

Board Office Use: Legislative File Info.	
File ID Number	19-2147
Introduction Date	10/23/19
Enactment Number	19-1609
Enactment Date	10/23/19 os



LABOR MANAGEMENT & EMPLOYEE RELATIONS

Memo

To Board of Education

From Josh Daniels, General Counsel
Jenine Lindsey, Executive Director of Labor Relations & ADR

Board Meeting Date October 23, 2019

Subject **Resolution No. 1920-0073 – Exemption to the Separation-From-Service Requirement - California State Teachers Retirement System (CalSTRS)**

Action Requested Approval by the Board of Education of Resolution No. 1920-0073, authorizing the District to request an exemption to the 180 calendar day Separation-From-Service Requirement on behalf of Mr. Sanford Gerber, a teacher who recently retired from the District and is a member 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 shortage of teachers within the District, and while the District continues its' efforts to recruit qualified teachers to ensure each student is receiving highly skilled and qualified services, the District intends to seek an exemption on behalf of Sanford Gerber who worked as a teacher for the District and wishes to return to the District as a substitute teacher.

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

Recommendation Approval by the Board of Education of Resolution No. 1920-0073, authorizing the District to request an exemption to the 180 calendar day Separation-From-Service Requirement on behalf of Mr. Sanford Gerber, a teacher who recently retired from the District and is a member of the California State Teachers Retirement System (CalSTRS).

Attachments

- Resolution No. 1920-0073

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

RESOLUTION NO. **1920-0073**

**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 individual, who is a member or participant who retired from service less than 180 days ago or who will retire;

1. MR. SANFORD GERBER

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 member or participant did not receive additional service credit pursuant to California Education Code section 22714 or 22715;

AND BE IT FURTHER RESOLVED that the member or participant 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 23rd day of October 2019, by the following vote:

PREFERENTIAL AYE:	None
PREFERENTIAL NOE:	None
PREFERENTIAL ABSTENTION:	None
PREFERENTIAL RECUSE:	None
AYES:	Shanthi Gonzales, Roseann Torres, Jumoke Hinton-Hodge, Gary Yee, James Harris, Vice President Jody London, President Aimee Eng
NOES:	None
ABSTAINED:	None
RECUSE:	None
ABSENT:	Student Director Garibo, Student Director Smith-Dahl

CERTIFICATION

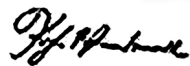
We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on October 23, 2019.

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OAKLAND UNIFIED SCHOOL DISTRICT



Aimee Eng
President, Board of Education



Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education