

**RESOLUTION OF THE BOARD OF EDUCATION
ORANGE COUNTY, CALIFORNIA**

Resolution on
Retention of Forensic Auditor Pursuant to Education Code §1042

OCTOBER 7, 2020

WHEREAS, the Orange County Board of Education (“Board”) has the statutory and fiduciary duty to oversee the fiscal accountability, sustainability and transparency of the Orange County Department of Education (“Department”) budget as set forth below; and

WHEREAS, the California Education Code §1040 provides, “*County Boards of Education shall: (a) Adopt rules and regulations not inconsistent with the laws of this state, for their own government. (b) Approve the annual budget of the county superintendent of schools*”; and

WHEREAS, the California Education Code §1042 provides, “*County Boards of Education may do all of the following: (c) Contract with and employ any persons to advise and provide special services needed to properly guide the County Board of Education on financial, economic, accounting, engineering, legal, and/or administrative matters, particularly if these persons have specific expertise and competence to perform the special services required. The County Board of Education may compensate these experts from any available funds as appropriate for the services rendered*”; and

WHEREAS, the Board has specific statutory authority to approve budgetary items, contracts and expenditures (See California Education Codes §§1081, 1250, 1251, 1259, 1260, 1271, 1273, 1275; and 1277.) ; and

WHEREAS, the Board has exclusive authority over the Department budget approval (see California Education Codes §§1620-1622; and

WHEREAS, California Education Code §1621 (c) provides that the annual budget, “*may contain a fund balance designed for any specific purpose as determined by the County Board of Education. Those funds shall be available for appropriation by majority vote by members of the County Board of Education*”; and

WHEREAS, California Education Code §36501 provides, “*On and after January 1, 1976, the governing board of any school district may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.*”; and

WHEREAS, during the 2019-2020 and 2020-2021 budget cycles the Board actively exercised its fiscal oversight right and responsibility; and

WHEREAS, during the 2019-2020 and 2020-2021 budget cycles the Board raised significant concerns to include but not limited to budgetary discrepancies, fund balances, object code transfers, appropriate reserves/designations of reserves, workflow and fiscal transparency; and

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WHEREAS, at the May 13, 2020, Board meeting the Board made inquiries about a potential “conflict of interest,” concerning Orange County Department of Education disbursement of funds without public discussion, Board oversight and approval; and

WHEREAS, on or about the May 13, 2020 Board meeting, Trustee Lisa Sparks (“Trustee Sparks”) requested a legal opinion concerning the potential “conflict of interest.” To date, Trustee Sparks has not received this legal opinion; and

WHEREAS, the efficient, lawful, and transparent operations of the Department budget are of paramount concern not only to the Board, but also to the citizens of Orange County; and

WHEREAS, the Department’s previous annual financial accounting practice audits were designed and performed to evaluate the Department’s financial statements and to provide reasonable assurance that those financial statements are accurate and complete. In contrast, a forensic engagement (or assignment) is designed to analyze and evaluate in detail, specific information and transactions for numerous purposes, to include but not limited to a legal factfinder; and

WHEREAS, historically a forensic audit has not been performed for the Department to determine whether: 1) Department funds have been properly expended for their intended purpose; 2) Department funds have been properly dispersed with Board oversight and ratification; 3) Perceived Budget inconsistencies are appropriate or inappropriate; 4) Appropriate Board oversight and Departmental transparency, to include but not limited to vendor contracts, budget disbursements, grant income, and grant outlay is demonstrated; 5) Appropriate separation of duties and oversight between the Board and Department; 6) Appropriate separation of duties within the Department are in place; 7) Current processes, procedures, and controls implemented by the Department are appropriate and/or transparent; and 8) The current processes, procedures and controls implemented by the Department can be improved and made more transparent.

THEREFORE, the Board hereby resolves as follows:

1. Pursuant to its authority under California Education Code §1042 (d) the Board seeks to employ a person with special expertise in, accounting and forensic auditing; and
2. The Board will retain the services Hemming Morse LLP Forensic and Financial Consultants for the purpose of conducting a forensic audit of the Department’s budget and fiscal practices; and
3. Passage of this Resolution shall constitute and “appropriation by majority vote” of the necessary funds to pay Hemming Morse LLP from Department funds; and
4. The Board expects the full cooperation of the Department staff and Superintendent of Schools in conducting the aforementioned forensic audit.

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AYES: Williams, Barke, Sparks, Shaw

NOES: Gomez

ABSTAINED: 0

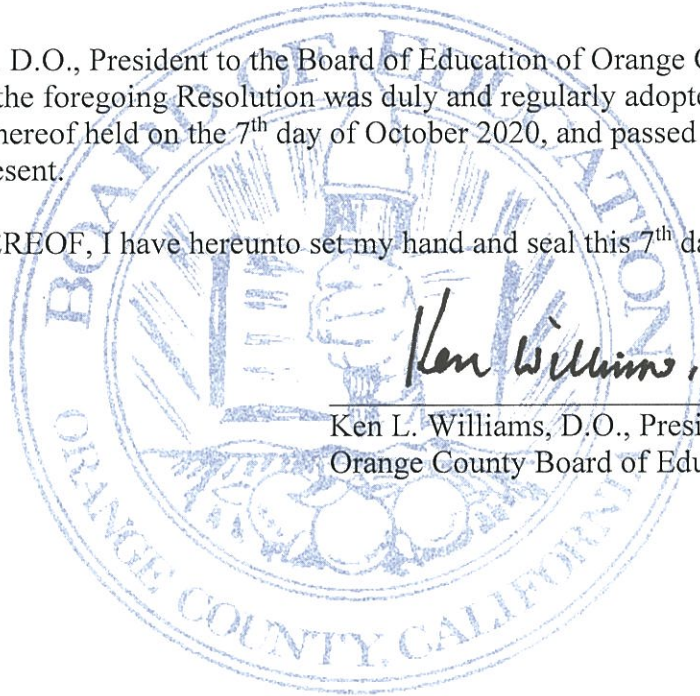
ABSENT: 0

STATE OF CALIFORNIA

COUNTY OF ORANGE

I, Ken L. Williams, D.O., President to the Board of Education of Orange County, California hereby certify that the foregoing Resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the 7th day of October 2020, and passed by a 4-1 vote of said Board members present.

IN WITNESS THEREOF, I have hereunto set my hand and seal this 7th day of October 2020.



Ken Williams, D.O.

Ken L. Williams, D.O., President
Orange County Board of Education