CITY OF OAKLAND

OFFICE OF THE CITY ATTORNEY

Frequently Asked Questions (FAQs) Regarding
City of Oakland v. OUSD

Issued: September 13, 2024
Revised:
Issued By: Barbara J. Parker, Oakland City Attorney

I. INTRODUCTION

On September 13, 2024, Oakland City Attorney Barbara J. Parker filed a lawsuit on behalf of the City of Oakland (Oakland) against Oakland Unified School District (OUSD) for the district's ongoing refusal to pay its fair share of election costs for school board director elections. To ensure that the public and City of Oakland officials have the same information, the City Attorney is issuing this FAQ to provide answers to common questions.

II. FREQUENTLY ASKED QUESTIONS REGARDING CITY OF OAKLAND'S LAWSUIT AGAINST THE OAKLAND UNIFIED SCHOOL DISTRICT

1. Why is Oakland suing OUSD?

Answer: Oakland is seeking relief for the district's ongoing refusal to pay its fair share of election costs for school board director elections, as required by the Oakland City Charter and the California Education Code.

OUSD has refused to pay its outstanding invoice for the 2023 special election that was held to fill the OUSD District 5 vacancy. This special election, which came at a cost of nearly $600,000, was required only because the OUSD Board of Education declined to appoint a provisional board member and instead chose to proceed by special election. The Oakland City Council neither ordered nor called the 2023 special election.

OUSD also refuses to pay its proportionate share of general election costs for recent school board director elections, despite a history of past payment and clear California law, which provides that school districts like OUSD must pay their share of election costs for both school board offices and ballot measures.

The City's total cost for the 2022 general election was approximately $4.8 million; OUSD's share represented approximately $860,700. The City's total cost for the 2020 general election was approximately $2.2 million; OUSD's share represented approximately

$679,000. At the time this lawsuit was filed, OUSD owed the City approximately $1.5 million for election-related costs.

2. Why was there a special election for OUSD District 5 in 2023?

Answer: On March 21, 2023, OUSD Board Member Mike Hutchinson, School Director for District 5, resigned from his seat, creating a vacancy on the Board. The Board failed to appoint a provisional board member or order an election to fill this vacancy within 60 days as required by the California Education Code.

Because the Board did not appoint a provisional board member, a special election was required to fill the vacancy, pursuant to California Education Code section 5091. Therefore, on May 22, 2023, pursuant to California Education Code section 5091(a), the Alameda County Superintendent of Schools issued a resolution ordering a special election to fill the vacancy. The special election was held on November 7, 2023.

3. What is OUSD's legal obligation to pay election costs?

Answer: Oakland City Charter section 404 provides for the elections of school board directors for the Oakland Board of Education. However, no provision in the City Charter or Oakland Municipal Code governs the cost allocation for these elections. Instead, Charter section 404 provides that the California Education Code "shall apply as to matters not provided for in this Charter."

California Education Code section 5227 and its legislative history are clear that for primary, general, or recall elections for city boards of education held on the same day as municipal elections, the school district shall pay its proportionate share of the election costs and expenses for offices and propositions (ballot measures). In fact, in 1959, the current version of California Education Code section 5227 was amended in response to a request from the Oakland City Attorney with the concurrence of the Board of Education to allow election cost-sharing between the City and OUSD. OUSD followed these cost sharing principles as recently as 2008.

California Education Code section 5421 further provides that the cost of any election held within a single district shall be borne by the entire district. In the May 2023 resolution ordering the special election, the Alameda County Superintendent of Schools stated that "pursuant to Education Code Section 5421, Oakland Unified School District will fully reimburse the County of Alameda for all costs associated with the election of a trustee for Area 5 called for in this Resolution."

4. What has the City done to resolve this dispute?

Answer: For nearly a year, beginning in October 2023, the City sought to work collaboratively with OUSD to resolve the issues regarding payment of OUSD's proportionate share of election costs for the 2020 and 2022 elections, as well as the 2023 special election. In March 2024, following the exchange of public letters and positions, the City and OUSD entered into confidential settlement negotiations. Those settlement

negotiations did not resolve the underlying disputes and the City formally terminated negotiations on September 10, 2024.

5. What does the lawsuit seek?

Answer: The City seeks a judicial order to require:

(1) OUSD's payment of its proportionate share of the 2020 and 2022 general election costs;
(2) OUSD's payment of the 2023 special election costs; and
(3) OUSD's payment of its proportionate share of school board director elections going forward.

6. Who may I contact for more information?

Answer: Please see the press release and complaint for more details. For media inquiries, contact mediainquiries@oaklandcityattorney.org. For other inquiries, contact BParker@oaklandcityattorney.org.