

BERKELEY UNIFIED SCHOOL DISTRICT

RESOLUTION 20-007 FOR 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 for 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 Berkeley Unified School District* 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 this Board does provide public notice that the district is in critical need of a *teacher to teach* because *our students need AP Calculus in Fall Semester 2019*;

AND BE IT FURTHER RESOLVED that the Board wishes to meet this critical need by hiring *Phillippe Henrie*, a member or participant who retired for service less than 180 days ago or who will retire;

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 this 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 this member or participant 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 this member or participant will not commence to perform retired member or participant activities before the *Superintendent of Berkeley Unified School District* 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 *Berkeley Unified School District*, on this *fourth* OF *September* IN THE YEAR *2019*.

AYES: NOES: ABSENT:

I, *Ty Alper*, SClerk of the Governing Board, *Berkeley Unified School District*, County of *Alameda*, do hereby certify the foregoing to be a full, true and correct copy of a resolution adopted by the said Board at a regular meeting hereof held at its regular meeting place on *August 27, 2019*, which action is contained in the minutes of the meeting of said Board.

Ty Alper
Clerk of the Governing Board
Berkeley Unified School District

August 27, 2019