

Board Office Use: Legislative File Info.	
File ID Number	19-0970
Introduction Date	5/22/2019
Enactment Number	19-0830
Enactment Date	5/22/19 os

**LABOR MANAGEMENT & EMPLOYEE RELATIONS**

# Memo

**To** Board of Education

**From** Michael Smith, Interim General Counsel  
Jenine Lindsey, Executive Director of Labor & ADR

**Board Meeting Date** May 22, 2019

**Subject** **Resolution No. 1819-0035 – Exemption to the Separation-From-Service Requirement - California State Teachers Retirement System (CalSTRS)**

**Action Requested** Approval by the Board of Education of Resolution No. 1819-0035, authorizing the District to request an exemption to the 180 calendar day Separation-From-Service Requirement on behalf of teachers who retired from the District and are members of the California State Teachers Retirement System (CalSTRS).

**Summary** Pursuant to Education Code sections 24214.5 and 26812, there is a 180 calendar day separation-from-service requirement for all retired CalSTRS members and participants receiving an annuity.

To circumvent the teacher shortage while the District continues its' efforts to recruit qualified teachers to ensure each student is prepared for college, career and community success, the District intends to seek exemptions to allow retired teachers to return to the District as substitute teachers to fill critically needed teaching positions.

**Fiscal Impact** Any fiscal impact will be within the District's ability to cover.

**Recommendation** Approval by the Board of Education of Resolution No. 1819-0035, authorizing the District to request an exemption to the 180 calendar day Separation-From-Service Requirement on behalf of teachers who retired from the District and are members of the California State Teachers Retirement System (CalSTRS).

**Attachments**

- Resolution No. 1819-0035

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

RESOLUTION NO. 1819-0035

**EXEMPTION TO THE SEPARATION-FROM-SERVICE REQUIREMENT  
PURSUANT TO SECTION 24214.5 OR 26812 OF THE EDUCATION CODE**

**WHEREAS**, pursuant to Education Code section 24214.5 and 26812, there is a 180 calendar day separation-from-service requirement for all retired CalSTRS members and participants; and,

**WHEREAS**, all retired CalSTRS members and participants are subject to a restriction if they perform retired member activities as defined by section 22164.5 of the Education Code or retired participant activities as defined by section 26135.7 of the Education Code, during the first 180 calendar days after their most recent retirement; and,

**WHEREAS**, if the retired CalSTRS member or participant performed retired member or participant activities during this period, CalSTRS will reduce his or her retirement benefit or annuity one dollar for each dollar earned for performing retired member or participant activities during the 180-day period; and,

**WHEREAS**, there is an exemption from the 180 calendar day separation-from-service requirement for a member or participant who retires from service and is at or above normal retirement age; and,

**WHEREAS**, in order to qualify for this narrow exemption, the employer must appoint the retired member or participant to a critically needed position that has been approved by the governing body of the employer in a public meeting as reflected in a resolution; and,

**WHEREAS**, this approval by the governing body of the employer in a public meeting as reflected in a resolution must be finalized and communicated to CalSTRS before the member or participant commences to perform retired member or participant activities; and,

**WHEREAS**, the Superintendent of Schools must complete the *Request for Separation-from-Service Requirement Exemption* form, which must be submitted to CalSTRS and received by CalSTRS before the member or participant commences to perform retired member or participant activities,

**NOW THEREFORE, BE IT RESOLVED** that the Board of Education does provide public notice that the District is in critical need of experienced substitute teachers to fill critically needed teaching positions because there is a State-wide shortage of qualified teachers.

**AND BE IT FURTHER RESOLVED** that the Board wishes to meet this critical need by hiring the following individuals, who are members or participants who retired from service less than 180 days ago or who will retire;

1. James McGrath
2. Nancy Fisher
3. Rachelle Love
4. Rosenda Thomas
5. Stephanie Taymuree

**AND BE IT FURTHER RESOLVED** that this appointment is needed to fill this critical need before the 180 calendar day separation-from-service requirement is fulfilled;

**AND BE IT FURTHER RESOLVED** that the members or participants did not receive additional service credit pursuant to California Education Code section 22714 or 22715;

**AND BE IT FURTHER RESOLVED** that the members or participants did not receive a retirement incentive or any financial inducement to retire from any public employer;

**AND BE IT FURTHER RESOLVED** that the retired member's or participant's termination of employment is not the basis for the need to acquire his or her services;

**AND BE IT FURTHER RESOLVED** that the earnings for retired member activities during the 180 calendar days will still be subject to the annual postretirement earnings limit for the Defined Benefit Program;

**AND BE IT FURTHER RESOLVED** that members or participants listed will not commence to perform retired member or participant activities before this approval is authorized by the governing body of the employer in a public meeting as reflected in a resolution and received by CalSTRS;

**AND BE IT FURTHER RESOLVED** that the member or participant will not commence to perform retired member or participant activities before the Superintendent of Schools completes the *Request for Separation-from-Service Requirement Exemption* form and this is transmitted to and received by CalSTRS.

**PASSED AND ADOPTED** by the Governing Board of the Oakland Unified School District on this 22<sup>nd</sup> day of May 2019, by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Roseann Torres, Jumoke Hinton Hodge, James Harris, Vice President Jody London, President Aimee Eng

NOES: None

ABSTAINED: None

RECUSE: None

ABSENT: Student Director Chavez, Student Director Omosowho, Shanthi Gonzales, Gary Yee

**CERTIFICATION**

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on May 22, 2019.

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**OAKLAND UNIFIED SCHOOL DISTRICT**



Aimee Eng  
President, Board of Education



Kyla Johnson-Trammell  
Superintendent and Secretary, Board of Education