

RENÉE MAYNE
Labor-ADR
Arbitrator, Mediator
Post Office Box 1827
Sacramento, California 95812
916-245-0625

PERB CASE NO. SF-IM-3251-E
FACTFINDER CASE NO. 19-10-31FF

FACTFINDING PROCEEDINGS PURSUANT TO
THE EDUCATIONAL EMPLOYMENT RELATIONS ACT

DEL NORTE UNIFIED SCHOOL DISTRICT
and
DEL NORTE TEACHERS ASSOCIATION, CTA-NEA
Issue: 2019-20 Contract Year Collective Bargaining Impasse

NEUTRAL FACTFINDER
PANEL CHAIR
RECOMMENDATIONS

January 14, 2020

FACTFINDING PANEL

Factfinder for the Union:

Daryl Hemenway
Regional Uniserv Staff
California Teachers
Association, NEA

Factfinder for the Employer:

Matt Phillips, CPA, Director,
Management Consulting Services,
School Services of California, Inc.

Neutral Factfinder Panel
Chair:

Renée Mayne
Arbitrator, Mediator

APPEARANCES

For the Union:

Paige Thompson, 5th Grade Teacher and
Lead Negotiator, Del Norte Teachers Association
1244 Glenn Street
Crescent City, California 95531
707-464-9249

Dave Bokor, Negotiator, Retired Math Teacher
Del Norte Teachers Association Financial Analyst

For the Employer:

Brianna García, Director
Management Consulting Services
School Services of California, Inc.
1121 L Street, Suite 1060
Sacramento, California 95814
916-446-7517

TABLE OF CONTENTS

INTRODUCTION	3
ISSUES AT IMPASSE.....	3
GOVERNING STATUTE	4
SUMMARY OF FACTS	4
POSITION OF THE UNION.....	9
POSITION OF THE DISTRICT	9
NEUTRAL FACTFINDER PANEL CHAIR DISCUSSION	10
NEUTRAL FACTFINDER PANEL CHAIR RECOMMENDATIONS	12

INTRODUCTION

This factfinding arose due to an impasse in collective bargaining under the State of California Educational Employment Relations Act (EERA, Government Code section 3548.2) between the Del Norte Teachers Association, CTA-NEA (Union) and the Del Norte Unified School District (Employer, District).

Under the procedures of the California Public Employment Relations Board (PERB), Renée Mayne was selected by PERB to serve as the Neutral Factfinder Panel Chair. Matt Phillips was appointed by the District as the Panel Member to represent the Employer, and Daryl Hemenway was appointed by the California Teachers Association to represent the Union. (PERB letter dated August 26, 2019)

The parties waived the applicable statutory timelines for these factfinding proceedings. The parties agreed that all procedural requirements of the impasse had been met, and the impasse was properly before the Factfinding Panel to issue their recommendations to resolve the collective bargaining dispute.

The factfinding hearing convened on December 5, 2019, in a conference room at the Del Norte Unified School District, 301 West Washington Boulevard, Crescent City, California. The parties had full opportunity to present and submit relevant exhibits and evidence, and to discuss and argue the issues in dispute. The factfinding record officially closed on December 5, 2019, and the dispute was submitted to the Factfinding Panel.

ISSUES AT IMPASSE

At the end of the hearing day, the parties remained at an impasse for the following issues:

Article 9 – Health and Welfare Benefits

Article 20.1 – Base Salary Schedule

Appendix B – Stipends

GOVERNING STATUTE

The Educational Employment Relations Act Government Code section 3548.2(b) sets forth the criteria to be used in the factfinding process.

In arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all the following criteria:

- (1) State and federal laws that are applicable to the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the public-school employer.
- (4) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in public school employment in comparable communities.
- (5) The consumer price index for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits; the continuity and stability of employment; and all other benefits received.
- (7) Any other facts, not confined to those specified in paragraphs (1) to (6), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.

SUMMARY OF FACTS

The District is located in the northern most coastal region of California. It is one of six in the state that operate as a school district and county office of education. This rural community has experienced social and economic challenges due to declines in the fishing and logging industry. The county has a population of about 25,000, of which 8,000 are inmates in Pelican Bay State Prison. These changes impacted Del Norte County education: 65% of the students are socio-economically challenged, and 31% are English learners. The District's Adverse Childhood Experiences rate, which is linked to poverty, is almost double the state average. (District Ex.1:2)

There are three issues remaining at an impasse: salary increases, health benefit premium costs, and stipend increases.

Salary Increases and Health Insurance Costs

At the beginning of the hearing, Jenn Longrie, history teacher and negotiator, read her opening statement. She had survived poverty and abuse as a child, thanks to her teachers in Del Norte County. When she graduated from college, she could have taught almost anywhere. However, she returned to Del Norte County to help the students become their best, as teachers had done for her. She is now a teacher in the school district she attended. Ms. Longrie appealed to the Factfinding Panel to address appropriate compensation, because, “Educators rely on students and the community, just as much as students and the community rely on educators.” (Union Ex.1.B)

The bargaining record showed that there were multiple compensation proposals made by the Union during the course of the contract negotiations. The District held that the Union’s last compensation proposal was regressive. However, insufficient evidence was presented to prove this. On the day of the hearing, the parties provided the following proposals as their last positions:

ISSUE	DISTRICT	UNION
Salary Schedule	Increase all salaries by 1%	Increase all salaries by 3.54%
Stipends	Add \$2,000 stipend for low performing schools, at Superintendent’s discretion	Increase each flat-dollar stipend by 3.54%
Health Benefits	Status Quo	Increase District’s annual cap by \$795 per eligible employee

(District Ex.5; Union Ex.4.M)

The District maintained that its salary increases for the past five years exceeded the state cost of living adjustment (COLA) and the consumer price index (CPI). The District’s educators’ salary increases totaled 16.20 %, while the COLA equaled 7.13% and the CPI increased by 13.07%

for this period. Further, the District averred that its salary and benefits are at or above the average for its surveyed school districts. (District Ex.6:13)

Using comparators within 75 miles from the District, 15 school districts were selected from neighboring Humboldt and Siskiyou Counties for the survey. The District provided charts that showed Del Norte was at the average of the comparators' unrestricted General Fund revenues from the California Local Control Funding Formula (LCFF), which is the majority of the District's funding. The District also pointed out that its LCFF expenditures were at the average of the comparators as a percentage of non-management salary expenses. (District Exs.6:17; 19)

In terms of salary and benefit costs, the District said that its pension costs for teachers were estimated to rise approximately 1% over the next three years. The District also showed how it had exceeded the California Education Code requirement for the allocation of General Fund revenues to classroom salaries and benefits. The state requirement is 55%, and the District spent 57.61%, \$1,023,882 more than what was required. (District Exs.6:23-24)

Unaudited actual data showed that the District had spent down some of its unrestricted General Fund reserve in 2017-18 and 2018-19. The District maintained that its teachers have a very high salary when compared with the relative cost of living in the tri-county area. Further, their educators have a very high total compensation package when compared with other school districts in the region. (District Exs.6:25; 31-33)

The Union responded that in 2014-15, the District had allocated 37% of the District's expenditures for classroom salaries, but this had dropped to 33% in 2018-19. The District also received a revenue COLA of 3.26% for 2019-20, and student enrollment is rising. With increased enrollment comes increased funding that is based upon the average daily attendance. Further, the District anticipates it will receive a one-time extra payment from the state for special education.

Summary of Facts

Moreover, the District maintains a \$5.4 million reserve above the amount required by the state; the District is required to maintain 3% of its General Fund as a reserve. (Union Ex.7Q)

The Union provided information to illustrate that there is a “crisis” in teacher recruitment and retention. This chart depicts the number of applications for certificated personnel in Del Norte:

Fiscal Year	Zero to One Applicant	Two to Five Applicants	Six or More Applicants	Total
2017-18	18	17	15	50
2018-19	13	24	9	46
2019-20	2	2	0	4

The Union averred that the overall cost of living is impacting recruitment and retention. In 2019-20, the teachers’ share of health premiums annually is \$10,381, and the entry level teacher salary is \$47,093, leaving \$36,712. In comparison, in 2008-09, teachers paid \$585, and with an entry level salary of \$39,598. The District countered that there are current plan options where a single teacher gets fully paid single coverage and cash back.

(Union Ex.7X; District email dated December 18, 2019)

The Union described the crisis in teacher turnover in two ways: there are the teachers who retired from the District, and those who left for another education position or changed professions.

Fiscal Year	Non-Retirement Turnover	Retirements	Total
2015-16	13	11	24
2016-17	18	12	30
2017-18	11	7	28
2018-19	17	10	27
2019-20	2	0	2

(Union Ex.7X)

The District countered that of the 27 teachers who departed by the end of the 2018-19 school year, out of a population of more than 200-unit members, only nine left due to a resignation. Ten teachers had retired and eight were asked not to return in 2019-20.

(District email dated December 9, 2019)

The Union asserted that the District's retention information represented a 13.5% turnover rate in 2018-19, and scoped out to three years, turnover would be about 40%. Further, the Union maintained that the number of non-reelects is evidence of the crisis in attracting and retaining qualified educators; this indicated that the pool of candidates was not strong enough to hire a sufficient number of teachers who would be successful. (Union email dated December 9, 2019)

The Union said that the large number of teacher retirements had reduced the District's salary-related costs, because early-career teachers earn less than their predecessors.

The Union's closing statement was presented by District teacher Luis Pelayo Zepeda. He said, "The students of Del Norte County are worthy of the best possible education that we as a community can offer them. In order for our students to have the opportunity to succeed, it is essential that we have a strong, dedicated, qualified pool of educators." He went on to say that, "Teachers are the backbone of the community. We help raise, educate, and motivate students every day. Teachers are dependable adults that not only challenge our students to be the best possible versions of themselves, but who are there when needed." Mr. Zepeda then described the high teacher turnover over the past five years, and that the District lacks the consistency in staffing to build strong programs for their students. (Union Ex.AA:10)

POSITION OF THE UNION

The Union's position is that the District's certificated salaries are too low, and the cost of health insurance premiums is too high. The overall cost of living has impacted the District's ability to recruit and retain qualified certificated personnel who will stay in the District. The District has the funds to stem its teacher turnover by increasing their educators' salaries and stipends by 3.64% in fiscal year 2019-20 and increasing the District's contribution to health insurance premiums by \$795.00 per year.

POSITION OF THE DISTRICT

The District's economic future is uncertain and the full amount it will receive in state funding is only known on an annual basis. A recession would impact the District's budget. Further, the District's pension and retiree medical costs are rising. The 1% salary proposal and status quo for health insurance contributions are reasonable because the District cannot offer more without using reserves.

NEUTRAL FACTFINDER PANEL CHAIR DISCUSSION

The Union and District each presented comprehensive and relevant information to the Factfinding Panel. The Union provided more in-depth facts directly related to the issues at impasse, and extensive information related to their reasoning for their proposals. The District's reason for limiting additional compensation to 1% was not as persuasive in that it received a 3.54% COLA in 2019-20. However, while the District is understandably cautious in its spending because the economic future is uncertain, it is well established that there is a shortage of teachers in the state and the nation. The District's salary and health insurance benefits, along with the District's location, form their competition for qualified teachers.

Though the District did not raise in the factfinding proceedings any challenges in recruiting and retaining its teachers, the Union submitted to the Factfinding Panel the District's five-year educator turnover numbers. The Neutral Factfinder Panel Chair finds that the most persuasive information submitted during the factfinding proceedings were the District's turnover numbers. Independent of the reasons for teacher turnover at the District, a 13.5% employee turnover rate in one year could adversely affect the performance of an organization.

In the ideal education environment, qualified teachers are hired and retained. However, when the hiring and retention rates for educators are in a pattern of decline, those with fewer desirable qualifications must be hired or more substitute teachers must be found. The future of education may hang in the balance as to whether educators are willing to work under conditions where their "average" salary and exorbitant out-of-pocket health insurance premiums force them to leave their school districts or profession for better economics.

The District is not responsible for the costly health care system in America. Irrespective, when considering the hours in a school day that teachers work, educators must have a mix of salary and health insurance benefits that enable them to live within a reasonable commuting distance from the district they serve.

The Neutral Factfinder Panel Chair recommends the following salary and health insurance proposal to resolve this collective bargaining dispute.

Fiscal Year	Salary	LCFF Formula for Additional Salary Increase*	Flat-Dollar Stipends	Health Insurance Premium Cost
2019-20	2% salary increase effective July 1, 2019	Not Applicable	2% increase effective July 1, 2019	Status Quo
2020-21	2% salary increase effective July 1, 2020	.5% or 1%	2% increase effective July 1, 2020	\$500 increase to annual District cap, effective with fiscal year
2021-22	2% salary increase effective July 1, 2021	.5% or 1%	2% increase effective July 1, 2021	An additional \$500 annual increase to District cap, effective with fiscal year

*If the actual LCFF funding increases 3.5% from the previous fiscal year, unit members will receive an additional .5% salary increase; and, if the actual LCFF funding increases 4.0% from the previous fiscal year, unit members will receive a total, additional 1.0% salary increase. This applies to fiscal years 2020-21 and 2021-22.

Lastly, to attempt to reduce the cost of health insurance for both parties, the Neutral Factfinder Panel Chair recommends that the parties form a labor-management committee to explore the cost of regional and statewide options to the current health plans.

NEUTRAL FACTFINDER PANEL CHAIR RECOMMENDATIONS

In accordance with Government Code section 3548.2(b)(3)(4)(5)(6):

Salary: 2% salary increase for unit members effective July 1, 2019. If the parties agree to a multi-year contract, an additional 2% effective July 1 each year in 2020-21 and 2021-22.

Additional Compensation: If the parties agree to a multi-year contract, an additional salary increase for unit members of either .5% or 1%, should the following occur:

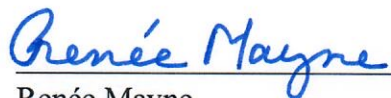
1. If the actual LCFF funding year-over-year increases by 3.5%, unit members will receive an additional .5% salary increase; or,
2. If the actual LCFF funding year-over-year increases by 4.0%, unit members will receive a total, additional salary increase of 1%.
3. Additional salary increases would be retroactive to July 1 of that fiscal year.

Health Insurance: In 2019-20, the District's contribution to health insurance premiums remains status quo. If the parties agree to a multi-year contract, an additional \$500 per year for each unit member, effective with the commencement of the fiscal year.

Flat-Dollar Stipends: Increase flat-dollar stipends by the same percentage and retroactivity as wages during the term of the contract.

Labor-Management Committee: The parties shall form a committee to explore and evaluate regional and statewide options for health insurance for unit members and their families.

This Factfinding Report is respectfully submitted to the Del Norte Unified School District and the Del Norte Teachers Association, CTA-NEA.



Renée Mayne

Neutral Factfinder Panel Chair



Date

Factfinder for the Union: Daryl Hemenway, Regional Uniserv Staff with the California Teachers Association, concurs with the recommendations contained in this Factfinding Report.

Factfinder for the District: Matt Phillips, CPA, Director of Management Consulting Services, concurs with the recommendations contained in this Factfinding Report.