

Board Office Use: Legislative File Info.	
File ID Number	16-0876
Introduction Date	4/27/16
Enactment Number	16-0615
Enactment Date	4/27/16



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Antwan Wilson, Superintendent

Board Meeting Date April 27, 2016

Subject **Employment Agreement – Joshua Kim, Executive Director PEC**

Action Requested **Approval of Employment Agreement Joshua Kim, Executive Director PEC**

Background and Discussion Josh Kim is being appointed to the position of Executive Director PEC, reporting to the newly created, Deputy Chief Student Services. The term of the agreement is June 30, 2016 to June 30, 2019 with an annual salary of \$155,000.

Recommendation Approval of Employment Agreement Joshua Kim

Fiscal Impact Funding resource: \$155,000 per fiscal year, Fund 6500.

Attachment

- Employment Agreement

EMPLOYMENT AGREEMENT

Joshua Kim, Executive Director, Programs for Exceptional Children

In consideration of the mutual promises made herein, the Oakland Unified School District, ("OUSD") a local public entity pursuant to Government Code § 811.2 and by the California Education and Government Codes (hereinafter "District"), and Joshua Kim, an individual (hereinafter "Employee"), enter into this Employment Agreement ("Agreement") and agree as follows:

Article 1 Acceptance of Employment and Term

- 1.1 District hereby employs Employee and Employee hereby accepts employment with the District on the terms and conditions stated herein. The term of employment shall commence on June 30, 2016 and end on June 30, 2019 ("Term"), unless extended in writing by mutual agreement of District and Employee or terminated sooner at the discretion of District.

Article 2 Duties and Obligations of Employee

- 2.1 Under the direction of the Deputy Chief School Services, the Executive Director of Programs for Exceptional Children performs a variety of leadership, supervisory and administrative tasks in monitoring and assisting the Programs for Exceptional Children in the Oakland Unified School District. The Executive Director of PEC leads, directs and supervises programs and services for students in the system with special needs; coordinates the efforts of federal, state and local agencies, administrators, private specialists, parents, and division supervisors to provide the services needed by students as determined by division staff; monitors the overall effectiveness of programs and ensures all are implemented within federal, state and local regulations.
- 2.2 District and Employee agree that any intellectual property created by Employee related to or concerning the legal work of the District is owned jointly. Employee shall grant to District the right to share equally in any royalties received by Employee arising out of any intellectual property created by Employee related to or concerning the legal work of the District.
- 2.3 District may use Employee's name during the term of employment as necessary or convenient without additional compensation to Employee.
- 2.4 Employee warrants and represents that he has the ability and authority to enter into this Agreement, that there are no restrictions or limitations on entering into this Agreement, and that entering into this Agreement will not violate any agreement(s) Employee has with any third parties.

Article 3 Obligations of District

- 3.1 District agrees to defend, indemnify and hold Employee harmless against any claims, demands, actions, lawsuits, losses or damages of any kind or nature arising out of or related to the course and scope of Employee's discharge of his/his duties as. District may

continuously maintain throughout the term of employment adequate insurance for such purpose.

Article 4 Compensation

- 4.1 The salary of Employee shall be fixed \$155,000 per year, payable on the same schedule as other non-represented senior management employees, or at such other times as the District may provide for the payment of employee salaries. Employee shall be entitled to a cost of living adjustment equivalent to three percent of his salary, effective July 1, 2017. Employee shall be entitled to salary increases provided to all unrepresented management staff and the stipends to which Employee is eligible.
- 4.2 District shall have the right and obligation to deduct or withhold from compensation due Employee those sums required for applicable federal, state and local income taxes and Social Security taxes.
- 4.3 Employer shall fund Employer's portion of CalSTRS retirement based upon the salary herein.
- 4.4 The District shall pay the Employee a one-time cash payment in the amount of \$20,000 to assist in defraying the costs associated with moving from Southern California to Oakland.

Article 5 Vacation, Sick and Personal Leave

- 5.1 Employee shall be entitled to twenty (20) annual vacation days with pay. Employee is encouraged to take all vacation days during the year in which such days are earned. At District's option, Employee may be reimbursed annually at his daily rate of pay for any unused days not to exceed twenty (20) per year. Employee shall not accrue more than twenty vacation days annually without the expressed approval of the Employer.
- 5.2 Employee shall be entitled to accrue paid sick leave at the rate of 1.0 days per month up to 12 days per year. If Employee does not utilize the total amount of accrued sick leave authorized during any year, Employee may carry over the unused time to sick leave in the subsequent year.
- 5.3 Employee is entitled to accrue annual paid personal leave at the rate of 5 days per year. If Employee does not utilize the total amount of accrued personal leave authorized during any year, such leave may be carried over to unused sick leave in the subsequent year.

Article 6 Employee Health Benefits and Expense Reimbursement

- 6.1 District agrees to pay directly to Employee's or future existing health, dental and vision providers, not to exceed the maximum benefits afforded to any other employee, the insurance premiums associated with Employee, and his qualified dependents under Internal Revenue Code § 152. District further agrees to maintain during the term of employment long term disability insurance for Employee.

- 6.2 District shall pay professional dues and the reasonable expenses of Employee to attend appropriate professional and official meetings at the local, state and national level subject to constraints of the Department budget.

District shall reimburse Employee, pursuant to the policies and practices of District, the necessary costs and expenses incurred by Employee in performing the duties of, including but not limited to gas, travel, materials, supplies and related expenditures, all of which is properly documented by receipts.

Article 7 Termination of Employment

- 7.1 District and Employee agree Employee shall serve at the pleasure and will of the Superintendent and Employee agree that this Agreement may be terminated by either party for no reason upon sixty days written notice given as provided below.
- 7.2 This employment contract may be terminated by:
- a. Retirement of Employee.
 - b. Death or disability of Employee. For purposes of this Agreement, "disability" means Employee's inability, by reason of physical or mental infirmity or both, to perform the duties contemplated under this Agreement for a period of 120 consecutive days or 150 days in the aggregate in a consecutive twelve (12) month period. "Disability" shall be determined by a licensed physician acceptable to District and Employee. The physician's fee shall be paid by District. Any termination for disability shall not prejudice any rights under any disability policies benefiting Employee.
 - c. Discharge for Cause. For purposes of this Agreement, "cause" shall mean Employee's (a) conviction (or a *no lo contendre* plea) to any felony; (b) dishonesty in performing his/his duties under this Agreement; (c) repeated and willful misconduct under this Agreement; or (d) willful neglect of his duties under this Agreement.
 - d. Prior to final determination by the Board of Education of cause for termination, Employee must have been given forty-five (45) calendar days written notice of such possible action, and of the grounds therefore, and a reasonable opportunity to be heard by the Board of Education in the way of explanation or defense.
- 7.3 Pursuant to Education Code § 35031, Employee shall be provided written notice at least sixty (60) days in advance of the expiration of his/his term if his is not to be reemployed.

Article 8 Evaluation

- 8.1 Employer shall evaluate Employee not less than annually upon a schedule to be determined by Employer. The evaluation and assessment shall be reasonably related to the position description of the Employee and to the goals and objectives of the Board of Education for the year in question.
- 8.2 In the event that the Superintendent determines that the performance of the Employee is unsatisfactory in any respect, it shall describe in writing and in reasonable detail specific

instances of unsatisfactory performance. The evaluation shall include recommendations as to areas of improvement in all instances where the Superintendent deems performance to be unsatisfactory. A copy of the written evaluation shall be delivered to the Employee. Employee shall have the right to make a written response to the evaluation and be placed in the personnel file along with the evaluation.

Article 9 Changes in Agreement

- 9.1 Additional written amendments may be added to the Agreement by mutual consent of the Employee and the Superintendent at any time during the period of this Agreement.

Article 10 General Provisions

- 10.1 All notices required to be given under this Agreement shall be delivered via hand delivery, by first class mail or via email as follows:

To District:
Superintendent
Oakland Unified School District
1000 Broadway, 6th Floor
Oakland, CA 94607

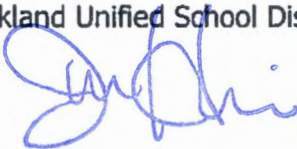
To Employee:
Joshua Kim
Oakland Unified School District
1000 Broadway, 3rd Floor
Oakland, CA 94607

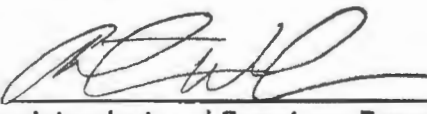
The Superintendent or Employee may change the designated address for the giving of notices by providing to the other amended notice information in writing.

- 10.2 Any controversy between OUSD and Employee involving the construction or application of any of the terms, provisions, or conditions of this Agreement shall, on the written request of either party served on the other, be submitted to binding arbitration. Arbitration shall comply with and be governed by the provisions of the California Arbitration Act. District and Employee shall agree on the selection of one person to hear and determine the dispute. If the parties are unable to agree on a single arbitrator to hear the dispute, they shall obtain a list of arbitrators from the American Arbitration Association and select the arbitrator by alternative strike method. The arbitration shall be governed by the California Arbitration Act, Code of Civil Procedure § 1280 *et seq.*
- 10.3 "Year" as used in this Agreement means a fiscal year, July 1 through and including June 30th.
- 10.4 No waiver of any rights or obligations under this Agreement may occur unless provided in writing.
- 10.5 This Agreement constitutes the entire agreement between District and Employee concerning the subject matter of this Agreement. Any prior agreements or understandings between District and Employee concerning the same subject matter not contained within this Agreement are null and void.
- 10.6 This Agreement is subject to all applicable laws of the State of California, to the rules and regulations of the State Board of Education, and to the lawful rules and regulations of the Board.

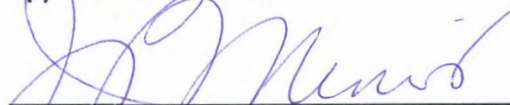
- 10.7 If during the term of this Agreement it is found that a specific clause of the Agreement is illegal under Federal or State law, the remainder of the Agreement not affected by such a ruling shall remain in force.
- 10.8 This Agreement may be modified or extended only in writing and must be signed by District and Employee.
- 10.9 This Agreement shall be effective upon execution by Employee and the President and Secretary of the Board of Education.

By: Oakland Unified School District

By: 
James Harris
President, Board of Education

By: 
Superintendent and Secretary, Board of
Education,

Approved as to Form


Jacqueline Minor, General Counsel

By Employee:


Joshua Kim

File ID Number: 16-0876
Introduction Date: 4/27/16
Enactment Number: 16-0615
Enactment Date: 4/27/16
By: OK