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Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Neena Bawa-Bhathal, Executive Director, Special Education
Jennifer Blake, Director, Special Education

Board Meeting Date June 5, 2019

Subject Special Education- Increase in 2018-19 and 2019-20 Cap for Nonpublic School and Nonpublic Agency Expenditures

Action Resolution Approval- Increase in 2018-19 and 2019-20 Cap for Nonpublic School and Nonpublic Agency Expenditures

Background Currently, Oakland Unified School District (OUSD) has 6,637 eligible students across preschool through young adult programming. These students have a wide variety of disabilities and areas of need associated therewith. A small number of students require intensive, highly specialized services to ensure their safety and access at school, and some students cannot be served on a public school campus due to the profound and global impact of their disabilities. Per federal and state law, OUSD must provide a free, appropriate public education (FAPE) for each eligible child who is an Oakland resident and must implement the services and setting indicated on each student's Individual Education Program (IEP). This requires contracting with specialized nonpublic schools (NPS) and nonpublic agencies (NPA).

OUSD contracts with **nonpublic schools** when a student's IEP indicates that level of care is required for a FAPE. OUSD currently has 173 students placed in NPSs, with 11 of those students placed in out-of-state residential facilities, which is an increase of four (4) students when compared to the 2017-18 school year.

OUSD uses **nonpublic agencies** to provide specialized staff that are either not available within OUSD or for which there is a long-term staffing shortage that requires contracting to provide services to students. OUSD's largest NPA expenditures are Speech-Language Pathologists, Registered Behavior Technicians, and Licensed Vocational Nurses. OUSD has 93 students with

dedicated behavior technicians (1:1 aides) in their IEPs, which is an increase of 13 over the last year.

Discussion

The OUSD School Board adopted spending caps for NPS and NPA expenditures in prior years. Most recently, the Board approved a cap of \$16.3 million per year in Resolution # 1819-0023. However, to serve all OUSD's eligible students per their IEPs, the Special Education Department has obligated expenditures beyond that cap. This increase is due to:

- COLA increases for almost all nonpublic schools' and agencies' daily rates
- an increase in the number of students moving to Oakland with nonpublic school placements
- four (4) current students requiring additional services through a new placement in residential care (at approximately \$150,000 per placement, per year)
- an increase in the number of students who, per assessment, require intensive individual services (1:1 aide)
- an unanticipated increase in sign language interpreters of 2.0 FTE due to staff leaves, often requiring an outside agency (NPA) to fulfill these services
- an increase in psychologist and SLP maternity/medical leave coverages
- high rates of classified staff vacancies, requiring short-term coverage through NPA services

It is recommended and requested that the Board agree to an Amended Resolution – No. 1819-0023A - increasing the NPA/NPS cap to **\$22 million** for the close of this (2018-19) school year and **\$24 million** for the 2019-20 school year.

If OUSD is unable to contract with agencies or place students in nonpublic settings, it risks IEP noncompliance, which can result in costly litigation, CDE compliance complaints, and compensatory education costs, among other things.

Fiscal Impact

This Amended Resolution will result in OUSD allocating additional funding for payment to NPA/NPS partners for the purpose of providing services to students with IEPs. The table on the subsequent page provides a summary of OUSD's projected expenditures for the coming (2019-20) year and actuals to date for the current (2018-19) year.

	2019-2020 PROJECTION	2018-2019 EXPENDITURES TO DATE	BALANCE
Non-Public Agency	12,815,927	7,266,195	5,549,732
Non-Public Schools	11,232,193	5,955,719	5,276,474
TOTALS	24,048,120	13,221,914	10,826,205

	2019-2020 PROJECTION	2018-2019 PROJECTED EXPENDITURES	BALANCE
Non-Public Agency	12,815,927	11,766,195	1,049,732
Non-Public Schools	11,232,193	8,955,719	2,276,474
TOTALS	24,048,120	20,721,914	3,326,205

Attachment

Nonpublic School and Agency Actuals and Projected Expenditures for 2017-18 and 2018-19.

Attachment: Historical and Current NPA/NPS Expenditures

1/10/2019

	2018-19 BOARD THRESHOLD	2018-19 PROJECTION	BALANCE
Non-Public Agency	8,171,195	11,833,402	(3,662,207)
Non-Public Schools	8,171,196	10,177,955	(2,006,759)
TOTALS	16,342,391	22,011,357	(5,668,966)

	2018-19 PROJECTION	2017-18 ACTUALS	BALANCE
Non-Public Agency	11,833,402	8,139,290	3,694,112
Non-Public Schools	10,177,955	7,510,603	2,667,352
TOTALS	22,011,357	15,649,893	6,361,464

Attachment: Resolution No. 1819-0023A

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

Resolution No. 1819-0023A

Master Agreements or Contracts and Individual Service Agreements With Non-Public Schools and/or Non-Public Agencies nka Nonpublic, Nonsectarian School/Agency Services For Special Education Program Master Agreements or Contracts, and Individual Services Agreements, Maximum Expenditure (CAP) For Fiscal Year 2018-2019 and Fiscal Year 2019-2020

WHEREAS, the Oakland Unified School District (OUSD) has an obligation to provide Special Education services and placements in accordance with students' IEPs, including the provision of specialized services or placement in a nonpublic setting when required due to disability impact; and

WHEREAS, the District has experienced an increase in the number of students requiring such services, coupled with an increase in vacancies and leaves of hard-to-fill employee positions; and

WHEREAS, the Board of Education, in Resolution No. 1819-0023, adopted September 12, 2019 (Legislative File No. 18-1748, Enactment No. 18-1486), among other provisions, authorized Master Agreement and Contracts and Individual Services Agreements With Non-Public Schools and/or Non-Public Agencies now known as Nonpublic, Nonsectarian School/Agency Services For Special Education Program, and Individual Services Agreements therefore, not to exceed \$16,342,391.00, without further approval of the Board; and

WHEREAS, the District's legal obligation to provide pupils such services as determined by IEP process has reached the not to exceed cumulative cost (cap) of \$16,342,391.00 imposed for the current Fiscal Year; and

WHEREAS, it is the recommendation of the Superintendent of Schools, or designee, that to ensure the ongoing funding of Nonpublic, Nonsectarian School/Agency Services Master Agreements, and Individual Services Agreements, therefor, that the not to exceed amount cap for such services in current Fiscal Year 2018-2019 be raised from \$16,342,391.00 to \$22,000,000 and the not to exceed amount (cap) for such Agreements in the 2019-2020 Fiscal Year be set at \$24,000,000.00,

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Education, in accordance with the afore-stated recommendation, hereby, increases the not to exceed amount (cap) from \$16,342,391.00 to \$22,000,000 for current Fiscal Year and sets the not to exceed amount (cap) at \$24,000,000.00, for Fiscal Year 2019-2020

for Nonpublic, Nonsectarian School/Agency Services Master Agreements or Contracts, and Individual Services Agreements, until and unless the Board of Education modifies said cumulative cost cap, respectively.

Passed by the following vote:

PREFERENTIAL AYE:

PREFERENTIAL NOE:

PREFERENTIAL ABSTENTION:

PREFERENTIAL RECUSE:

AYES:

NOES:

ABSTAINED:

RECUSE:

ABSENT:

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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By:	

OAKLAND UNIFIED SCHOOL DISTRICT

Aimee Eng
President, Board of Education

Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education