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PERB CASE NO. SF-IM-3140-E
FACTFINDER CASE NO. 17-07-06 FF
File No. 17-07

FACTFINDING PROCEEDINGS PURSUANT TO
THE EDUCATIONAL EMPLOYMENT RELATIONS ACT

SANTA ROSA CITY SCHOOLS
and
SANTA ROSA TEACHERS ASSOCIATION, CTA-NEA
Issue: 2016-17 Contract Year Collective Bargaining Impasse

NEUTRAL FACTFINDER
PANEL CHAIR
RECOMMENDATIONS

November 28, 2017

FACTFINDING PANEL

Factfinder for the Union:

Mark DeWeerd
Union Professional
California Teachers
Association, NEA

Factfinder for the Employer:

Roy A. Combs
Partner
Fagen Friedman & Fulfro
LLP

Neutral Factfinder Panel Chair:

Renée Mayne
Arbitrator, Mediator

APPEARANCES

For the Union:

Kathryn Howell, Chief Negotiator
Santa Rosa Teachers Association, CTA-NEA

For the Employer:

John Gray, President
School Services of California, Inc.

INTRODUCTION

This factfinding arose due to an impasse in collective bargaining under the State of California Educational Employment Relations Act (EERA, Government Code §3548.2) between the Santa Rosa Teachers Association, CTA-NEA (Union) and the Santa Rosa City Schools (Employer, District).

Under the procedures of the California Public Employment Relations Board (PERB), Renée Mayne was selected by the parties to serve as the Neutral Factfinder Panel Chair. The parties agreed all procedural requirements of the impasse had been met, and the impasse was properly before the Factfinding Panel to issue a recommendation to resolve and settle the collective bargaining dispute for the 2016-17 contract year. (Union Tab 1; Employer Tab 3)

The factfinding hearing was held on September 5, 2017, at the Santa Rosa City Schools District Office, 211 Ridgway Avenue, Santa Rosa 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 was officially closed on September 5, 2017, and the dispute was deemed submitted for the Factfinding Panel's review and recommendations.

ISSUES AT IMPASSE

According to the District's filing for impasse with PERB, the parties were at impasse in negotiations for the 2016-17 contract-year proposals in the following articles in the collective bargaining agreement expiring June 30, 2016, between the Santa Rosa Teachers Association and the Santa Rosa City Schools:

Article 6 – Hours and Days of Employment

Article 14 – Class Size

Article 16 – Compensation

(Union Tabs 1 and 4; Employer Tab 3)

GOVERNING STATUTE

The Educational Employment Relations Act Government Code §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.

FACTUAL BACKGROUND

The District and Union had entered into a three-year collective bargaining agreement expiring on June 30, 2015, and extended it for one year, to June 30, 2016. The parties commenced successor negotiations on February 18, 2016, and over the course of 10 negotiation sessions reached certain agreements that were memorialized in memoranda of understanding. (Union Tab 5; Employer Tab 4)

As to the remaining issues being negotiated, the District filed for impasse with PERB on March 13, 2017, and the parties were certified to impasse by PERB on June 9, 2017. Thereafter,

the parties were certified to factfinding by a state mediator on June 22, 2017.

(Union Tab 5; Employer Tab 4)

At the outset of the factfinding hearing, the District made an inability to pay argument based upon its present and projected budget deficit. This deficit stemmed from higher retirement contribution costs, state funding that fell short of projections, and errors in previous District budgets. (Employer Tab 6-10 p.34) Further, the District was under a financial advisory from the Sonoma County Office of Education (COE), that the District's financial status was determined to be "qualified." The COE stated in an April 14, 2017 letter that a qualified certification is assigned to any district that may be unable to meet its financial obligations for the remainder of the current fiscal year or two subsequent fiscal years. (Employer Tab 6-11)

Proposals were made by the Union and District that pertained to the 2016-17 contract year at impasse and the subsequent fiscal year 2017-18. There were issues discussed during bargaining but a written proposal was not provided before impasse. These proposals and issues were certified to impasse therefore the Panel will respond to them in this report. The following is a synopsis of the issues in dispute to be resolved through the factfinding mission and process.

SALARY COST

According to the District, 1% of a salary increase would cost \$798,289 for approximately 561 full-time equivalent bargaining unit positions. (Employer Tabs 6-1:2)

The parties had agreed in 2002 to include the District's contribution to health insurance premiums in the base salary; the amount currently included in the base pay for health insurance is \$8,560. (Employer Appendix p.240) In 2015, the parties negotiated an additional \$2,500 toward health insurance premiums; this amount is off the salary schedule and there is no option for cash-in-lieu. (Employer Appendix p.253)

ARTICLE 6 HOURS AND DAYS OF EMPLOYMENT

The Union presented two proposals under Article 6: 1) Certificated hourly teachers be paid on the same salary schedule as certificated contract teachers in 2017-18, and, 2) The terms and conditions of employment for adjunct duties and meetings pursuant to the expired May 26, 2015 Memorandum of Understanding (MOU) be renegotiated.

The District proposed that hourly teacher pay remain status quo, and that the 2015 MOU for adjunct duties and meetings be incorporated into the collective bargaining agreement.

ARTICLE 14 CLASS SIZE

The Union's proposal was comprised of two parts. The first was to modify the current contract language in Section 14.6.1(c), moving from a daily cap of a total number of students to a daily class cap.

The second part of the Union's proposal pertained to special education (SPED). Section 14.6.1(d) of the current contract language requires the District's compliance with state mandated limits pursuant to the California Education Code §56362(c). The Union's proposal was to establish a hard cap with regard to class size, and to add language that would protect the learning environment through class size limits.

The District's position was to maintain the current contract provisions.

ARTICLE 16 COMPENSATION

The Union provided three compensation proposals pertaining to salaries, health insurance premiums, and professional development days.

The Union's last salary proposal prior to impasse was a 3% increase to the salary schedule. The District's last proposal was that there should be no change to the salary schedule. The District rejected the Union's proposal of 3%, arguing that it did not have the ability to pay for the increase. (Union Tab 6; Employer Tabs 5, 6, 7 and 8)

The Union's last health insurance premium proposal was to increase the District's maximum annual contribution by \$5,000 per year. The District rejected this proposal, citing its inability to pay, and proposed no change to the salary schedule. (Union Tab 6; Employer Tabs 5, 6, 7 and 8)

The Union's last proposal was for three professional development days in 2017-18; the District proposed two days. The parties had reached a prior agreement for three professional development days for the 2016-17 school year.

POSITION OF THE UNION

The Union's position is that the Santa Rosa City Schools had lost qualified teachers because the District's salary schedule and health insurance premium contribution was significantly below the comparable labor market, rendering the District unsuccessful in meeting its recruiting and retention goals. According to the Union's Chief Negotiator, just prior to the factfinding hearing, hundreds of Santa Rosa's children started school without a certificated teacher in the classroom. Nearly three weeks into the new school year, there were 26 vacant certificated positions in the District. The Chief Negotiator said that at the school she teaches, there were math teacher vacancies and that many classes were over-enrolled, including her World History class with 43 students.

The Union submitted the District's 2016-17 Local Control and Accountability Plan (LCAP) as a demonstration of the District's need to effectively recruit and retain teachers. The LCAP stated that to achieve its educational goals, the District should, recruit and retain high quality teachers, and provide a competitive salary and health benefits for teachers. (Union Tab 8-S)

The Union presented information showing how in its review of total compensation with comparable districts, the District was below the market. The Union also cited facts showing that

the District had high educator turnover, difficulty filling certificated positions, low morale due in part to overcrowded classrooms, and unsustainable workloads for the remaining teachers.

In 2016-17, the District's beginning fund balance had \$23 million in reserve. The Union said it did not dispute that the District should buy textbooks, but that setting aside 8% of its budget for books and supplies was perceived as excessive at a time that the District proposed a salary decrease for its teachers. The Union's contention was that the District's high number of substitute teachers was a result of the statewide teacher shortage, compensation levels that were lower than the comparable market, and the District's high teacher turnover.

(Union Tabs 8, 9 and 10)

ARTICLE 6 HOURS AND DAYS OF EMPLOYMENT

Hourly Teachers Salary

The Union said its proposal for certificated hourly teachers to be paid on the same salary schedule as certificated contract teachers, effective July 1, 2017, was warranted because hourly teachers hold the same credentials and are as qualified to teach as contract teachers, and the current District pay practice for hourly teachers violates the California Education Code §45028.

(Union Tab 8)

Adjunct Duties and Meetings

The Union's proposal was that adjunct duties and meetings under the expired 2015 MOU be renegotiated. (Union Tab 8; Employer Tab 10) The Union maintained that the District declared impasse prematurely, before it had the opportunity to present these proposals in writing.

(Union Tab 8)

ARTICLE 14 CLASS SIZE

The Union stated the District declared impasse prematurely, before it had the opportunity to present its written proposal on class size as well. Its proposal with regard to Section 14.6.1(c) of the current contract, to move from a daily cap of the total number of students to a daily class cap, would protect the learning environment through class size limits, and this would also apply to special education.

The Union argued that limits on class size are in the best interest of students and teachers, ensuring that overcrowding does not become a method for addressing enrollment shifts and budgetary changes. A daily student cap allows for too great a variance in class size for an individual teacher, creates an untenable workload, and ultimately results in an inequitable learning environment for some students. Under the Union's proposal, the District's decision to increase class size would be reviewed carefully through the negotiation process.

The Union said the District is experiencing difficulty recruiting and retaining SPED personnel, while SPED staff face an increasingly unsustainable workload in part due to mounting administrative responsibilities for their students.

ARTICLE 16 COMPENSATION

Salary

The Union's last salary proposal to the District was a 3% increase, effective July 1, 2016. The Union provided labor market data in three categories to support this proposed salary increase: Sonoma County districts (Comparable Group A), California school districts with similar size and demographics (Comparable Group B), and California districts in which health benefits are included on the salary schedule (Comparable Group C). The comparable districts in Group A are: Cotati-Rohnert, Healdsburg, Rincon Valley, Windsor, Roseland, West Sonoma County, and Sonoma Valley. Group B districts are Soledad, Monterey Peninsula, North

Monterey County, Petaluma, and Napa Valley. For Group C, Newark, Hayward, San Leandro, Pleasanton, Dublin, and Fremont were submitted for comparison.

The Union maintained that, from the total financial outgo data for all three comparable groups, the District had chosen other priorities over recruiting and retaining teachers, when compared to most districts in these groups. The data showed the District was near the bottom of the three markets in total compensation when salary and health insurance premiums were coupled on the salary schedule. (Union Tabs 7 E:L)

Santa Rosa ranked second from the top in Group A (Santa Rosa County Districts) for certificated salaries-only, at 42.78% as the percentage of total financial outgo. When salary and benefits were combined, Santa Rosa ranked second from the bottom at 73.36% of total outgo, as compared to the two top-paying districts, Sonoma Valley at 80.88% and Windsor at 81.0%. In Group A's data for services and other operating expenses, Santa Rosa was the highest at 22.6% of the District's total outgo. By comparison, Cotati-Rohnert Park was second highest at 16.4%, and the lowest was Rincon-Valley at 8.76%.

The same trend comparing expenditures as a percentage of the total financial outgo was repeated in Group B (Similar Size and Demographics) and Group C (Benefits on Salary Schedule). In Group B, Santa Rosa was second from the bottom in salary and benefits combined as a percentage of its outgo, and the highest in percentage of outgo for services and other operating expenses. In Group C, Santa Rosa had the lowest percentage of outgo for salary and benefits, and the highest percentage in expenditures for services and other operating expenses.

Health Insurance Benefits

The Union proposed that the District increase its health insurance premium contribution in the amount of \$5,000 per year. The Union argued that the District's total compensation, being near the bottom of the market, negatively impacted certificated employee recruitment and

retention. The Union provided data on the number of certificated vacancies and recruitments for the District in 2015-16. (Union Tabs 8-O:P) The Union also made reference to the LCAP 2016-17 priority to provide competitive salaries and health benefits and recruit and retain certificated personnel.

Professional Days

The Union proposed three professional development days for 2017-18. The data for Group A showed that for their comparable labor market, Santa Rosa was second from the bottom among these districts, with the current benefit of three professional development days per year. (Union Tab 7-L). The Union maintained that the District declared impasse prematurely, before it had the opportunity to present its written proposal on professional development days.

POSITION OF THE DISTRICT

The District's position is that it is unable to pay for the Union's proposals due to the substantial cost in view of the current and projected future budget deficits. The District had no control over rising employer CalSTRS pension contributions for certificated employees; neither did it have control over the reduced funding that resulted from lower student enrollment. The District held that human error was partly to blame for its current budget deficit, and that steps had been taken to ensure mistakes would be avoided going forward.

Circumstances had created the need for deficit spending over the past several years, and the District expected the deficit spending to continue through fiscal year 2019-20. These deficits were the primary reason the District received a qualified certification from the COE. In order to balance the 2017-18 budget, the District enacted \$4.5 million in budget reductions, and projected another \$5 million in ongoing necessary cuts in 2018-19, and another \$2 million in 2019-20.

(Employer Tab 6-10)

The District made reference to rising costs in several areas. It pointed out that its CalSTRS contributions are scheduled to rise from 12.58% in 2016-17 to 19.10% in 2020-21. (Tab 6-9) School books at the District are over 20 years old and need to be updated. The District received one-time funds for books and \$5.46 million reflected this in its 2016-17 budget. (Employer Tab 6-7) The District said these funds were not available for collectively bargained salaries and benefits.

ARTICLE 6 HOURS AND DAYS OF EMPLOYMENT

Hourly Teachers Salary

The District's position on the Union's proposal, that certificated hourly teachers be paid on the same salary schedule as certificated contract teachers, is this would be a substantial cost increase at approximately \$253,196 in 2017-18. (Employer Tab 9) Further, the District's position is that its payment of hourly teachers does not violate the California Education Code §45028.

Adjunct Duties and Meetings

Regarding the Union's proposal to renegotiate adjunct duties and meetings, the District pointed out that the parties had negotiated and agreed to the 2015 MOU for adjunct duties, and the District intended the terms of the MOU to become a part of the collective bargaining agreement. However, the MOU was adopted separately, and consequently expired at the end of the 2016-17 school year. Moving forward, the District proposes to maintain the same adjunct duties as negotiated under the MOU. (Employer Tab 10)

ARTICLE 14 CLASS SIZE

The District's position is to maintain the current contract language, because the Union had not provided compelling evidence to support its proposal to change the class size limits. Further, the District said the statewide data showed the District's average class size was smaller than comparable labor market districts. (Employer Tab 11, Appendix p.129)

ARTICLE 16 COMPENSATION

Salary

The District's last proposal was for no salary increase in 2016-17. The District provided information that showed how District teacher salaries increased 9.20% from 2013-15, and exceeded the state cost of living adjustment of 5.07% for that same period. (Employer Tab 6-3)

The District further showed how it spends the highest percentage of its budget on teacher salaries per average daily attendance relative to its comparative group average, 50.37% versus 40.39%. (Employer Tab 6-9) Its expenditures on teacher salaries as a percentage of its general fund are the second highest in its comparable labor market. (Employer Tab 6-10) The District selected as its first comparable market Sonoma County districts: Roseland, Sonoma Valley, West Sonoma County, Rincon Valley, Healdsburg, Piner-Olivet, Bellevue, Petaluma, Sebastopol, Cloverdale, Mark West, Windsor, Waugh, Old Adobe, Wright, Twin Hills and Cotati-Rohnert Park.

In its survey of its first comparable school districts for salary-only, the District argued that their ranking in the local market is second to none. The District ranked first in comparable district salary-only career earnings for 10, 20 and 25-year teacher salaries. The District was also ranked first in salary-only for BA+30 and Step 1 and BA+60 Step 10 pay levels. At the maximum salary, the District ranked third from the top of 17 other local districts.

The District also referenced its second comparable labor market composed of districts that are similar in size to Santa Rosa: Napa, Fairfield-Suisin, Berkeley, Novato, Vacaville, Sonoma Valley, Petaluma, and Cotati-Rohnert Park. The District's data for this market showed it ranked second from the top for salary only for BA+30, third for Step 1 and BA+60 Step 10 salary, and fourth for maximum salary.

Health Insurance Premiums

The District proposed no increase for health insurance benefits for 2016-17, and rejected the Union's proposal to increase health insurance contributions by \$5,000 per year. The District said that the minimum cost of the Union's proposal would be \$2.1 million, with a potential cost of up to \$5.5 million. (Employer Tab 8)

The District explained that to enhance lifetime pension benefits under CalSTRS, the parties had negotiated in 2002 an agreement to move \$6,260 in annual health benefits compensation into salary, adding this amount to the salary schedule. (Employer Tab 6-16) That amount increased over time to \$8,560. In 2015, the parties reached an agreement to increase the District's contribution to health insurance premiums by \$2,500, but off the salary schedule and without a cash-in-lieu option. (Employer Appendix p.253)

Professional Development Days

The District offered two professional development days for 2017-18. The parties had previously reached an agreement for three professional development days in 2016-17.

NEUTRAL FACTFINDER PANEL CHAIR DISCUSSION

ARTICLE 6 HOURS AND DAYS OF EMPLOYMENT

The Union's assertions are that certificated hourly teachers should be paid on the same salary schedule as certificated contract teachers effective 2017-18, and that the District's pay practice violates the California Education Code. Further, adjunct duties and meetings under the expired 2015 MOU should be renegotiated. The District wants to maintain the status quo for hourly teachers' pay because of the substantial cost of the proposal. The District also disputes the Union's assertion that the District's pay for hourly teachers violates the Education Code. The

District also wants to maintain the terms of the expired MOU negotiated in 2015 for adjunct duties and meetings.

Hourly Teachers

The Panel Chair finds that paying certificated teachers equitably regardless of whether they are contract or hourly has merit, because there is a shortage of qualified teachers and the community would benefit from the District being better positioned to recruit hourly teachers. However, based upon the financial information provided during factfinding, specifically, the District's budget deficit, the cited cost of \$253,196 to implement this alignment, and the aggregate cost to the District of the Panel Chair's recommendations to resolve the parties' salary and health insurance cost issues at impasse, the Panel Chair does not recommend making this pay structure change for hourly employees in 2017-18. No information was submitted that proved the District's pay practice for hourly teachers is not in compliance with California Education Code §45028.

Based upon the criteria contained in EERA Government Code §3548.2(b)(1)(3)(4) and (7), the Neutral Factfinder Panel Chair recommends the parties maintain the status quo for the pay structure for hourly teachers in 2017-18.

Adjunct Duties and Meetings

The Panel Chair finds that the District's desire to maintain the recently negotiated (and now expired) MOU for adjunct meetings and duties has merit because the parties just recently negotiated this agreement for 2015-16.

Based upon the criteria contained in EERA Government Code §3548.2(b)(1)(3)(4) and (7), the Neutral Factfinder Panel Chair recommends the parties incorporate the 2015 MOU into their 2016-17 collective bargaining agreement.

ARTICLE 14 CLASS SIZE

The Union's proposal was to establish caps on secondary and SPED class sizes. The District's position is that the Union did not provide a compelling case to support class size caps, and the District has lower average class sizes than comparable districts.

The Panel Chair agrees with the Union that class size is an exceptionally important element of the teaching and learning environment. The Union provided information to show that other Sonoma County districts had capped class size for secondary and SPED students: Roseland (SPED), Sonoma Valley (SPED and secondary) and Windsor (SPED and secondary). (Union Tab 7-I) The Union also presented information showing that overcrowded classes were affecting teacher turnover and morale, and exacerbating the challenges created by the statewide teacher shortage.

Based upon the information submitted during factfinding, the Panel Chair finds that the community, students, teachers, and the District would all benefit from class size caps. Specifically, class size caps would enhance recruitment and retention of teachers, including hard to recruit SPED and secondary level math and science teachers, ultimately contributing to an improved learning environment.

Based upon the criteria contained in EERA Government Code §3548.2(b)(1)(3)(4) and (7), the Neutral Factfinder Panel Chair recommends that within 45 days of the date of this report, the parties meet to establish class size caps for secondary and SPED classes and incorporate them into the 2016-17 collective bargaining agreement. The Factfinding Panel will retain jurisdiction over this issue until completion.

ARTICLE 16 COMPENSATION

Salary and Health Insurance Benefits

Both the Union and District conducted their own salary surveys and selected their own labor market comparable school districts. They also each presented data from multiple comparable labor markets to justify their respective positions.

The District provided salary-only comparisons, and did not provide salary combined with health insurance comparisons. This key element of the current salary schedule was covered by the Union through their analysis of total salary and benefit compensation as a percentage of the District's total financial outgo. The Union's data on vacancies and recruitments supported their claim that recruitment and retention has been negatively impacted by the District's relatively low ranking in total compensation for certificated personnel.

The District established that it had a current and projected budget deficit, due to a decline in enrollment and the resultant decrease in state funding, as well as mandated increases in employee pension contributions. Information was not provided by the parties as to the reason for the downward trend in enrollment and whether it was expected to continue.

The District's salary study showed that if \$8,560 (the amount included in the employees' base salary for health insurance) was deducted from the District's salary for comparison in pay only, the District would be at or near the bottom of the labor market.

(Employer Tab 6-13, Appendix pp.122-124)

After reviewing all the salary data and information provided by the parties, and in consideration of the importance of recruitment and retention of qualified teachers in the District, as affirmed in the 2016-17 LCAP, and in consideration of the District's budget deficit, the Panel Chair finds that modest salary and health benefit increases are warranted for the teachers.

Based upon the criteria contained in EERA Government Code §3548.2(b)(3)(4)(5)(6) and (7), the Neutral Factfinder Panel Chair recommends a 2% salary increase effective July 1, 2016,

and a \$2,000 increase in District health insurance premium contributions effective July 1, 2016, not to be included on the salary schedule, and without a cash-in-lieu option.

Professional Development Days

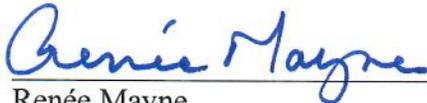
In view of the financial information provided by the District, the Panel Chair finds the District's proposal for two professional development days in 2017-18 to be warranted. Based upon the criteria contained in EERA Government Code §3548.2(b)(3)(4) and (6), the Neutral Factfinder Panel Chair recommends two professional development days for 2017-2018.

NEUTRAL FACTFINDER PANEL CHAIR RECOMMENDATIONS

1. Article 6 Hours and Days of Employment
 - a. Hourly Teacher Salary - Status quo for 2017-18.
 - b. Adjunct Duties and Meetings – Incorporate expired 2015 Adjunct MOU in the 2016-17 collective bargaining agreement.

2. Article 14 Class Size
 - a. Within 45 days of the date of this report, the parties shall meet to establish class size caps for secondary and SPED classes and incorporate them into the 2016-17 collective bargaining agreement.
 - b. The Factfinding Panel will retain jurisdiction over this issue until completion.

3. Article 16 Compensation
 - a. 2% salary increase for all bargaining unit employees, effective July 1, 2016.
 - b. \$2,000 increase in District health insurance premium contributions, effective July 1, 2016 (not to be included on the salary schedule and no cash-in-lieu option).
 - c. Two professional development days in 2017-18.



Renée Mayne
Neutral Factfinder Panel Chair



Date

Factfinder for the Union: Mark DeWeerd, Professional Union Staff, California Teachers Association, provided concurrences and dissents with the recommendations contained in this Factfinding Report in the attached letter.

Factfinder for the District: Roy A. Combs, Partner, Fagen Friedman & Fulfrost LLP, provided concurrences and dissents with the recommendations contained in this Factfinding Report in the attached letter.

November 27, 2017

Renee Mayne
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RE: **PERB CASE NO. SF-IM-3140-E** (Santa Rosa City Schools and Santa Rosa Teachers Association, CTA-NEA)

Per Government Code 3548.3, as a panel member to the above-referenced Factfinding, I submit the following to be attached as my concurrence and dissent letter.

I concur with most of the recommendations of the Factfinding Panel Chair, Renee Mayne providing but two points of partial dissent.

Article 6 Hours and Days of Employment

- a. *Recommend by Chair:* Hourly Teacher Salary – Status quo for 2017-18.
Dissent: Within 45 days, parties shall meet to establish a plan to transition all unit members currently on the hourly teacher salary schedule onto the certificated salary schedule.
- b. *Recommend by Chair:* Adjunct Duties and Meetings – Incorporate expired 2015 Adjunct MOU in the 2016-2017 collective bargaining agreement
Dissent: Negotiate a new article specifically on adjunct duties and meetings using the expired 2015 MOU as a framework.

Respectfully,

Mark DeWeerd
UniServ Staff,
Center for Organizing and Bargaining, California Teachers Association

MD/ 



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November 28, 2017

Via E-Mail Only

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**Re: Factfinding Proceedings Between Santa Rosa City Schools and Santa Rosa Teachers Association - District Panel Member Separate Concurrence and Dissent
PERB CASE NO. SF-IM-3140-E**

Dear Ms. Mayne:

The Fact-Finding Report ("Report") makes seven recommendations arising from the impasse in collective bargaining between the Santa Rosa Teachers Association (Union) and the Santa Rosa City School District (District). Those recommendations cover three articles in which the Union and District could not reach agreement: Article 6 - Hours and Days of Employment, Article 14 - Class Size, and Article 16 - Compensation (which includes salary and benefits).

As the Fact-Finding Panel Member appointed by the District, this letter constitutes my separate concurrence and dissent to each of the recommendations made by the Chair of the Fact-Finding Panel in the Report.

I. Article 6 – Hours and Days of Employment

Two issues were raised in Article 6. The first issue concerns the rate of pay for hourly (non-full-time) teachers. Evidence presented during the Fact-Finding hearing demonstrated a substantial cost—of over a quarter million dollars—if an increase in the rate of pay for hourly teachers occurred. Recognizing the substantial cost associated with the increasing pay rate for hourly teachers, the Chair recommends not increasing the hourly rate of pay and maintaining the status quo. I concur with that recommendation.

The second issue concerns adjunct teacher duties. The parties previously negotiated an MOU to address the adjunct duties of teachers for 2015-2016. The MOU expired. The Chair recommends incorporating that MOU into the collective bargaining agreement. I concur.

II. Article 14 – Class Size

Two issues were raised in Article 14 as well, specifically "caps" on secondary and special education class sizes ("SPED"). The Chair acknowledges the importance of class sizes to the teaching and learning environment and notes that three school districts in Sonoma County have capped class sizes for Special Education ("SPED") classes. However, there is no evidence that the other 14 plus districts in the County have done so. [District, Tab 1.]

Nevertheless, the Chair recommends that within 45 days of the date of the Report, the parties meet to establish class size caps for secondary and SPED classes and incorporate them into the 2016-17 collective bargaining agreement. I dissent from that recommendation.

Beyond salary and health benefits, class size is often the single most important variable impacting a school district's labor costs. It is no different here. There is a direct correlation between the number of children in a class (i.e., class sizes) and the number of teachers needed to appropriately staff classes to teach students. Small reductions in class size can lead to significant increases in the need to hire teachers.

There is no dispute, of course, that lower class sizes are generally beneficial to students and teachers. Yet the ability to decrease class sizes must be evaluated in the context of the District's educational and fiscal reality. There was no dispute that the District maintains lower class size averages than comparable districts in Sonoma County. [District, Tab 11-21.] In fact, the District has *the lowest* average class sizes in the comparison of 18 Districts in the County. [Tab 11-21.]

Nor did the Union submit any evidence showing that the District's class size averages, particularly its secondary and SPED class size averages, were any higher than the averages in the County. Nor was there any concrete evidence that District class size has actually contributed to any teacher turnover or low morale in the District. In the current environment, and without considering the financial impact of hard caps on class size, maintaining the current secondary and SPED class sizes is the most prudent course of action. Recommending the status quo for secondary and special education class size is, therefore, my recommendation.

III. Article 16 – Compensation

Three issues were before the Fact-Finding Panel related to compensation: salary, health benefit contributions, and compensation for professional development days.

A. Salary

The District never disputed that teachers in the District deserve more compensation. It is the work of classroom teachers (and those that support their efforts) that directly impacts the

educational and academic experience and outcomes of District students. Their value can never be taken for granted. In the hearing, the issue for the District was never its desire to compensate teachers more, but rather its ability to do so given its current and near-term financial condition.

Neither the Chair nor the Union disputes the seriousness of the District's financial condition. Indeed, in addressing the issue of compensation, the Chair concludes, "*the District established that it had a current and projected budget deficit, due to a decline in enrollment and the resultant decrease in state funding, as well as mandated increase in employee pension contributions.*" [Report p. 16, emphasis added.]

In fact, the evidence presented by the District on its financial condition was quite sobering. It shows that in the current 2017-2018 year alone, the District is implementing over \$4,500,000 in cuts but will still need to cut an additional \$7,000,000 from its operating expenses over the next two years (2018-2019 and 2019-2020). [Employer Tab 6-10.]

The seriousness of the District's current- and near-term financial condition has been independently validated by the Sonoma County Office of Education ("COE"), which serves by law as the fiscal oversight body for all public school districts in the Sonoma County. [Tab 6-11, pp 53-82.] Just five months before the Fact-Finding hearing, the COE expressed its own serious concerns about the District's deficit spending and the need to eliminate deficit spending when it wrote:

Second interim and Multi-Year Projection (MYP)

The Second Interim Report MYP indicates unrestricted deficit spending of -\$9,025,683 in 2016-17, -\$6,375,790 in 2017-18, and -\$1,744,235 in 2018-19, with the State minimum reserve for economic uncertainty of 3% met in all years. However, the aforementioned financial results include unspecified expenditure reductions of \$4 million in 2018-19. If such expenditure reductions are not achieved, the District would not meet its minimum State reserves in 2018-19 by approximately -\$3.3 million. *The elimination of deficit spending is key to maintaining reserves and crucial to fiscal solvency. The aforementioned deficit spending is not sustainable and is of great concern to the County.*

[Tab 6-11, emphasis added.]

Despite the undisputed financial hardship of the District, the Panel's recommendation directly contradicts the Sonoma COE recommendation to eliminate deficit spending. Instead of recommending to eliminate—or even maintain—the current level of deficit spending, the Panel majority makes the rather astounding recommendation that the District should *increase* its current and projected deficit spending by recommending a 2% ongoing salary increase retroactive to July 1, 2016. It was undisputed that a one percent (1%) salary increase equates to \$798,289 (almost \$800,000) *per year*. [Tab 6-1.] The record also demonstrates that District

statutory benefits for teachers averages over 17.5%.¹ So the 2 percent (2%) ongoing increase, retroactive to July 1, 2016, would ***add another \$7,681,135 in deficit spending over the next three years.*** I am compelled, therefore, to dissent from this recommendation.

B. Health Benefits

The recommendation to provide an ongoing increase of \$2,000 per employee in the District's contribution to employees' health benefits, also retroactive to July 1, 2016, is equally astounding and further ignores the District's current reality of severe deficit spending that must be eliminated—not exacerbated. I must dissent from this recommendation as well.

There was no dispute that the union's proposed \$5000 increase to existing health benefits would cost the District over five million dollars (\$5,305,113) *per year.*² [Tab 8-17.] One-third of that amount is \$1,768,194 *per year.* As a result, the cumulative cost of the recommended health benefit increase by itself would exceed another seven million dollars.

Combined, the salary and benefit recommendation of the Chair of the Panel and the Union's representative, if it could be implemented, ***would add a mind-boggling \$14,753,911 dollars in additional deficit spending over the next three years in the District.*** (See Table 1 below.)

Table 1

	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	TOTAL
Salary Driven Benefits	\$1,875,979 (17.5% driven includes STRS at	\$1,905,515 (19.35% driven includes STRS at	\$1,935,052 (21.2% driven includes STRS at	\$1,964,589 (23.05% driven includes STRS at	\$7,681,135
Cost of a \$2,000 Benefit	\$1,768,194	\$1,768,194	\$1,768,194	\$1,768,194	\$7,072,776
Total	\$3,674,173	\$3,673,709	\$3,703,246	\$3,732,783	\$14,753,911

Table 1 simply calculates the cumulative cost of the recommended increases based on the evidence in the record. These costs compound because the District is already deficit spending and has no new revenue to offset increases.

¹ Statutory benefits, sometimes called "driven" benefits, means the costs that a District is legally required to incur for every dollar paid in salary. Accordingly, for every one million dollars paid in salary, the District must pay another \$170,000 in benefits for items like pension contributions, state mandated workers compensation insurance, required unemployment insurance premiums, FICA, the employer's portion of state and federal taxes, and other direct costs to the District. [Employer Tab 9-18, pp. 111.]

² And this cost projection presumes employees will stay in the current plans they have. If employees moved to the more expensive plans, the cost could increase by another \$1,500,000 annually.

The Panel majority's recommendation ignores the cumulative effect of ongoing increases to the District's already dire financial condition. These recommendations are simply unrealistic because they are not sustainable.

While the Chair acknowledges the fact that District teachers have received ongoing salary increases of 9.2% since the 2013-2014 through 2015-2016 school years, that fact seems lost in the recommendations made.³ [Tab 6-3.] Moreover, one rationale given by the Chair to justify a 2% ongoing salary increase is that the current base salary includes \$8500.00 for health insurance. The Chair writes that deducting that amount "from the District's salary for comparison in pay only, the District would be at or near the bottom of the labor market." [Report, p. 16.]

However, the District's salary comparison data does not actually support that conclusion. Instead, in looking at the comparison in pay-only data provided by the District at Employer Tab 6-13, Appendix pp.122-124, if \$8650 is subtracted from the base salary for BA+30, Step 1, the District's salary rate would go from 2nd to 7th out of 18 districts—not to the bottom. Moreover, the salary would stay *above* the average BA+30 Step 1 salary in the county. [Employer Tab 6-13, Appendix pp 122-124.] Similarly, if the \$8650 is subtracted from BA+60, Step 10, the District would go from 3rd to 15th out of 18 Districts and be just under the average for the comparative group. [Employer Tab 6-13, Appendix pp 122-124.]

The record here indicates that the District has made every effort to fairly and adequately compensate teachers when it has had the ability to do so (reflected by the prior raises of 9.2% in recent years). It simply does not have the ability to do so now.

C. Professional Development Days

Finally, the Chair recommends two Professional Development ("PD") days. [Report p. 17.] The District had offered two PD days and tentatively included them in the 2017-2018 work year calendar. No agreement was ultimately reached. There is no question that professional development is important to the District and its teachers. However, given the severe deficit spending within the District (and the need to eliminate that deficit spending), I *do not* recommend implementing the professional development days, which would cost the District another \$800,000. Therefore, I dissent from the Chair's recommendation.

³ The majority of teachers automatically receive a 1.5% to 2.0% salary increase *each year* through step-and-column movement that is already built into the teacher salary schedules in the District. [Tab 12, pp 237.] The salary increase that the Panel Majority recommends is on top of the automatic step-and-column increases.

IV. Rejected TA

It cannot be ignored here that the parties actually reached a tentative agreement ("TA") through the Fact-Finding process. For 2016-2017, that TA provided a one-time half percent (.5%) payment. For 2017-2018, it provided a half percent (.5%) ongoing increase to the salary schedule, plus a five hundred dollar increase (\$500) to the health benefit contribution. For 2018-2019, it provided a one percent (1%) ongoing increase to the salary schedule and another five hundred dollar (\$500) increase in the health benefit contribution. That one percent (1%) ongoing increase included three additional workdays for professional development. The TA was voted down by the Union—albeit during the midst of the urban wildfire disaster directly affecting the District and so many of its staff and students.

Yet the structure of that TA (providing modest but incremental ongoing increases prospectively—not retroactively) expressly recognized the District's reality of deficit spending and provided the District with the ability to make necessary cuts in a deliberate manner to afford the ongoing increases. The recommendation of the Panel majority does not do that.

V. Conclusion

Page 3 of the Report clearly and succinctly sets forth the statutory role of a Fact-Finding Panel in arriving at their findings and recommendations. In considering the seven criteria set forth on page 3, the Panel members should look to the evidence in the record—namely the evidence provided by the parties during the Fact-Finding hearing (whether through documents or testimony). The conclusions in the Report and in any concurrences and dissents that are submitted, such as this one, should do the same.

The evidence regarding the District's inability to pay was not disputed, and the Chair concludes that "*the District established that it had a current and projected budget deficit, due to a decline in enrollment and the resultant decrease in state funding, as well as mandated increase in employee pension contributions.*" Given this conclusion, and given the criteria the Panel is to consider, it is difficult if not impossible to understand the logic or rationale behind the recommendations.

While I disagree with the conclusions and recommendations reached by my two colleagues on the Panel regarding compensation, I do not question their good intentions, their hard work in sincerely listening to and considering the evidence that was presented, nor their sincere efforts during the process. Nevertheless, I do not believe that the Article 16 recommendations on salary and health benefits are supported by the evidence or remotely justified by the statutory requirements we are bound to apply in the Section 3548.2(b) of the Educational Employment Relations Act. The recommendations of the Panel Majority are completely disconnected from the District's current and near-term fiscal reality.

Renée Mayne
November 28, 2017
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To that end, I fear that the recommendations by the Panel majority in this Report will impede the ability of the parties to reach agreement in the near future and, instead, may prompt further labor stalemates and labor unrest in the District—either of which is another disaster that this District may suffer. I sincerely hope I am wrong.

Sincerely,

FAGEN FRIEDMAN & FULFROST, LLP

A handwritten signature in black ink, appearing to be 'Roy A. Combs', written over the name of the law firm.

Roy A. Combs

RAC:blk

cc: Mark DeWeerd, SRTA Appointed Panel Member
SRCS Board of Education
SRCS Superintendent

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