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## Memo

**To:** Board of Education

**From:** Jacqueline Minor, General Counsel

**Board Meeting Date:** October 28, 2015

**Subject:** **Tentative Agreement between OUSD and AFSCME Local 257, BTC, CSEA, OEA, SEIU 1021, Teamsters Local 853, Teamsters Local 70 and UAOS.**

**Action Requested:** Approval of Tentative Agreement between the Oakland Unified School District and the exclusive employee labor Unions representing American Federation of State County and Municipal Employees (AFSCME) Local 257, Building Trades Council, California School Employees Association (CSEA) Oakland 1, Oakland Education Association (OEA), Service Employees International Union (SEIU) 1021, Teamsters Local 853, Teamsters Local 70 and United Administrators of Oakland Schools (UAOS) ("Signatory Unions") regarding the coordinated bargaining process to be conducted through the Health Benefits Governance Board.

**Summary:** This Agreement is the result of coordinated bargaining during the 2014-2015 school year over health and welfare benefits and covers the manner in which health and welfare plan design and costs, including the impacts of legislation will be addressed commencing with the 2015-2016 school year. Health and Welfare benefits includes medical, dental, life insurance, vision, long-term disability and any other plans adopted pursuant to this Article, including new plans and/or modifications or termination of existing plans as of the date of this Agreement.

**Recommendation:** Approval of Health and Welfare Benefits Tentative Agreement between the District and Signatory Unions.

**Fiscal Impact:** General Purpose Fund

**Attachments:** Tentative Agreement

**TENTATIVE AGREEMENT  
COORDINATED BARGAINING REGARDING HEALTH AND WELFARE BENEFITS  
BETWEEN THE OAKLAND UNIFIED SCHOOL DISTRICT  
AND THE SIGNATORY UNIONS**

**Preamble**

This agreement ("Agreement") sets forth the understandings of Oakland Unified School District ("OUSD" or "District"), and the exclusive employee labor Unions representing American Federation of State County and Municipal Employees (AFSCME) Local 257, Building Trades Council, California School Employees Association (CSEA) Oakland 1, Oakland Education Association (OEA), Service Employees International Union (SEIU) 1021, Teamsters Local 853, Teamsters Local 70 and United Administrators of Oakland Schools (UAOS) ("Signatory Unions") regarding the coordinated bargaining process to be conducted through the Health Benefits Governance Board. The District and Signatory Unions are also referred to as the "Parties".

This Agreement is the result of coordinated bargaining during the 2014-2015 school year over health and welfare benefits and covers the manner in which health and welfare plan design and costs, including the impacts of legislation will be addressed commencing with the 2015-2016 school year (i.e. July 1, 2015). As used in this Article, "health and welfare benefits" includes medical, dental, life insurance, vision, long-term disability and any other plans adopted pursuant to this Article, including new plans and/or modifications or termination of existing plans as of the date of this Agreement.

**I. Establishment of the Health Benefits Governance Board**

The Parties hereby agree to establish the Oakland Unified School District Health Benefits Governance Board ("HBGB"). The purpose of the HBGB shall be to:

1. Establish shared ownership and responsibility among the Parties for the quality and continued viability of health and welfare benefits;
2. Achieve stability, predictability, and equitability of health and welfare benefit programs (referred to as "Health and Welfare Plans" or "Plans");
3. Maintain at least two affordable medical plans from which to choose;
4. Provide the best health and welfare benefits possible at reasonable and affordable cost to the District and employee participants;
5. Encourage and incentivize employee wellness and preventive health care as cornerstones of all District health and welfare plans, to the benefit of District employees, eligible dependents and in the interest of containing premium increases;



6. Cover with health and welfare benefits all participating employees with minimum or no employee premium contributions;
7. Provide for an annual increase in the District's contribution which shall be recognized by all parties as part of negotiated total compensation increases for District employees;
8. Emphasize the critical role of the HBGB to contain costs within the annual budget for health and welfare benefits plus reserves funds, if any, (referred to as the "Health and Welfare Fund" or "Fund") through vendor participants, plan design and, if necessary, through direct contributions from participants;
9. Incentivize the HBGB to enact, in a timely and preventive manner, meaningful changes to District plan designs and to take whatever measures are necessary to live within the health and welfare Fund as set-forth herein; and
10. Explore options to reduce the cost of early retirees' (pre-Medicare) benefit costs.

## **II. Health and Welfare Benefits Governance Board**

1. **Composition:** The HBGB shall be comprised of up to three (3) representatives from the District, up to three (3) unrepresented (non-voting) and up to three (3) from each Signatory Union. This does not preclude the HBGB from inviting others to attend who have expertise in a certain area.
2. **Procedures:** The HBGB will, as soon as possible, establish written bylaws for conducting its functions as set forth in this Article. Such procedures shall include:
  - a. Voting procedures, including absentee voting;
  - b. Chairing of the HBGB;
  - c. Establishing regular meeting dates;
  - d. Establishing necessary subcommittees; and
  - e. The agendaing and prioritizing of HBGB activities, including scheduling as soon as possible appropriate training and in-service activities for HBGB members, with terms promoting stability and continuity of membership in order to foster expertise in the subject matter of the HBGB.
3. The Signatory Unions and the District shall each have one (1) vote on the HBGB.
4. The HBGB shall whenever possible make decisions by consensus which, for purposes of this agreement, is defined as follows:
  - a. Agreement seeking: a consensus decision-making process attempts to help everyone get what they need;
  - b. Collaborative: participants contribute to a shared proposal and shape it into a decision that meets the concerns of all group members as much as possible;

- c. Cooperative: participants in an effective consensus process should strive to reach the best possible decision for the group and all of its members;
  - d. Egalitarian: all members of a consensus decision-making body should be afforded, as much as possible, equal input into the process, with all members having the opportunity to present and amend proposals;
  - e. Inclusive: as many stakeholders as possible should be involved in the consensus decision-making process; and
  - f. Participatory: the consensus process should actively solicit the input and participation of all decision-makers.
- 5. Should the HBGB be unable to reach consensus, a proposed action must receive an affirmative vote by both the Signatory Unions and the District in order to be approved and implemented. An affirmative vote by the Signatory Unions shall consist of at least OEA and five (5) of the seven (7) remaining Signatory Unions.
  - a. Should this Article be deleted and replaced by an individually negotiated health and welfare benefits article/appendix through the negotiations process between the District and an exclusive Signatory Union, then the remaining Signatory Unions and the District shall engage in coordinated bargaining to re-determine the definition of an affirmative vote.
- 6. Should a proposed action result in a deadlocked vote, the proposed action shall be submitted to a hybrid mediation-arbitration process (Med-Arb) as set forth in this Article.
  - a. The Parties shall first attempt to reach agreement, working together and in private sessions with a mediator or "med-arbiter," a neutral third party trained in Med-Arb who shall be selected by the HBGB according to section 6.h. within ten 10 days of the deadlock vote unless extended by the HBGB.
  - b. At least three (3) mediation sessions shall be held within 45-calendar days following selection of the med-arbiter, subject to the parties mutually agreeing to additional mediation sessions and/or a longer time period.
  - c. When some or all of the dispute or disagreement remains unresolved in mediation, the remaining matter(s) would then be arbitrated based on the information received during mediation and any additional process that may be ordered by the med-arbiter.
  - d. Within seven (7) days of the conclusion of the mediation stage, each individual Signatory Union and the District shall state in writing its official position.
  - e. By the tenth (10<sup>th</sup>) day following the conclusion of the mediation stage, the med-arbiter shall impose a binding decision, which shall be confined to either a Signatory Union's or the District's pre-arbitration official position (6.d. above). Should the Parties reach an agreement on some issues, the med-arbiter shall rule only on the issues that remain.
  - f. The med-arbiter shall have no authority to increase the District's contribution toward the cost of health and welfare benefits. Rather, such an increase can



only occur, if at all, through subsequent negotiated agreements and ratification thereof by all parties.

- g. Any remedy/award ordered by the med-arbiter as a result of arbitration must conform to and comply with all legal requirements as well as established timelines for implementation of changes to the District health and welfare Plans.
- h. The cost of the med-arbiter is to be borne by the Health and Welfare Fund. The med-arbiter shall be selected from either a standing list of names established by the HBGB, or a list of trained med-arbiters provided by the California State Mediation and Conciliation Service. If the Parties are unable to agree on an individual from the list being utilized, they shall strike names, with the first party determined by coin toss.

### **III. Role and Operations of the Health Benefits Governance Board**

- 1. **Plan Consultant:** A consultant shall be selected by the HBGB. The contract for the consultant shall be recommended by the HBGB, subject to District contract approval processes and final approval by the Board of Education. Such approval shall not be arbitrarily or unreasonably withheld.
- 2. **Responsibility for Plan Design:** All Plan design modifications, including, but not limited to, co-pays; deductibles; participant benefit contributions (e.g., at tiers of coverage); premium contributions and assessments; determination of eligible participants; and selection, addition or termination of health Plans/providers for all eligible participants in health and welfare benefits Plans shall be made by the HBGB (unless a deadlock goes to Med-Arb), and implemented upon HBGB action/arbitration decision without the need for further negotiations and/or ratification by the parties.
  - a. Any employee participant contributions (e.g. for benefit configuration amounts and/or premiums) shall be accomplished through automatic payroll deduction for employee participants and through direct contributions from all other eligible participants.
  - b. Notwithstanding any other provision of this Agreement, any proposed change that would expand, limit or otherwise alter eligibility to participate in health and welfare Plans shall be enacted only upon affirmative vote of the HBGB. When there is a deadlock 1:1 vote, such changes shall not be enacted and the provision of section II. 6 above shall not apply.
- 3. **Board Approval of Contracts:** All vendor contracts shall be negotiated by the HBGB and/or its designated representative(s), in accordance with District procurement rules and related policies. Such contracts shall be subject to Board of Education approval. Such approval shall not be arbitrarily or unreasonably withheld.



#### **IV. Calculation of Defined District Total Annual Contribution to the Health and Welfare Fund**

1. Funding for Health and Welfare Fund, to cover all health and welfare benefits as used in this Article, shall be from contributions from the District and from contributions from eligible participants.

- a. The contribution from the District for the 2015-2016 fiscal year shall be set using the following two factors: the base amount per authorized 1.0 FTE (BASE) and total of all authorized full-time equivalent positions (FTE). The contribution from the District for the 2016-2017 and subsequent fiscal years shall be set using the following three factors: the base amount per authorized 1.0 FTE (BASE); the per pupil percentage change to the District's Local Control Funding Formula Base Grant (LCFF); and total of all authorized full-time equivalent positions (FTE). The contribution from the District for the coming fiscal year shall be set using the information contained in the current First Interim Financial Statement following its acceptance by the Board of Education. For example, the contribution for the 2016-2017 fiscal year shall be set using the First Interim Financial Statement for the 2015-2016 fiscal year (to determine (a)(ii) below) and the October 31<sup>st</sup> Position Control Report for the 2015-2016 fiscal year (to determine (a)(iii) below). This calculation shall be as follows:
  - i. take the BASE for the current fiscal year;
  - ii. get the LCFF by calculating the year-over-year per pupil percentage change (increase or decrease) to the District's Local Control Funding Formula Base Grant from the prior year to the current year;
  - iii. take the FTE from the total of all authorized full-time equivalent positions covered by this Agreement for the current fiscal year as set forth in the Position Control Report as of October 31<sup>st</sup>; and
  - iv. increase or decrease the BASE by the LCFF and then multiply by the FTE as defined in iii above.

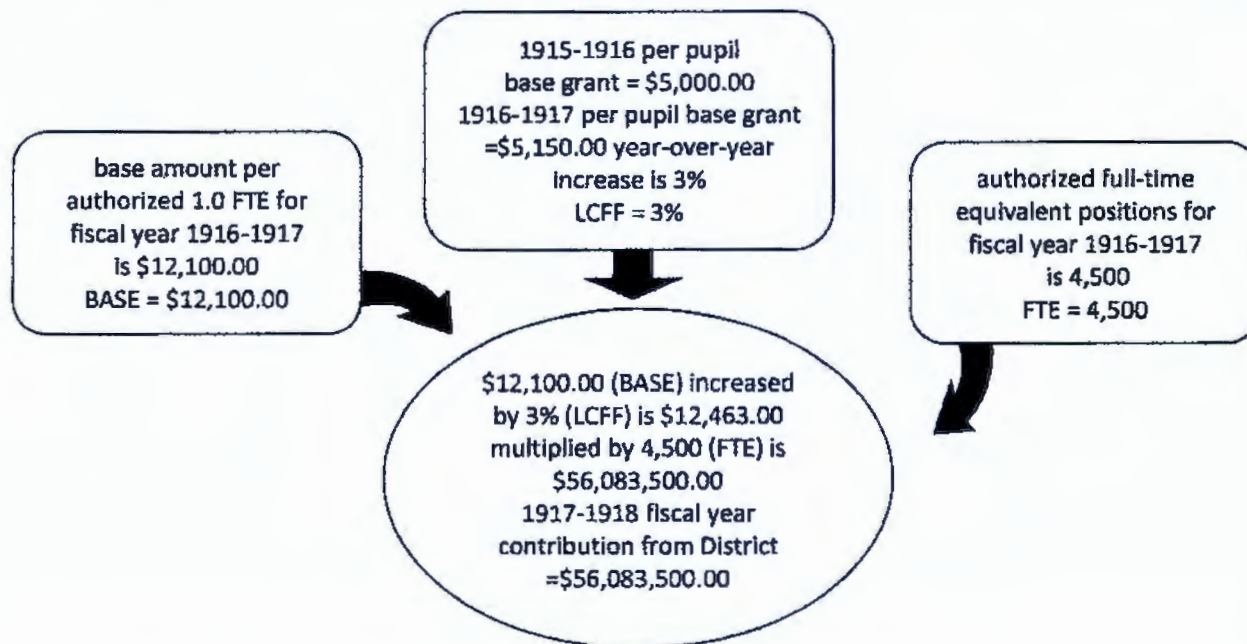
Notes: All figures to be rounded to the nearest hundredth. The initial BASE, for the 2015-2016 fiscal year, shall be \$12,117.00.

- b. Any funds not expended due to the number of budgeted FTE's exceeding the number of eligible participants shall remain in the Health and Welfare Fund as a reserve to mitigate future health benefit cost increases.
- c. For the 2015-2016 fiscal year, the District shall contribute an amount to cover the difference between the BASE and the actual per FTE cost of filled FTE's above 91% of the authorized FTE's for that year (referred to by the parties as "the fill rate"). The fill rate shall be based on the October 31<sup>st</sup> Position Control Report for the 2015-2016 fiscal year.
- d. Commencing with the 2016-2017 fiscal year, if the "fill rate" exceeds 93% in any fiscal year, based on the October 31<sup>st</sup> Position Control Report for that fiscal year, upon the request of either the Signatory Unions or the District, the parties will engage in coordinated bargaining to explore modification of the calculations set forth in this section IV.

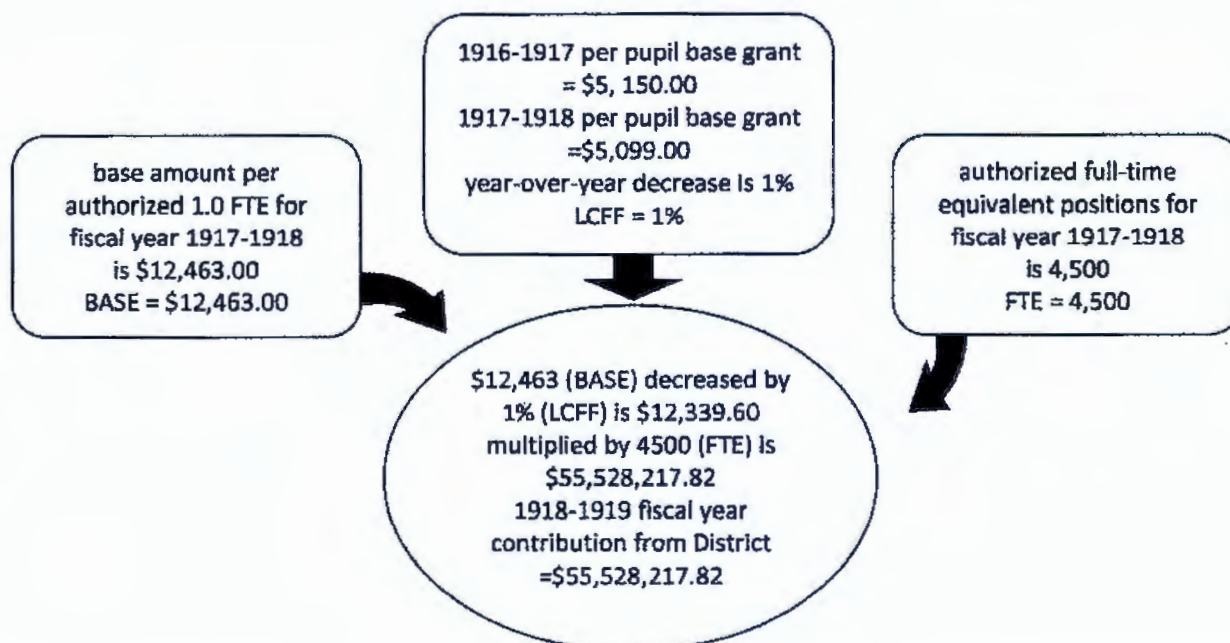
- e. If the number of eligible participants exceeds the number of authorized FTE's the District shall automatically contribute additional BASE to the Health and Welfare Fund for each such excess FTE.

**Following Examples Solely for Illustrative Purposes**

**Determining the 1917-1918 Fiscal Year Contribution from the District to the Health and Welfare Fund**



**Determining the 1918-1919 Fiscal Year Contribution from the District to the Health and Welfare Fund**





2. The contributions from eligible participants shall be determined annually by the HBGB in accordance with the provisions of this Article.
  - a. The contributions from eligible participants for the coming fiscal year shall be set and made available to the District and its employees prior to the annual open-enrollment period.
3. If the Local Control Funding Formula, what is required for the District's financial statement, and/or any other local, state, or federal enactment creates a structural change from the provisions in effect on the date of this Agreement school year and/or California has yet to adopt a fiscal year budget by the time of the First Interim Financial Statement, the HBGB will determine what changes, if any, should be made to the calculation contained in IV. 1.
  - a. When there is a deadlocked 1:1 vote, such proposed changes shall not be enacted and the provisions of II. 6. above shall not apply.
  - b. Instead, the parties will engage in coordinated bargaining to resolve outstanding issues.
4. The Parties recognize that District increases to the Health and Welfare Fund as set forth in IV. 1., shall automatically be deducted from additional dollars actually received by the District that are available for negotiations over potential salary increases for the applicable school year.
5. Administrative Costs: The requirement that health benefits expenses operate within the Health and Welfare Fund annual budget as established by the HBGB set forth above shall include, as an expense to be covered by the health Fund, any costs associated with administration of the health Fund with the expenses and contribution to be evaluated on an incurred basis. Such administrative costs may include but are not limited to training for HBGB members, any non-vendor covered costs associated with the annual Health Fair, any additional open enrollments mandated by the HBGB due to vendor and/or plan changes. By January 31<sup>st</sup> of each plan year covered by this Agreement, the District shall provide the HBGB with an itemized report on the administrative costs incurred in the previous plan year. With respect to legal costs for outside counsel in defense of claims against the District arising out of decisions or actions of the HBGB and/or the District arising under this Agreement, and that are therefore to be treated as administrative costs, the District and the HBGB shall cooperatively consult regarding selection of such counsel, defense strategies to be employed, scope of work and estimated costs.

#### **V. Status of the Health and Welfare Fund and Shortfall Provisions**

1. The HBGB shall report to the District and Signatory Unions on at least a quarterly basis regarding the status of the Health and Welfare Fund.
  - a. Specifically, such reports shall indicate whether actual expenditures from all components of health and welfare benefits Plans are projected to exceed



budgeted Health and Welfare Fund revenues. This determination shall be made based on claims and experience and expenses to date, projected according to objective, industry-based and historical trends, to yield an annualized projection of total expenditures.

2. **Unspent Reserve Funds:** Any unspent funds in the Health and Welfare Fund (after all of the prior year's costs have been covered) shall remain as an ending balance in the Fund and carried over as a beginning balance to the next year. This does not reduce the District's contribution amount as calculated in IV. 1. Conversely, if actual costs for any given year exceed the District's defined total aggregate contribution, following implementation of 3.a, b and c below; such amount shall be deducted from the District's obligation for the following year pursuant to section 3. d. below.
3. **Projected Shortfall:** When a shortfall is projected, the HBGB shall act immediately and within thirty (30) days of receiving a recommendation from the consultant and/or plan administrator to utilize available Health and Welfare Fund reserves and/or other action(s) to mitigate the shortfall within the fiscal year in which it is projected to occur.
  - a. In determining the amount of Health and Welfare Fund reserve utilization and/or any special assessment, the HBGB shall base its decision on the information and recommendations of the HBGB's consultant and/or plan administrator, as well as maintaining an adequate reserve.
  - b. When there is a deadlock 1:1 vote, on the foregoing determination, such proposed changes shall not be enacted and the provisions of II. 6. shall not apply.
  - c. Instead, all employee participants, exclusive of dependents, shall be assessed an equal, flat special assessment necessary to negate the shortfall within the fiscal year in which it is projected to occur.
  - d. When any of the foregoing actions do not negate the shortfall in the same fiscal year, and the District must temporarily fund the remaining shortfall, such amount shall be deducted from the District's contribution to the Health and Welfare Fund for the following year.

## **VI. Effect of Agreement**

1. This Agreement becomes effective only upon ratification by all parties that are signatories to this Agreement. If any such party fails to ratify this Agreement, the Parties shall immediately engage in coordinated bargaining to resolve outstanding issues, and achieve successful ratification, if possible.
2. Upon ratification by all Parties, this Agreement supersedes all existing collectively negotiated agreements between the District and Signatory Unions regarding health and welfare benefits Plans. Such agreements shall be modified, as well as all relevant Board/District policies and regulations, where appropriate to include the provisions of this Agreement.

3. **Hold Harmless:** As part of this Agreement, the Parties agree as follows:
  - a. Health and welfare benefits and associated structures for premium contributions in effect for the 2014-2015 fiscal year shall remain in effect for the 2015-2016 fiscal year.
  - b. All litigation regarding the subject matter covered by this Agreement shall be withdrawn with prejudice by the initiating party. These include the following matters pending before the Public Employment Relations Board:

AFSCME SF-CE-3077-E  
OEA SF-CE-3084-E  
SEIU SF-CE-3082-E  
BCTC SF-CE-3078-E  
UAOS SF-CE-3083-E

4. This Agreement shall continue in effect upon expiration and is subject to amendment only through a coordinated bargaining process that includes all Signatory Unions and the District, similar to the one used for its establishment.

## **VII. WITHDRAWAL FROM PLANS**

1. **District:** If the District for any reason seeks to cease its participation in this Agreement and the HBGB, this may occur only through a coordinated bargaining process that includes all Signatory Unions and the District similar to the one used to establish this Agreement. Withdrawal may occur only pursuant to a negotiated agreement or exhaustion of the legally required impasse process.
2. **Unions:** If one of the Signatory Unions, for any reasons, seeks to cease its participation in this Agreement and the HBGB, the HBGB shall continue for the benefit of all remaining Parties and the District's obligation to contribute to the Fund shall continue.
  - a. Any Signatory Union which ceases its participation shall forfeit any and all rights and interest in this Agreement or any of its assets and shall not be entitled to any share of the reserve maintained by the HBGB upon its withdrawal from participation.
  - b. Notice of withdrawal shall be served in writing to the HBGB no later than three (3) months prior to the end of the benefits plan year.
  - c. The effective date of the Signatory Union's withdrawal shall be fifteen (15) months after the withdrawal notification submitted to the HBGB. For example, for a plan year that runs from July 1, 2016 through June 30, 2017, a notice of withdrawal on or before March 31, 2016 will be effective June 30, 2017.

## **VIII. DEFINITIONS**

As used in this Agreement the following words and phrases shall be defined as provided in this section.



1. **Day(s):** A day during which the District Office is open for business.
2. **Eligible Participant:** Any employee participant or retiree or beneficiary who is eligible to receive a health and welfare benefit of any type as defined in the second paragraph of the Preamble to this Agreement.
3. **Employee Participant or Participating Employee:** All persons included in a bargaining unit as described in a collective bargaining agreement between the Parties, and any other employee of the District whether or not covered by a collective bargaining agreement. Persons employed under individually negotiated contracts or serving on the District governing Board of Trustees may also be included within these terms. If such persons are not covered by the Health and Welfare Plans contained in this Agreement the cost of any separate coverage should not be charged against the Health and Welfare Fund as defined in this Agreement.
4. **Health and Welfare Fund or Health Fund or Fund:** The District's internal Health and Welfare Fund composed of monies segregated from the District's General Fund to be used for health coverage for eligible participants through the Health and Welfare Plans administered by the Health Benefits Governing Board.
5. **Health and Welfare Benefits Plan(s) or Health and Welfare Plan(s) or Plan(s):** The benefits administered by the Health Benefits Governing Board pursuant to the terms of the collective bargaining agreements between the Parties.

Tentative Agreement Health and Welfare Benefits

AGREED and SIGNED this 13 day of May, 2015

  
Troy Chalmers, Oakland Unified School District

  
Sherman Phillips, AFSCME Local 257

  
Jo Bates, AFSCME Local 257

  
Jo Bates, AFSCME Local 257

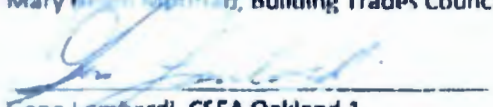
  
David Murtha, Building Trades Council

  
David Murtha, Building Trades Council

  
Mary Ellen Morrison, Building Trades Council

  
Mary Ellen Morrison, Building Trades Council

  
Ryan Anderson, CSEA Oakland 1

  
Ryan Anderson, CSEA Oakland 1

  
Doug Appel, California Teachers Association

  
Dominic Chiovare, Teamsters Local 70

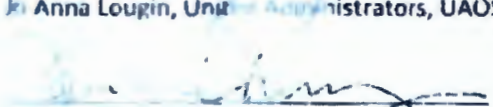
  
Ray Torres, Teamsters Local 853

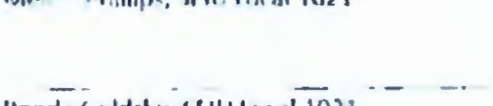
  
Ray Torres, Teamsters Local 853


  
Anna Lougin, United Administrators, UAOS

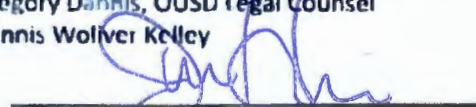
  
Anna Lougin, United Administrators, UAOS

  
Lauran Cherry, United Administrators, UAOS

  
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Gregory Dannis, OUSD Legal Counsel

  
Gregory Dannis, OUSD Legal Counsel  
Dannis Wolfer Kelley

  
James Harris  
President, Board of Education

  
Antwan Wilson  
Secretary, Board of Education





# Alameda County Office of Education

L. Karen Monroe  
Superintendent

October 13, 2015

OAKLAND U.S.D.  
BOARD OF EDUCATION

2015 OCT 21 P 12:17

## BOARD OF EDUCATION

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Trustee Area 1

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Eileen McDonald  
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Yvonne Cerrato  
Trustee Area 7

James Harris, President  
Board of Education  
Oakland Unified School District  
1000 Broadway, Suite 680  
Oakland, CA 94607-4099

RE: Public Disclosure of Collective Bargaining Agreement between the Oakland Unified School District and the exclusive employee labor Unions representing American Federation of State County and Municipal Employees (AFSCME) Local 257, Building Trades Council, California School Employees Association (CSEA) Oakland 1, Oakland Education Association (OEA), Service Employees International Union (SEIU) 1021, Teamsters Local 853, Teamsters Local 70 and United Administrators of Oakland Schools (UAOS)

Dear President Harris:

We have reviewed the Public Disclosure of Collective Bargaining Agreement between the Oakland Unified School District and the bargaining units listed above. The agreement establishes the Health Benefits Governance Board (HBGB). The agreement covers the period beginning July 1, 2015 and shall remain in effect indefinitely. The purpose of our review is to determine whether this agreement will have a material impact on the financial condition of the District in the current and subsequent two fiscal years.

We concur with the District's assessment that the establishment of the HBGB will not result in additional costs for 2015-16. For 2016-17 and 2017-18, the additional costs will be approximately \$1 million and \$1.5 million, respectively. Based on the 2015-16 Adopted Budget Report Multi-Year Projection, it appears that the District will continue to be able to maintain its required reserve for economic uncertainties for the current and subsequent two fiscal years.

Should any other tentative agreements be made, please submit new Public Disclosure documents to our office 10 days prior to the date the Governing Board will take action.

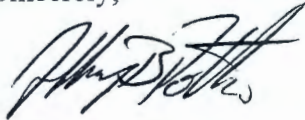
If you have any questions or concerns regarding our review, please feel free to call me at (510) 670-4277.

313 W. Winton Ave.  
Hayward, California  
94544-1136

(510) 887-0152

[www.acoe.org](http://www.acoe.org)

Sincerely,



Jeffrey B. Potter, Executive Director  
Alameda County Office of Education

JBP:sm

cc: **Board of Education, Oakland USD**

Antwan Wilson, Superintendent, Oakland USD

Vernon Hal, Senior Business Officer, Oakland USD

Ruth Alahydoian, Chief Financial Officer, Oakland USD

Carlene Naylor, State Trustee, Oakland USD

Tom Torlakson, State Superintendent of Public Instruction, CDE

Carolyn Baez, Financial Audits Bureau-Division of Audits, SCO

Peter Foggiano, School Fiscal Services Director, CDE

L. Karen Monroe, Superintendent, ACOE

Gary Jones, Associate Superintendent, ACOE