

## FACT FINDING DISCUSSION AND RECOMMENDATIONS

### **In the Matter of the Impasse Between**

NATOMAS UNIFIED SCHOOL DISTRICT  
Employer

-and-

NATOMAS TEACHERS ASSOCIATION  
Exclusive Representative

PERB CASE NO: SA-IM-3450-E

Report Issued  
July 9, 2018

Hearing Held on June 25, 2018  
Natomas Unified School District  
1901 Arena Boulevard  
Sacramento, CA 95834

### **Members of the Fact Finding Panel**

#### **Impartial Chairperson:**

Donald Raczka, Fact Finder

#### **Employer Panel Member:**

Suzanne Speck, School Services of California, Inc.

#### **Union Panel Member:**

Chuck King, California Teachers Association

### **Making Presentations to the Fact Finding Panel:**

#### **For the Association:**

Kenya Spearman, California Teachers Association  
Kristen Rocha, Bargaining Chair, Natomas Teachers Association  
Lydiana Alfaro, Teacher, Natomas Teachers Association

#### **For the Employer:**

John Gray, School Services of California, Inc.  
William Young, Deputy Superintendent, Natomas Unified School District  
Roman Munoz, Attorney, Danis, Woliver and Kelly

## **DISTRICT AND ASSOCIATION DESCRIPTIONS**

The Natomas Unified School District (“District”) serves over 15,000 students in some capacity. The District has approximately 10,600 students in transitional kindergarten through the 12<sup>th</sup> grade and has approximately 33% of its students enrolled in charter schools. The District’s 15 schools include four K-5 elementary schools, five K-8 schools, two middle schools, two comprehensive high schools, one alternative high school and one dependent charter school.

According to a New York Times study completed in 2009 and updated 2016, Natomas Unified School District is the second most diverse school district in the United States. The District offers a variety of academic programs to meet all children’s unique needs to help meet the District’s Core Belief of “All NUSD students graduate as college and career ready, productive, responsible, and engaged global citizens”.

The Natomas Teachers Association (“Union” or “Association”) was recognized as the Exclusive Representative of the District in 1984. It represents approximately 585 employees.

## **HISTORY OF NEGOTIATIONS**

The parties met for approximately 7 negotiating sessions from the initial sunshine process on December 13, 2017, totaling approximately 52 hours of contract bargaining. PERB certified the parties at impasse and assigned a mediator from the State Mediation and Conciliation Service, who met with the parties on March 23, 2018. He certified the parties to Factfinding on March 26, 2018 and the parties jointly agreed on Donald Raczka to serve as the Factfinding Chair.

## **ATTEMPTED MEDIATION OF SETTLEMENT**

On June 19, 2018, one week prior to the date of the Factfinding Hearing, the parties held a negotiations session, assisted by their respective Panel representatives (Speck and King). No agreement was reached.

A significant portion of the 17 hour Fact Finding Hearing on June 25, 2018 was spent with the Panel's attempts to help the parties reach a settlement of the impasse, with the Chair serving as a mediator. The parties considered several options of both two-year and one-year agreements. The Chair has many of years of experience with collective bargaining and the EERA, but must admit that he has not often experienced the significant dysfunction and level of distrust between the parties in this process. Despite the hard work of all, no agreement was reached.

## **FACTFINDING CRITERIA**

Pursuant to California Government Code Section 3548.2, the panel has considered and been guided by the following statutory 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 schools.
4. Comparison of the wages, hours, and conditions of employment of the employees involved in the fact-finding 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. Such other facts not confined to those specified in paragraphs 1 through 6, inclusive, which are normally and traditionally taken into consideration in making such findings and recommendations.

## **ISSUES BEFORE THE PANEL**

- The Public Employment Relations Board determined an impasse for a “Successor Contract”. The parties had reached tentative agreement on Article VI – Health and Welfare Benefits and Article VII – Safety and Well-Being and had seven issues before the Panel:
  - Article I – Agreement
  - Article IV – Salaries
  - Article V – Hours of Employment
  - Article X – Class Size
  - Article XII – Professional Teacher Support Program
  - Article XIII – Special Education and Special Subjects Specialist
  - Article XXII – Calendar Approval Process (a new article)

### **Fact Finding Panel’s Findings and Recommendations**

After a review of the facts and arguments presented by both parties, the Chair recommends the following for each of the Articles before the panel:

#### **Article I – Agreement**

The Union proposed a one-year Agreement and the District proposed a two-year Agreement. Although the parties considered options of a two-year agreement during the time spent in mediation, the Chair believes a fact finding report should tend to the least intrusive option available, even, in his opinion, a “locked down” two-year agreement with no reopeners would best serve the parties and begin to repair the dysfunctional relationship between.

**The Chair recommends a one-year Agreement covering the 2018-19 school year.**

**Article IV – Salaries**

The District's proposal on Salary spanned two school years (2018/19 and (2019/20) and the Union proposal covered 2018/19. For 2018/19, the Union proposed a 4% across-the-board salary increase and the District proposed 3% across-the-board plus a 1% off-schedule raise, paid in October, 2018. This District proposal was, of course, tied to a second year of off-schedule money paid in October of 2019. The Chair notes the dollar impact on the District budget of the two 2018/19 proposals is exactly the same, i.e., the unit members would receive a total of 4% in 2018/19. The difference between the two proposals is, of course, the ongoing increase of 1% on the 2019/20 District budget. Since this is a report covering the 2018/19 school year, the Chair believes this difference can be best addressed in the 2019/20 school year.

Additionally, there were several other issues under this section that were proposed and discussed, most of which had concurrence between the parties.

**The Chair recommends the following under Article IV, Salaries:**

- **3% across the board salary schedule increase effective 7/1/2018 (the start of the contract year)**
- **1% off-schedule increase paid in October, 2018**
- **1% increase for twelve (12) hours of professional development attended in 2018-19 (apparent concurrence)**
- **Year-for-year prior experience for salary schedule placement (strike 15-year maximum) (apparent concurrence)**
- **Increase Middle School Department Chair stipend to \$1,250 (apparent concurrence)**
- **Create a committee, including special education administration, an HR administrator, a district nurse and an NTA representative to develop a job description for nurses by December 30, 2018. This work will be paid at \$40 per hour beyond the work day (apparent concurrence on the rate, differing on the completion date)**

## **Article V – Hours of Employment**

The parties have apparent agreement on the hours of Preschool teachers.

**The Chair recommends the language within the Collective Bargaining Agreement be changed to reflect the following areas of concurrence:**

**The preschool teacher’s workday will include:**

**1. General Education Preschool Teacher**

- **180 minutes of instruction with either a morning or afternoon preschool class.**
- **35 minutes lunch in between sessions.**
- **25 minutes prep daily in between sessions.**
- **Preschool teachers are not required to participate in site-wide supervision.**
- **Site administration will update preschool teachers with faculty meeting information if teachers are unable to attend due to conducting an afternoon preschool class.”**

**2. Special Day class preschool teacher’s workday will include:**

- **180 minutes of instruction with either a morning or afternoon preschool class.**
- **35 minutes lunch.**
- **205 minutes of prep and caseload management time.**
- **Preschool teachers are not required to participate in site-wide supervision.**
- **Site administration will update preschool teachers with faculty meeting information if teachers are unable to attend due to conducting an afternoon preschool class.”**

The parties did not agree to an issue within this Article regarding certain specialized teaching assignments, specifically teachers in the Adult Education, Independent Study, Programs offering both Virtual and in-class instruction, and specialized Career Technical Education programs. The District proposed the contract reflect that it has the right to determine the

schedule and assignment of the teachers within these programs and proposed language regarding notification of these decisions. The Association rejected these proposals but offered no counterproposal.

The Chair believes the District already has the ability to determine these assignments, but has an obligation to negotiate the effects of any change in location. Under this particular Article, however, the parties should focus on the Hours of teachers working in these specialized programs.

**The Chair recommends that teachers within the Adult Education, Career Technical Education, virtual/in-class instruction, and Independent Study Program shall teach a workday equal in length to that of a high school teacher. Start and end times may be adjusted to meet program needs.**

#### **Article X – Class Size**

The parties had concurrence regarding the goal for students in Transitional Kindergarten and Kindergarten.

**The Chair recommends this article be amended to maintain a class size goal of twenty-five (25) students for grades TK-K**

The Association proposed several other changes in this Article, with a number of them focusing in on Special Education classes. The Chair notes one specific proposal regarding Speech/Language Caseload. The current language calls for \$5 per week per student be paid to Speech/Language teachers when the caseload exceeds fifty-five students per week. The Association proposed to change that to \$5 per day. The District disagreed but offered no counterproposal.

**The Chair recommends amending the language in this Article to increase the amount paid to Speech/Language unit members to \$10 per week.**

**Article XII – Professional Teacher Support Programs**

The District proposed to separate the current language of this Article into two programs, the Beginning Teacher Induction Program (BTIP) and a veteran Peer Assistance Review (PAR) Program. They further wished to change the structure from a majority of Association members (e.g. 3 Association and 2 District), though presented no argument on why they wished to change what is a traditional format of the governing panel statewide. The Association seemed to be agreeable to the bifurcation of the current PTSP but differed on changing the committee structure for the PAR program. In making his recommendations on this Article, the Chair referenced the February 2, 2018 proposals and counters and also the attachment to the attempted mediated settlement of June 19, 2018.

**The Chair recommends the parties agree to the June 19, 2018 mediation agreement and split the current PTSP into two distinct programs, BTIP and PAR, but keep the 3 Association and 2 District composition of the PAR program panel. The Career in Teaching proposal and any other changes to this Article can be addressed in the subsequent contract negotiations.**

**Article XIII: Special Education and Special Subject Specialists**

The Association proposed several changes to this Article covering a wide range of issues. During the mediation phase of the June 25, 2018 Hearing date, the parties appeared to have concurrence on the formation of a joint panel that would problem-solve these issues of Special Education and Special Education unit members in the District. Using an Memorandum of Understanding rather than contract provisions will allow the parties to stretch from current practice and use this approach not only to address the issues in Special Education but, perhaps, to try a different path than what they have been doing for dispute resolution.



**The Chair recommends a Memorandum of Understanding that will form a Joint Solutions Panel for Special Education for the 2018/19 school year. The MOU should reflect at least the following:**

- **Composition – 4 NTA unit members & 4 management members.**
- **2 co-chairs (one NTA unit member and one management).**
- **Each NTA panel unit member will receive a \$4,000 stipend for the 18-19 school year.**
- **This is a recommending body.**
- **Meet outside of the school day.**
- **1<sup>st</sup> meeting must be released: first half of the day for training on problem solving techniques and the second half of the day to use that training to adopt a protocol or process for communication between unit members teaching Special Education and the District.**
- **Must have independent facilitator/trainer for at least the first half year.**
- **Training should be concurrent with meetings**
- **Charge – first tackle communications then address concerns as have been expressed (e.g. handbook, SLP concerns, review and recommend PD around LRE placement), respond to concerns as they arise from communications procedure.**
- **End of process summary shared with respective bargaining teams prior to the last teacher work day of the 18-19 school year**

### **New Article - Article XXII – Calendar Approval Process**

The District proposed a new Article that would define a process for approving a District calendar at least two years in advance. Although the parties seem to share an interest in the “rollover” of the 2017/18 calendar for subsequent school calendars, this issue, in the Chair’s opinion, provides an excellent example of the dysfunction between the bargaining teams. A change in the contract can best be dealt with in the subsequent contract negotiations. However, the Chair believes it is in the interests of the members of the bargaining unit, students and parents to have a calendar from which to plan their lives.

**The Chair recommends the parties agree to “rollover” calendars for the 2018/19 and the 2019/20 school years and deal with the 2020/21 calendar during the next negotiations.**

The Chair hopes the parties will re-enter into negotiations for an agreement covering a two school years. I stand ready to assist if requested.

Respectfully submitted,



Donald S. Raczka, Chair

For the District:

Concur

Concur in part

Dissent



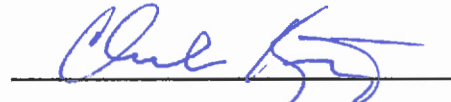
Suzanne Speck, District Panel Member

For the Association :

Concur

Concur in part

Dissent



Chuck King, Association Panel Member