

MEMORANDUM

To: Cindy Marten, Superintendent  
From: Deidre Walsh, Director  
Date: October 27, 2020  
Re: Gompers Preparatory Academy On-Loan Employees

On June 26, 2020, the District met with Gompers Preparatory Academy charter school. The District informed Gompers of plans to phase out on-loan agreements effective July 1, 2021. This was consistent with the District's past practice of giving charter schools a one-year notice, as well as with the one-year term of each on-loan agreement. Prior requests by Gompers to create "lifetime" on-loan agreements were denied by the District Board of Education, most recently as part of the renewal of the Gompers charter petition.

On June 29, 2020, the District sent written notification to the on-loan employees at Gompers providing them with one-year notice that the on-loan agreements would end as of July 1, 2021.

**District Employees On-Loan to Gompers**

CERTIFICATED	CLASSIFIED
1. Vincent Riveroll 2. John Bartholomew*	3. Paz Garcia-Ramirez 4. Armida Francheschi 5. Lisa Maples

\*Mr. Bartholomew is currently working at Bethune K-8, and is no longer at Gompers.

Presently, four on-loan employees remain at Gompers. One certificated employee is represented by AASD, and three classified employees are represented by OTBS. The three classified employees are not eligible to be unit members of SDEA and are not subject to current negotiations between Gompers and SDEA.

Gompers expressed concerns about the District's decision to end on-loan agreements. This memorandum summarizes the rationale to end on-loans and addresses concerns expressed.

**Rationale to End On-Loan Agreements Across Charter Schools**

Gompers, and all other District-authorized charter schools, operate as independent legal entities, which ensures the District is not liable for the charters' debts and obligations. With the exception of the four employees at Gompers, across the district's 43 authorized charter schools employing over 1,000 employees, 100% of charter employees are employed directly by the charter schools. Eliminating the on-loan agreements reduces confusion for all stakeholders. The District's role in relation to Gompers, along with all of its other independently-operated charter schools, is as an authorizer responsible for ensuring charter

schools operate in compliance with all required laws. The District is not involved in the daily operations or financial decisions of Gompers.

On-loan agreements were offered by the District to charters schools 15+ years ago when they operated as “arm of the district” **dependent** charter schools, many of which were conversion charter schools. In the past decade, 100% of charter schools, including Gompers, have transitioned to **independent** charter schools that are operated as or by 501(c)(3) nonprofit public benefit corporations with their own insurance, own collective bargaining agreements where applicable, and own governing boards.

### **Gompers’ Concerns**

Gompers has expressed concerns about salary loss, safety net, and/or other benefits. **No on-loan employee would lose their job or salary and benefits as provided by the District because they have full return rights.** All four on-loan employees have been provided with a one-year transition period to return to the District if they so choose. To the extent that Gompers pays additional stipends to on-loan employees, Gompers has been provided with a one-year planning period to transition these employees and ensure they continue their current level of employment in future years as direct employees of Gompers. At other charter schools, there has been a mix of on-loan employees who decided to return to the District, while others decided to become employees of the charter school (e.g. Keiller, O’Farrell, etc.).

### **District’s Needs**

The District is currently projecting a deficit as it prepares its 2020-21 budget plans. To the extent on-loan employees at Gompers seek to return, they will be assigned to a District site. In the event on-loan employees decide to remain at Gompers, then Gompers would not experience any fiscal impact to maintain the same level of salary and benefits for these employees as Gompers as currently in place.

### **Equitable Employment**

Currently, as members represented by the District’s labor organizations, the four on-loan employees receive District salaries and benefits, as well as all other protections and benefits offered by the collective bargaining agreements. In contrast, all other Gompers employees receive Gompers salary and benefits, thereby creating a two-tiered system among co-workers on the same campus. In addition, on-loan employees may receive additional stipends from Gompers at the school’s discretion. During the 2019-20 school year, Gompers sent layoff notices to some of its employees and subsequently rescinded them. The existence of on-loan employees may create separate seniority lists or impact seniority if future layoff notices are issued. Ending on-loan agreements ensures all Gompers workers are treated equitably under a universal salary and benefits structure.

### **Conclusion**

Eliminating on-loan agreements clarifies that the District’s role is as the authorizer only. Ending on-loans reduces confusion to all stakeholders, including complainants, because the District will more accurately not be the employer of record for any charter staff. Supporting charter autonomy and independence has been a consistent practice by the District. Ending the on-loan agreements at Gompers is consistent with the legal structure between the entities, and ensures a more equitable employer-employee relationship among all.