subsection (a) is a requirement that is properly waivable and has been waived by the State Board of Education in the past. If the District's request is approved, the two (2) members that have already served two (2) consecutive terms would be allowed to serve for another term.

The District's CBOC has two (2) members that have expressed a willingness to continue to serve another term, but are currently unable to do so because they have already served two consecutive terms and termed out in June 2012. Thus, without obtaining a General Waiver from the California Department of Education, the District and CBOC will lose two members that possess an institutional memory of the bond process and construction activity related to the District's Measure B program, and that have consistently attended meetings and proven invaluable to the District and the CBOC.

CURRENT CONSIDERATIONS:

Maintaining continuity of CBOC members

FISCAL IMPACT:

None

RECOMMENDATION:

Approval by the Board of Education of Resolution No. 1213-0015 - General Waiver - Term Limits for Two Members of the Measure B Independent Citizens' School Facilities Bond Oversight Committee.

ATTACHMENT(s):

Resolution No. 1213-0015 - General Waiver - Term Limits for Two Members of the Measure B Independent Citizens' School Facilities Bond Oversight Committee.

General Waiver Request

**RESOLUTION
OF THE
GOVERNING BOARD
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT
Resolution No. 1213-0015**

**GENERAL WAIVER - TERM LIMITS FOR TWO MEMBERS OF THE MEASURE B INDEPENDENT CITIZENS' SCHOOL
FACILITIES BOND OVERSIGHT COMMITTEE**

WHEREAS, Education Code Section 15282 provides that Citizens' Bond Oversight Committee ("CBOC") members shall serve for no more than two (2) consecutive, two (2) year terms; and

WHEREAS, the Oakland Unified School District ("District") has two (2) CBOC members ("Members") that previously served two (2) consecutive terms that ended on June 10, 2012; and

WHEREAS, the Members may not serve another term without the District first obtaining a general waiver of the term limits from the California State Board of Education.

WHEREAS, Education Code Section 33050 provides that the District may request the California State Board of Education waive all or part of any section of the Education Code that may be waived; and

WHEREAS, Education Code section 15282 and its prohibition against more than two (2) consecutive term limits may be waived; and

WHEREAS, the Members have been of particular value to the District's Measure B Construction and Modernization Program and the loss of the Members is not in the best interest of the CBOC; and

WHEREAS, the Members' institutional memory of the bond process and all construction activity is an invaluable asset to the District and the CBOC; and

WHEREAS, the District has found it difficult, if not futile, to find new CBOC members that are willing to provide the time and commitment required of CBOC members; and

WHEREAS, the Members have expressed a willingness to continue to serve as CBOC members; and

WHEREAS, the continued service of the Members will help preserve continuity and enable experienced members to continue to provide advice and guidance to the CBOC and to the District; and

NOW, THEREFORE BE IT RESOLVED, the Board of Education of the Oakland Unified School District hereby finds, determines, declares, orders, and resolves as follows:

Section 1. That the above recitals are true and correct.

Section 2. The General Waiver Request in the form attached hereto is hereby approved and authorized to be submitted to the California State Board of Education.

Section 3. This Resolution shall take effect upon adoption by the Board.

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this 12th day of September, 2012.

AYES: Director David Kakishiba, Director Gary Yee, Director Christopher Dobbins, Vice President Jumoke Hinton Hodge, President Jody London

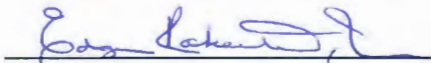
NOES: None

ABSTAINED: None

ABSENT: Director Noel Gallo, Director Alice Spearman

CERTIFICATION

I, Edgar Rakestraw, Jr., Secretary of the Board of Education of the Oakland Unified School District, Alameda County, State of California, do hereby certify that the foregoing Resolution was duly approved and adopted by the Board of Education of said district at a meeting thereof held on the 12TH day of September, 2012 with a copy of such Resolution being on file in the Office of the Governing Board of said District.



Edgar Rakestraw, Jr.
Secretary, Governing Board

File ID Number: 12-2364
Introduction Date: 9/12/12
Enactment Number: 12-2365
Enactment Date: 9/12/12
By: as

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09)

<http://www.cde.ca.gov/re/lr/wr/>

First Time Waiver: X

Renewal Waiver:

Send Original plus one copy to:
 Waiver Office, California Department of Education
 1430 N Street, Suite 5602
 Sacramento, CA 95814

Send Electronic copy in **Word** and
 back-up material to: waiver@cde.ca.gov

CD CODE				

Local educational agency: Oakland Unified School District		Contact name and Title: Edgar Rakestraw, Secretary, Governing Board	Contact person's e-mail address: Edgar.rakestraw@ousd.k12.ca.us
Address: 1025 2nd Avenue, Suite 320 Oakland, CA 94606	(City)	(State)	(ZIP)
Period of request: (month/day/year)		Local board approval date: (Required) September 12, 2012	Phone (and extension, if necessary): (510) 879-8658 Fax Number: (510) 879-8000
Date of public hearing: (Required) September 12, 2012		Date of public hearing: (Required) September 12, 2012	

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **Portions of Ed. Code §15282** Circle One: **EC** or *CCR*

Topic of the waiver: **Term Limits for Members of Bond Oversight Committee**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: N/A and date of SBE Approval _____
 Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? No X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **September 11, 2012**

Name of bargaining unit and representative(s) consulted: **JoAnna Lougin, President, United Administrators of Oakland Public Schools**

The position(s) of the bargaining unit(s): Neutral Support **Oppose (Please specify why)**

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

Notice in a newspaper and on District web site. Notice posted at each school Other: (Please specify) **Notice Posted at District Office**

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Bond Oversight Committee - 9/5/12

Date the committee/council reviewed the waiver request:

Were there any objection(s)? No X Yes (If there were objections please specify)

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code or California Code of Regulations* section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

15282. (a) The citizens' oversight committee shall consist of at least seven members to serve for a term of two years without compensation and for no more than two consecutive terms.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The District wants to retain, for an additional two-year term, two (2) of its nine (9) Citizens' Bond Oversight Committee (CBOC) members. These two (2) members were initially appointed on June 10, 2008. Their second two-year term will expire on June 10, 2012. The current CBOC members have been of particular value to the District's extensive Measure B construction and modernization program, and the loss of these two (2) members is not in the best interest of the CBOC. The members' institutional memory of the bond process and all construction activity is an invaluable asset to the District and the CBOC. Approval of this waiver will help preserve continuity and enable experienced members to continue to provide advice and guidance to the District's governing board and to District staff. Additionally, it has proven difficult in the past to find members that are willing to make this commitment; the two members have been a good fit and have been consistent in their attendance and involvement with the CBOC. The two (2) members have also both expressed their willingness to continue to serve.

8. Demographic Information:

Oakland Unified School District has a student population of 37,543 and is located in a in the City of Oakland, in Alameda County.

Is this waiver associated with an apportionment related audit penalty? (per EC 41344) No Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No Yes
(If yes, please attach explanation or copy of CPM finding)

District or County Certification – I hereby certify that the information provided on this application is correct and complete.

Signature of Secretary, Governing Board:



Title: **Secretary, Governing Board**

Date: 9/13/12

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (type or print):

Staff Signature:

Date:

Unit Manager (type or print):

Unit Manager Signature:

Date:

Division Director (type or print):

Division Director Signature:

Date:

Deputy (type or print):

Deputy Signature:

Date:

Oakland Tribune

c/o Bay Area News Group-East Bay
7677 Oakport St., #950
Oakland, CA 94621
Legal Advertising
(800) 595-9595 opt. 4

OAKLAND USD
EDGAR RAKESTRAW JR., 1025 2ND AVE., #301
OAKLAND CA 94606

PROOF OF PUBLICATION

FILE NO. 9/12 Hearing

In the matter of

Oakland Tribune

The Oakland Tribune

I am a citizen of the United States; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the Legal Advertising Clerk of the printer and publisher of The Oakland Tribune, a newspaper published in the English language in the City of Oakland, County of Alameda, State of California.

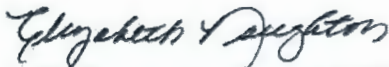
I declare that The Oakland Tribune is a newspaper of general circulation as defined by the laws of the State of California as determined by this court's order, dated December 6, 1951, in the action entitled In the Matter of the Ascertainment and Establishment of the Standing of The Oakland Tribune as a Newspaper of General Circulation, Case Number 237798. Said order states that "The Oakland Tribune is a newspaper of general circulation within the City of Oakland, and the County of Alameda, and the State of California, within the meaning and intent of Chapter 1, Division 7, Title 1 [§§ 6000 et seq.], of the Government Code of the State of California." Said order has not been revoked, vacated, or set aside.

I declare that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

9/2/2012, 9/9/2012

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated: September 10, 2012



Public Notice Advertising Clerk

Legal No. 0004608613

OAKLAND UNIFIED SCHOOL DISTRICT

NOTICE OF PUBLIC HEARING ON DISTRICT'S
REQUEST TO
CALIFORNIA STATE BOARD OF EDUCATION FOR
GENERAL WAIVER - TERM LIMITS FOR TWO
MEMBERS OF THE MEASURE B INDEPENDENT
CITIZENS' SCHOOL FACILITIES BOND
OVERSIGHT COMMITTEE

TO ALL INTERESTED PARTIES PLEASE TAKE NOTICE that on Wednesday, September 12, 2012, the Governing Board of the Oakland Unified School District will hold a public hearing on its pending Request to the California State Board of Education for a **General Waiver - Term Limits for Two Members of the Measure B Independent Citizens' School Facilities Bond Oversight Committee**.

The Public Hearing will be held September 12, 2012, at 6:00 P.M., or as soon thereafter as the matter may be heard, in the Board Room of the Oakland Unified School District, Paul Robeson Building, 1025 2nd Avenue, Oakland, California 94606.

The purpose of the public hearing is to receive comments from the public on the District's request for a **General Waiver - Term Limits for Two Members of the Measure B Independent Citizens' School Facilities Bond Oversight Committee**.

A copy of the aforementioned General Waiver Request is available for review prior to the public hearing via computer terminal in the first floor lobby, the Office of the Superintendent, in Room 301 in the Oakland Unified School District, Paul Robeson Building, 1025 2nd Avenue, Oakland, CA and/or on the World Wide Web at <http://publicportal.ousd.k12.ca.us/19941081819255553/site/default.asp> on or after September 2, 2012.

/s/ Edgar Rakestraw, Jr.
Secretary, Governing Board
Oakland Unified School District
OT #4608613; Sept. 2, 9, 2012

2012 SEP 18 A 11: 17