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# Memo

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent  
Yvette Renteria, Deputy Chief of Innovation

**Board Meeting Date** January 8, 2020

**Subject** Agreement Between North Oakland Community Charter School and Oakland Unified School District

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**Action** Vote

**Background** This agreement is between North Oakland Community Charter School ("NOCCS") and Oakland Unified School District ("OUSD"). This agreement is for the charter school's 5-year term which would begin in the 2020-2021 school year. The NOCCS board approved and signed the agreement as of December 19, 2019.

This agreement establishes that the school will:

- Close the middle school program at the end of the 2019-20 school year
- Close all grades after the 2021-22 school year if specific academic outcomes for the 2019-2020 and 2020-21 school years are not met.

**Discussion** The Office of Charter Schools staff and Superintendent recommend **approval** of the agreement between North Oakland Community Charter School and OUSD.

**Fiscal Impact** NOCCS currently serves about 23 students in grades 6 and 7. If the middle school closes at the end of the 2019-20 school year, those students will need to find another school to attend. While it is unclear what proportion of these students will choose district schools versus other options (charter school, private school, etc.), we might

anticipate an increase in OUSD district school enrollment of 10-15 students.

**Attachment**

Agreement Between Oakland Unified School District and North Oakland Community Charter School

**Agreement Between  
Oakland Unified School District and  
North Oakland Community Charter School**

This Agreement ("Agreement") is entered into as of January 8, 2020 by and between the North Oakland Community Charter School, a California nonprofit public benefit corporation ("Non-Profit"), operating the North Oakland Community Charter School ("Charter School"), and the Oakland Unified School District ("OUSD"). The Non-Profit and Charter School are collectively referred to as "NOCCS." OUSD and NOCCS are collectively referred to as the Parties.

**RECITALS**

Whereas, OUSD is the agency that authorized the current petition under which Charter School is operating. The District authorized that petition on March 25, 2015 for a term of five years, beginning on July 1, 2015 and expiring June 30, 2020.

Whereas, on October 23, 2019, NOCCS submitted its Renewal Petition to OUSD requesting a five-year renewal of its charter term, scheduled to begin on July 1, 2020 if approved; and

Whereas, the Renewal Petition was reviewed by OUSD staff to determine whether it met the standard for renewal; and

Whereas, although the Renewal Petition describes a Charter School program serving grades K through 8, NOCCS plans to phase out grades 6 through 8 (the middle school grade spans) during the term of its charter; and

Whereas, the Renewal Petition raises serious concerns regarding the operational feasibility of NOCCS' plan to phase out the middle school grade spans; and

Whereas, the Renewal Petition and NOCCS' academic performance data present serious concerns regarding the declines in NOCCS' elementary school and middle school academic performance; and

Whereas, at the public hearing on November 6, 2019, NOCCS leadership expressed similar concerns regarding declines in academic performance; and

Whereas, by approving the Renewal Petition, OUSD assumes and continues its oversight responsibilities of NOCCS pursuant to the Charter Schools Act (Ed. Code, § 47600 et seq.), including but not limited to oversight related to academic performance;

Whereas, the purpose of this Agreement is to memorialize the Parties' intent to authorize NOCCS to continue to operate under certain conditions specifically related to middle school grade span reduction and academic outcomes.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, NOCCS and OUSD agree to the following Terms and Conditions:

### **TERMS & CONDITIONS**

- I. **Use of Terms.** Unless otherwise stated, for the purposes of this Agreement, the terms Charter School, Non-Profit, and NOCCS may be used interchangeably, with the duties and responsibilities of the Charter School, Non-Profit, and NOCCS being the same under this Agreement.
- II. **Interaction of Agreement with Renewal Petition, and Conflicts.** The Renewal Petition is attached to this this Agreement as Exhibit B. The Parties intend the terms and conditions of this Agreement to supplement the terms, conditions, standards and procedures set forth in the Renewal Petition and, in doing so, the Parties agree that this Agreement is consistent with the Renewal Petition. If any provision of this Agreement is inconsistent with the Renewal Petition, the terms of the Agreement shall prevail.
- III. **Term.** This Agreement shall commence on the date upon which it is executed by both Parties, but shall not be effective absent ratification or approval by the OUSD Governing Board. This Agreement shall cover the NOCCS charter term, beginning on July 1, 2020 and ending on June 30, 2025. If the Charter School's charter is revoked or the Charter School ceases operations prior to the expiration of the term of the Agreement, the Agreement shall immediately terminate.
- IV. **Approval with Conditions.** The Parties agree that OUSD has sufficient legal basis to deny the Renewal Petition but has, at its sole discretion, opted not to deny the Renewal Petition or adopt findings in support of denial. Instead, OUSD will approve the Renewal Petition, with conditions, as set forth in this Agreement. The Parties agree that OUSD's authorization of NOCCS, and NOCCS' continued operation of the Charter School is contingent upon its compliance with all conditions and terms set forth in this Agreement.
- V. **Consideration.** The parties have bargained for and expressly agree that the rights and obligations of each party contained in this Agreement, including as set forth in section IV, constitute sufficient consideration supporting this Agreement.
- VI. **Middle School Grade Span Reduction.** The Renewal Petition describes a Charter School program serving grades Kindergarten through eight (8). That notwithstanding, NOCCS agrees, during the term of this Agreement, that it will not enroll any students in grades six (6), seven (7), or eight (8), nor will it submit to OUSD any material revisions to its Renewal Petition that would enable it to enroll students in grades six (6), seven (7), or eight (8).

If OUSD determines that NOCCS has not complied with the terms of this section, OUSD shall notify NOCCS of its objections in writing, and NOCCS shall have ten (10) business days to provide a written explanation to OUSD. OUSD, at its sole discretion, shall determine whether NOCCS has complied with the terms of this section upon review of any written explanation provided by NOCCS. Failure to comply with this section, in whole or in part, shall constitute a material breach of this Agreement. Any material breach of this Agreement shall also constitute a material breach of the Renewal Petition.

**VII. Academic Outcomes.** NOCCS shall meet the conditions set forth in this section and in Exhibit A.

- A. Meet the thresholds set forth in Exhibit A for two (2) of the three (3) domains (i.e. ELA, Math, Key Student Groups) in 2019-20 and 2020-21, including the Key Student Group domain in at least one (1) of the two (2) years; or
- B. Meet the thresholds set forth in Exhibit A for all three (3) domains (i.e. ELA, Math, Key Student Groups) in 2020-21.

If OUSD determines that NOCCS has not complied with the terms of this section, OUSD shall notify NOCCS of its objections in writing, and NOCCS shall have ten (10) business days to provide a written explanation to OUSD. OUSD, at its sole discretion, shall determine whether NOCCS has complied with the terms of this section upon review of any written explanation provided by NOCCS. Failure to comply with this section shall constitute a failure by NOCCS to meet or pursue the pupil outcomes identified in its charter. Failure to comply with this section, in whole or in part, shall constitute a material breach of this Agreement. Any material breach of this Agreement shall also constitute a material breach of the Renewal Petition.

**VIII. Academic Performance Review.** The District shall monitor the academic performance of the student population of the Charter School in accordance with the District's policies and administrative regulations regarding charter school oversight. Oversight of academic performance shall be based, in whole or in part, on the Charter School's measurable student outcomes, annual goals, data such as state test scores and local assessments, the annual LCAP update, the annual visit, the charter petition, and other data and information requested by, or available to, the District.

**IX. Revocation for Other Reasons.** Notwithstanding any provision of this Agreement, OUSD retains its full statutory and regulatory authority to revoke the Renewal Petition for any reason as permitted by law. Notwithstanding any provision of this Agreement, NOCCS retains any and all rights under Education Code section 47607, including but not limited to notice of violation and opportunity to remedy, for any violation other than failure to meet the conditions set forth in section VI (Middle School Grade Span Reduction) or section VII (Academic Outcomes).

- X. **Voluntary Closure, Revocation, and Waiver of Rights.** If OUSD determines, in its sole discretion, that NOCCS has materially breached this Agreement for any reason, including but not limited to as set forth in sections VI and VII, OUSD will notify NOCCS in writing of the material breach. Upon receiving said notification, NOCCS shall voluntarily close the Charter School by the first June 30 immediately following the material breach or, if the first June 30 immediately following the material breach is June 30, 2025, NOCCS agrees that it shall not submit (or will withdraw if already submitted) any succeeding renewal petition.

If NOCCS fails to voluntarily close the Charter School as required by this section, OUSD shall initiate revocation proceedings against NOCCS pursuant to OUSD's authority under Education Code section 47607. For violations of section VI (Middle School Grade Span Reduction) or section VII (Academic Outcomes), NOCCS hereby waives all rights otherwise afforded to it under Education Code section 47607, and agrees the District shall not be required to provide NOCCS with a notice of violation or opportunity to remedy, pursuant to Education Code section 47607, subdivision (d), prior to revoking NOCCS charter except as otherwise provided for in this Agreement. NOCCS further waives all rights to appeal OUSD's revocation of its charter pursuant to this section for any violations of this Agreement related to reduction of middle school grade spans and academic outcomes.


If NOCCS fails to voluntarily close the Charter School as required by this section, and OUSD initiates revocation proceedings, NOCCS shall pay to OUSD all direct and indirect costs arising from said revocation, including but not limited to staffing costs.


- XI. **Indemnification.** NOCCS shall promptly defend, indemnify, and hold harmless OUSD, its officers, directors, employees, agents, representatives, volunteers, administrators, successors, and assigns (collectively hereinafter the "Indemnified Parties") from and against any and all alleged or actual breach of any obligation imposed under this Agreement, or any other actual or alleged breach of any duty or obligation owed to OUSD or any third party, including any Charter School student (including any student placed with a school other than the Charter School, or in any nonpublic, nonsectarian school or in other special services to address special need or disability situations) or employee, by NOCCS or its officers, directors, employees, agents, representatives, volunteers, guests, students, administrators or trustees, successors or assigns.
- XII. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
- XIII. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.

- XIV. **Interpretations.** No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
- XV. **Litigation.** This Agreement shall be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this Agreement.
- XVI. **Integration/Entire Agreement of Parties:** This Agreement, inclusive of the Renewal Petition, constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
- XVII. **Counterparts.** This Agreement may be executed in counterparts, and all counterparts together shall be construed as one document.
- XVIII. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been given the proper authority and empowered to enter into this Agreement.
- XIX. **Publicly Posted.** This Agreement, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
- XX. **Agreement Contingent on Governing Board Approval.** OUSD shall not be bound by the terms of this Agreement until it has been formally approved by OUSD's Governing Board. This Agreement shall be deemed approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.

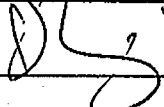
IN WITNESS WHEREOF, the Parties execute the document, as dated below.


Oakland Unified School District

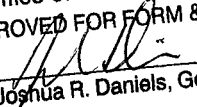
Name: Jody London  
Signature:   
Title: President, Board of Education  
Date: 1/9/2020

Name: Kyla Johnson Trammell  
Signature:   
Title: Secretary, Board of Education  
Date: 1/9/2020

North Oakland Community Charter School

Name: Dexon King-Neece  
Signature:   
Title: Co-chair  
Date: 12/19/19

Name: Dominique Malone  
Signature:   
Title: Co-Chair  
Date: 12/19/19

OAKLAND UNIFIED SCHOOL DISTRICT  
Office of the General Counsel  
APPROVED FOR FORM & SUBSTANCE  
By:  12/27/19  
Joshua R. Daniels, General Counsel



## Exhibit A

Domains	Measurement Tools and Targets
<b>ELA:</b> To meet the ELA domain threshold for a given year, NOCCS must meet at least one of the three specified ELA targets	ELA CORE Growth for grades 3-5 shall be at the 50 <sup>th</sup> percentile or higher
	California School Dashboard – ELA Indicator shall be at Yellow or higher
	ELA SBAC Proficiency Rate for grades 3-5 shall increase by five (5) or more percentage points from most recent prior administration of ELA SBAC
<b>Math:</b> To meet the Math domain threshold for a given year, NOCCS must meet at least one of the three specified Math targets	Math CORE growth for grades 3-5 shall be at the 50 <sup>th</sup> percentile or higher
	California School Dashboard – Math Indicator shall be at Yellow or higher
	Math SBAC Proficiency Rate for grades 3-5 shall increase by five (5) or more percentage points from most recent prior administration of Math SBAC
<b>Key Student Groups:</b> To meet the key student group domain threshold for a given year, NOCCS must meet the specified target.	The non-weighted average of ELA and Math proficiency rates for at least half of the below listed student groups, where there are ELA scores for at least eleven (11) students in grades 3-5 and where there are math scores for at least eleven (11) students in grades 3-5, shall be at or above the non-weighted average of ELA and Math proficiency rates for students in grades 3-5 in non-charter OUSD-run schools in each of the below student groups: Black/African American; Hispanic/Latino; Socioeconomically Disadvantaged; English Learners; and Students with Disability. (For illustrative purposes, this measure tool means that the non-weighted average of ELA and Math proficiency rate for Hispanic/Latino students in grades 3-5 at NOCCS would be compared with the non-weighted average of ELA and Math proficiency rate for Hispanic/Latino students in grades 3-5 at non-charter OUSD-run schools.)

### **Additional Information:**

- “Proficiency Rate” means the percent of students meeting or exceeding standards.
- If, for any reason, a measure took or any associated data is not available to determine whether NOCCS has met any of the above thresholds (including, but not limited to, whether data is available to determine whether NOCCS has met a particular target for a particular measurement tool), NOCCS shall be deemed to not have met the threshold, with the exception that student groups where there are ELA scores for ten (10) or fewer students or math scores for ten (10) or fewer students will not be factored into determining the number of students groups for purposes of determining whether NOCCS met the Key Student Groups domain.