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FACT FINDING DISCUSSION AND RECOMMENDATIONS

Between)
)
Wheatland Elementary)
School District)
and)
Wheatland Elementary)
School Teachers)
Association CTA NEA)
)

Re: Case No. SA-IM-3055-E

Impartial Chair

Bonnie Prouty Castrey
Post Office Box 5007
Huntington Beach, California 92615

District Panel Member

Ruben Ingram, Ed.D, Executive Director
School Employers Association of California (SEAC)
2172 Dupont Drive, Suite 13
Irvine, CA 92612

Association Panel Member

Gail Holmes, NOD Specialist
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950 Tharp Road, #901
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Hearings Held

July 25 and 26, 2008
District Offices
111 Main Street
Wheatland, CA 95692-9277

BACKGROUND

Wheatland School District (WSD, District or Employer) and the Wheatland Elementary School Teachers Association (Association or WESTA), an affiliate of the California Teachers Association (CTA), are the parties in this fact finding matter. The District employs about 67 teachers and has about 1300 students. The teachers are all members of the bargaining unit and represented by WESTA.

The District is experiencing declining enrollment, which creates a loss of California State money as schools are paid on the basis of students attending school each day known as average daily attendance (ADA). Moreover, as an "impact aid" District, it is also experiencing a change in how the students from Beale AFB are categorized and therefore, how the Federal Government reimburses the District for these children's education. With the privatization and downsizing of base housing, some of the students, who formerly lived on base and for whom the district received Federal support impact aid in addition to the State funding, are now living in the community and therefore the District receives less Federal impact aid or no impact aid and only receives State ADA funding. And, some students leave the District altogether so that both Federal and State monies are lost. The funding is further complicated as the Federal Government often pays up to three years behind and the State of California is in the midst of a fiscal crisis.

The parties commenced negotiations for a successor contract in

the Fall of 2006 as the current Collective Bargaining Agreement (CBA) was July 1, 2004 through June 30, 2007. When they were unable to reach agreement on a complete successor contract, they requested that a mediator be assigned on October 27, 2007. The State mediator met and worked with the parties on several occasions. When the parties still were unable to reach an agreement, he certified the parties to Fact Finding on May 26, 2008. The parties subsequently sent their impasse request to PERB to proceed to Fact Finding.

The District chose Panel Member Ruben Ingram, Ed.D. of SEAC and the Association chose Panel Member Gail Holmes of CTA to represent them on the Panel. The Panel Members chose Bonnie Prouty Castrey to Chair the Panel. Although the Association was willing to waive the time limits, the District refused to waive time limits. Therefore, a formal hearing was held July 25, 2008, although both parties had missing negotiating committee members, as they were out of town or otherwise unavailable. The matter was assigned to the Chair on July 2, 2008 and presumed received on July 8, 2008. The Panel met initially in conference on July 8, 2008 and several additional times by conference call prior to the hearing.

In the formal hearing, before settlement discussions, both parties succinctly presented evidence regarding the outstanding issues. Both parties also presented volumes of evidence which was received and studied for this report. Initially the parties indicated a desire to reach an agreement on the issues. Therefore,

following the formal hearing regarding all the contested issues, the Panel spent many hours on July 25 and 26 attempting to assist these parties to settle. The Chair explained that in confidential settlement discussions, the parties could reach the multi year agreement they both indicated they wanted, but that the Panel could only find facts and make recommendations on the year properly before us, which is this past school year, 2007-2008.

By early the morning of July 26, they came very close to settlement. At that point, the District agreed to grant the Panel four additional days until August 12, 2008 to study the issues and write this Report of facts and recommendations. Therefore, after studying the voluminous evidence presented in the formal hearing, by the parties, and in consideration of how close the parties came to settlement, the Chair, in telephone conference calls, over the next 10 days through August 4, 2008 spent additional hours assisting them in informal confidential fact finding settlement conference meetings. The Chair worked vigorously with both the Panel Members and the parties but alas the parties were not able to come to agreement. Therefore, the parties are left as the Panel found them with their respective offers and counteroffers as of May 22, 2008 (Association) and June 3, 2008 (District) and the Recommendations of this Panel for 2007-08 school year, which was the only year certified to fact finding.

The Burden of Persuasion for changes in the contract falls to the party proposing the change. In other words they must show

through the evidence and testimony that there is a need for the change, and/or that the change will bring about a more fair and equitable outcome in the workplace and that other collective bargaining relationships have similar or the same (comparable) salaries, benefits, hours and working conditions. Moreover, the changes must be relevant to the year in contention and properly before the Fact Finding Panel. As contested language is usually prospective and can rarely be implemented retroactively, as the dates have passed for implementation, it is addressed, but the recommendation is for future bargaining. Monetary matters can be retroactively implemented and paid and therefore, can be properly addressed for implementation for a year that is passed.

In this matter, the Panel is guided by the California Government Code Section 3548.2 of the EERA which states in pertinent part:

In arriving at their findings and recommendation, the Fact Finders shall consider, weigh, and be guided by all the following:

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 employers 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. 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."

The following are the parties stipulations and then a discussion of the outstanding issues with recommendations following each issue.

STIPULATIONS

The parties through their Panel Representatives agreed to the following stipulations as presented by the District:

1. The Wheatland Elementary School District is a public school employer within the meaning of Section 3540.1(j) of the Educational Employment Relations Act.
2. The Wheatland Elementary School Teachers Association is a recognized employee organization within the meaning of Section 3540.1(1) of the Educational Employment Relations Act and has been duly recognized as the representative of the certificated non-management bargaining unit of the Wheatland Elementary School District.
3. The parties to this factfinding have complied with the public notice provisions of Government Code section 3547 (EERA, "Sunshining" requirement).
4. The parties have complied with the Educational Employment Relations Act with regard to the selection of the Factfinding Panel and are timely and properly before the Panel.

5. The parties have complied with all the requirements for selection of the factfinding panel and have met the statutory time limitations applicable to this proceeding.
6. The contract issues which are properly before the Factfinding Panel are as set forth below. All other matters were previously agreed upon during the course of negotiations.

Article 1: Agreement
Article 3: Duties and Responsibilities
Article 7: Leaves
Article 9: Employee Benefits
Article 12: Salaries
Article 16: Retirement Options and Benefits
Article 20: Reopeners
Appendix A: Certificated Salary Schedule

7. The only year properly before this Factfinding Panel for the finding of facts and for making recommendations is the 2007-2008 school year which commenced July 1, 2007 and concluded June 30, 2008.
8. The Factfinding Chairperson, Bonnie Prouty Castrey, was notified of her assignment by the Public Employment Relations Board on or about July 2, 2008 and received such written notification on or about July 8, 2008.

ISSUES AND RECOMMENDATIONS

Article 1. Agreement

As discussed above and agreed upon by the parties at the Fact Finding Hearing, the only year properly before this Panel is July 1, 2007 through June 30, 2008. Hence, this recommendation is only properly for school year 2007-2008.

Article 3. Duties and Responsibilities

This article includes matters of language changes which the District proposed, including but not limited to meetings, parent conferences and open house, which are in dispute and cannot be implemented retroactively for the 2007-2008 school year as that

year has already concluded. Although the parties came close to resolution of this matter in the confidential settlement discussions, they failed to reach agreement.

Therefore, the recommendation of the Chair is for the parties to bargain this language in the next bargaining cycle for a successor agreement.

Article 7. Leaves

The language changes proposed to this article cannot be implemented retroactively and therefore the Chair recommends that the parties bargain any changes in future bargaining cycles.

Article 9. Employee Benefits

The portion of this article which is in dispute is who should pay the third party administrator of the tax sheltered annuity plans? Currently the language reads that the District will make the deductions for the employee's tax sheltered plans "without charge". The District proposes to charge the employees a fee. The amount of the fee is unknown at the time of this writing. In the 2007-2008 school year, no fee was charged. The Panel cannot make a recommendation retroactively since the amount is unknown. WESTA's stated concern regards how much this yet unknown fee will be to the members.

Since this fee is apparently prospective, the Chair recommends that the parties gather the information regarding selection process and cost of the third party administrator and bargain any changes in this language in a future negotiation cycle.

Article 12. Salaries

At the Fact Finding Hearing and throughout the proceedings, the District has not pleaded an "Inability to Pay" issue. Rather this is a matter of priorities in how the money is spent. As the negotiations have progressed over the months of bargaining and impasse, this has become a very contentious issue. Originally, the District offered 4.57% on the salary schedule commencing upon the date of ratification of the District's package proposal, including all the proposed changes in language. Various iterations of the package were on the table during bargaining, but the 4.57% on schedule was always proposed, upon ratification, until June 3, 2008. On June 3, 2008, the District revised their pre-fact finding proposal for the 2007-2008 school year to 2.25% for each teacher as an off schedule one time payment. The Chair notes that this was nearly 6 months after the State budget crisis was announced and the District self qualified its budget and at least 2 and 1/2 months following all other District employees raise of 4.57% on schedule.

Throughout the negotiations, for 2007-2008 WESTA proposed a 4.57% on schedule increase retroactive to the beginning of the school year, July 1, 2007. Hence, the longer into the 2007-2008 school year they bargained, the further apart the parties became.

At the Fact Finding Hearing, the District presented numerous facts including their decreased enrollment and ADA and its impact, their funding model and the serious changes it is undergoing and

the uncertain State budget and its impact on program funding.

They are a Federal Impact Aid District which means that they receive money from the Federal Government to educate students of military families. This money is in addition to the State of California Base Revenue Limit (BRL) paid by the State per child for average daily attendance (ADA). There are a complex set of calculations regarding among other factors, students who live on base, in base housing, versus those who live off base. Due to Federal decisions to privatize many operations including downsizing the base housing, the District has been and continues to lose dollars for each student as a result of the students, moving from base housing and being categorized differently. In many cases they lose all the additional impact aid for a particular student, as the student simply does not qualify for impact aid any longer. In those cases, the District receives only the State of California funding for these students. Moreover, some students actually leave the area and the District, thereby, the District loses both the Federal Impact Aid and the State funding for each of those students. Compounding these factors is the fact that often the money is not realized for up to three years as the Federal Government does not pay in the year that the students are attending school.

In addition to the reclassification of many students there is a factor based on need in the calculation. That factor is known as the Learning Opportunity Threshold (LOT) and must be 70% in order

for a district to be considered heavily impacted. This past year, the District's LOT factor declined below 70% and therefore, they are no longer considered heavily impacted and will lose "50% of Federal construction dollars".

The District cites the numbers of base houses which are lost from 1540 in 2001 when the privatization commenced to 1202 in 2008. They anticipate that by the time the privatization is completed, another 644 houses will be demolished.

On the positive side of the impact aid funding, each year, the District can continue using student numbers and information from three years ago to calculate the level of aid. This provides a cushion for adjusting for the declining enrollment and loss of impact aid dollars.

At the State level, for the 2007-2008 school year the District's BRL was increased at 4.57%, based on the ADA of the prior year. The State allows the District to use the prior year's ADA in order to cushion the decreasing funding from the decline in enrollment and ADA. The State in January, 2008 announced a major deficit. Future funding to this District and districts around the State will likely have their overall "COLA" funding on the BRL deficiated. This includes more losses in funding for special programs such as class size reduction. To date the State budget has not passed the legislature.

From 2004-05, when the last three year CBA was implemented and including this past school year, the decline in students has been

in the range of 42-74 students a year and is projected at 45-50 each of the next three years.

Over the three year period of the expired CBA, 2004-2007, the State of California funded increase to the District's Base Revenue Limit was a total of 18.14%. The CPI was 9.7% and the WESTA increases on the salary schedule were 15.16%, nearly 3% below the funded increase. When we look then at the 2007-2008 school year and add those increases to the three year totals, the District's funded increase over the BRL was 4.57% which brings their funded BRL to 22.71%. With the price of gas and food rising, the CPI for June 08 is about 5% for a total of 13.7% over the four year period. WESTA's increases on the salary schedule with the District's proposal would remain at 15.16% with a 2.25% one time payment. Yet, the District's funding above the BRL is a total of 22.17%. This is more than 7% below the State funding over BRL in these last four years and this does not account for the impact aid which is still being received, albeit at a lesser amount than in the past before privatization commenced.

It is significant to note that the District budgeted the 4.57% increase for all employees in the original 2007-2008 school year budget and continued to budget for the increase for all employees throughout the year. Hence, the 4.57% for teacher salaries was in the budget and now is in the District's unrestricted ending balance which is projected to be more than 30%. Even following the States dire budget projections in January of 2008, the 4.57% remained

budgeted and on the table until June 3, 2008.

The District increased the salaries of all other employees including classified, confidential and administrators by 4.57% during 2007-2008. The implementation dates varied, with the classified staff's taking effect in mid March. All the increases were on the salary schedule.

The teachers represent about 50% of the total district budget. Generally teachers compensation is in the range of 46 to 54 percent of budget, so this does not appear to be disproportionate.

The District calculated the cost of 1% at \$53,036.07 and WESTA calculated it at \$52,538. The difference is about \$500.00. The Chair will split the difference and use 1% as approximately equal to \$52,800. This means that 4.57% ongoing would cost \$250,800 each year on an ongoing basis, based on the workforce remaining the same into the future, which is unlikely as teachers with enough years in service will be retiring. In the 2007-2008 fiscal year, depending on the date of implementation, the on schedule increase for teachers will cost approximately \$21,000 per month based on 12 months.

The District's last proposal of 2.25% off schedule for 2007-2008, going into factfinding would cost \$118,800 as a one time amount and would not have future impact on the budget.

Following the announcement of the State's fiscal crisis, the District "self-qualified" on or about January 31, 2008 to the County office. Upon review of the District's budget, the County

office concurred in the letter of April 11, 2008, as they are and have been deficit spending. This means they are spending into the reserves as they are not bringing in as much money as they are spending. This is as a result of the discussion above regarding the decline in enrollment and ADA which impacts funding from the State and both the decline, loss and reclassification of students of the military families which affects the Federal impact aid. Therefore, the County has advised the District that they must show a plan for paying for any salary increases that are on the salary schedule. Moreover, the County has advised the District to maintain a 5% reserve fund for economic uncertainties. This is 2% more than the State requirement of 3% for a district this size and accounts for both the loss of impact aid and the decline in enrollment and ADA.

The County has to know that the District has developed a plan for meeting the three year projections of ongoing salary. For example, the District Board of Trustees could plan to not replace teachers who retire or leave the District in order to accommodate for the decline in student enrollment and ADA. They could also work aggressively with the parents to increase the ADA by helping the parents to understand the importance both educationally and fiscally for having their student in class every day. There are many options available to the Board of Trustees for developing a plan to fund ongoing salaries.

Regarding the comparisons, the District chose to compare its

salaries to 21 Northern California elementary districts. The salaries are at or near the top of their set of comparison districts. The Association compared itself to surrounding districts which includes unified districts and also statewide to other districts which receive impact aid. Unfortunately only two districts were the same in the parties comparisons. In their comparison, the Association, also provided the known settlements for 2007-2008. The local district comparison settlements ranged from 2.10% to 7.06% for an average settlement of 3.9% in the districts which have settled. The comparison of settlements in districts also receiving Federal Impact aid ranged from one off schedule payment of an unknown amount and the on schedule increases of 1.5% to 4.53% for an average of 3.3%.

While the District has been spending down it's reserves, it has healthy reserves of over 30% going forward into 2008-2009 and projected into 2009-2010. Based on the increase in funding on the District's BRL of 4.57%; the fact that all other employees except teachers have received 4.57% on schedule; the fact that over the last four years, based on increased funding to the BRL, the District received 22.71% increase and the teachers at this point have only received 15.16%; the impact of the cost of living increases, including gasoline and food, on these teachers as it impacted all the other employees; the proposed budget reductions already authorized and all the factors discussed above, the Chair recommends that the teachers be compensated with the 4.57% on

schedule increase as budgeted in the WSD 2007-2008 budget. This will bring teachers salaries in WSD to a total of 19.73% going forward which is under the amount of the funded BRL for the years since the last CBA commencing July 1, 2004 and does not take into account spending impact aid money on their salaries.

As the parties failed to reach agreement and ratify an agreement by a date certain, the Chair further recommends that the on schedule adjustment to the salary schedule be effective on June 1, 2008 and paid retroactive for one month.

Article 16. Retirement Options and Benefits

In Executive Session on August 7, 2008 the question was raised as to whether the Panel has jurisdiction to make a finding of fact and recommendation on the amount of money to be paid for the 2007-2008 school year.

In analyzing that question the Chair re-studied the entire issue to be sure that this was in fact simply a monetary issue and not both a monetary and contested language issue.

The language in the retiree health benefit language proposed now, as a "new" Article 16 is the same as the language in "old" Article 16 retiree health benefit language which sunsetted on June 30, 2007, when the three year contract expired. Further, both parties in their evidence cite only the amount of the District's contribution to provide retiree's with health insurance in dispute.

In their binder, at tab 7, the District in it's "Summary of District and Association Positions" regarding this issue states:

Insert a "new" Article 16 that provides for (1) a \$400 per month District contribution to retiree benefits and (2) an opportunity to provide substitute teaching service to pay for costs over \$400 per month.

And for the Association position it states:

Same as District except the monthly contribution should be \$600. (Emphasis in original)

In the Association binder at tab 5, the Association actually writes out each section "side by side", showing exact language by both parties. All sections except the amount of money to be required by the District on an ongoing monthly basis are exactly the same for both the Association and the District.

Moreover, in the hearing, the parties only argued about the amount of money which would be required to be paid monthly, by the District. As stated frequently above, the parties were clear that the only year before the Panel is 2007-2008. It is critical to note that in the hearing neither party ever indicated that there was any question regarding the language, nor the continuation of this benefit. In fact, as stated above, their own words in evidence support a finding that only the payment in the sunsetted provision of \$400.00 per month for the District's required contribution and WESTA's proposal for an increase of \$200.00 per month to \$600.00 is in contention.

Therefore, following the indepth discussion in Executive Session by Panel Members and a complete re-study of this matter, the Chair respectfully finds that it is appropriate for the Panel

to find facts regarding the amount of money the District is required to pay each month for retirees health, based on the parties uncontested language in evidence.

In that regard, the District argues that they just completed an actuarial study of the unfunded liability for this benefit and they are in the process of funding that liability as noted in the budget in Fund 20. That actuarial study was completed in cooperation with other districts and so this District did not have to bear the full cost. Another actuarial study would be very expensive as they'd be on their own to fund it and so they resist this increase.

WESTA argues that the cost of insurance continues to increase and furthermore, that the District is providing the \$600.00 per month to the classified employees. To which the District responds that there are fewer classified employees who may receive this benefit as most do not work enough hours to receive District benefits.

While it is true that the cost of health insurance continues to increase, the retiree has the option of working as a substitute in the District and having the long term sub rate applied to the difference between the District's contribution and the actual cost of the benefit.

Therefore, for the 2007-2008 school year, which is the only year in contention in this matter, the Chair recommends that the District's required contribution for retiree's remain at \$400.00.

The parties can continue to negotiate the amount of the District's contribution in future agreements.

Article 20. Reopeners

Since this report and the recommendations contained herein are only for 2007-2008, there can be no re-openers recommended.

Appendix A. Certificated Salary Schedule

The Chair recommends that the recommended increase in Article 12, above, should be applied to the salary schedule and the schedule updated.

CONCLUSION

Based on careful study of both parties voluminous and often conflicting evidence regarding all the issues, the above recommendations are made for the resolution of the 2007-08 contract negotiations between the Wheatland School District and the Wheatland Elementary School Teachers Association, CTA.

The Panel Members representing the District and Association conferred by telephone conference call in Executive Session August 7, 2008. Based on the above Recommendations of the Chair they concur or dissent as follows:

For the District:

 Concur Dissent

 Concur in part

 ✓ Dissent in part

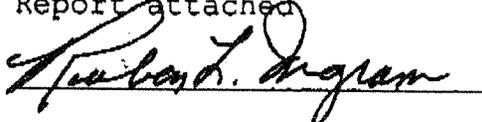
For the Association:

 ✓ Concur Dissent

 Concur in part

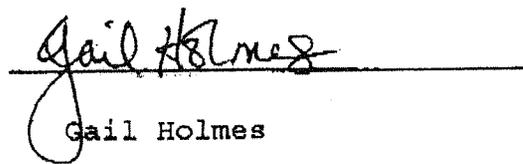
 Dissent in part

Report attached



Ruben Ingram, Ed.D

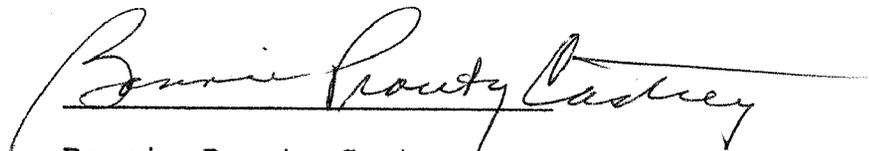
District Panel Member



Gail Holmes

Association Panel Member

Issued with attachments on August 9, 2008 by



Bonnie Prouty Castrey,

Panel Chair

Dissenting Opinion of Ruben L. Ingram

This is a dissenting opinion of Ruben L. Ingram, School Employers Association of California (SEAC)/Association of California School Administrators (ACSA) Alliance, and the Factfinding Panel Appointee of the Wheatland Elementary School District in the matter of a dispute between the Wheatland Elementary School District and the Wheatland Elementary School Teachers Association.

This matter was presented to the Factfinding Panel on June 25, 2008, and continued into June 26, 2008. The members of the Factfinding Panel were: Bonnie Castrey, Chairperson, Ruben L. Ingram, Representative for the Wheatland Elementary School District (District), and Gail Holmes, Representative for the Wheatland Elementary School Teachers Association (WESTA). The District was represented by Robert E. Kingsley of Kingsley Bogard Thompson LLP and Brett McFadden of the Association of California School Administrators. WESTA was represented by Laura Schultz and Catherin McQuigan of the California Teachers Association.

In spite of serious and conscientious efforts on the part of the Chairperson of the Factfinding Panel, and Representatives of the Union and Management, the issues before the panel could not be resolved during factfinding. This required the issuance of a full and complete report by the Panel Chair.

The Panel Chair has made an advisory recommendation that the teachers should receive an on-going pay increase effective June 1, 2008. I respectfully dissent and disagree in the following ways:

! Salaries

It is an unrefuted fact that the members of the bargaining unit represented by the WESTA have the highest average salaries when compared to comparable groups of teachers in the region. In fact, they were ranked #1 among all school districts in the Sacramento Region. This fact was confirmed by the *Sacramento Bee*, which compiled and published facts from a database of teacher salaries from information provided by the California Department of Education. The Bee published the facts on July 16, 2008. The data is available at: <http://www.sacbee.com/databases/v-print/story/995141.html>.

! Declining Enrollment

It is an unrefuted fact that the District is suffering a severe decline in enrollment. Since the 1993/1994 school year, the District has lost almost 50% of its students. The decline is projected to continue due primarily to changes at Beale Air Force Base (privatization of housing and the A-76 Study) initiated by the Federal Government.

The privatization of housing has created a trend that will not be reversed. When it is completed, only 36% of the homes that existed in 2001 to house children will still exist. Thus, unless the Federal Government reverses its policy and builds more new houses on base, the number of Impact Aid students will be permanently reduced.

The loss of a student has serious economic consequences for any district. For an Impact Aid district like Wheatland, the consequences are even more far-reaching. It is a fact that when a student no longer lives on base, and leaves the District, the Wheatland Elementary School District loses over \$9,000 in combined State and Federal funding. The facts show that, since the 2004/2005 school year alone, the District has lost 241 students in this category. Even if each such student had moved off the base, but stayed in the District (which they did not), the District lost almost \$800,000.

! California State Budget Crisis

It is an unrefuted fact that the State of California is in a severe budget crisis. The Legislature has failed to adopt a budget by the Constitutional deadline and funding for K-12 education is not only unresolved, it is speculative at best.

The Governor's May Revise proposed a 2% deficit to public school funding in 2008-2009. Many knowledgeable observers are predicting that schools, under the best of circumstances, will get no cost of living adjustment for 2008-2009, and probably no cost of living adjustment for 2009-2010.

! District Budget Cuts

It is an unrefuted fact that current State law compelled the District to self-certify its 2007/08 budget as "qualified" because it was deficit spending and could not ensure its continued viability when projected two (2) years out. The Yuba County Superintendent of Schools has confirmed by formal letter that he concurs with the District's self-certification. The County Superintendent has also said that he will not support on-going pay increases unless the District makes cuts to first balance its budget, and then makes additional cuts to pay for any on-going pay increase.

It is an unrefuted fact that the Wheatland Elementary School District has already cut \$2.7 million from its 2008-2009 Budget to address the structural imbalance that resulted in the deficit spending. These cuts resulted in elimination of seven (7) teaching positions, elimination of the Behaviorist, elimination of the School Psychologist, elimination of 22 classified positions (including Library Technicians) and other non-personnel spending reductions. The only other programmatic cuts that could produce significant savings are such things as eliminating class size reduction in grades K-3 and eliminating Para-educators in the primary grades — which could require the layoff of eight (8) additional teachers and seventeen (17) additional classified staff.

Even with \$2.7 million in cuts, the District is still deficit spending by \$250,000 in 2008/09. With the Panel Chair's recommended pay increase, a minimum of \$500,000 in additional cuts would have to be made in 2008/09.

WESTA Compensation Increases

The Chairperson has not stated the facts correctly surrounding the CPI, increases to the BRL and compensation increases to WESTA. The Panel Chair states the following as facts for 2004/05, 2005/06 and 2006/07:

- # CPI was 9.70% (correct)
- # COLA to the BRL was 18.14 (correct)
- # WESTA compensation was increased by only 15.16% (*incorrect*)

In arriving at these findings, the Chair has not taken into account a significant improvement to health benefits. Totally overlooked is the undisputed fact that, in 2004/05, the District's contribution for benefits was increased from \$6,783 to \$10,000. This equals a 4.65% increase on the salary schedule.

Thus, compensation to WESTA (without any consideration of step and column increases or other salary related costs such as extra duty pay) went up by 19.81%. In short, even in the face of sharply declining enrollment, teachers received compensation increases that were 1.67% greater than the increases given to the District by the State.

WESTA presented no data that showed any district (whether Impact Aid or not) that had experienced almost a 50% decline in students and still gave increases that (1) exceeded the COLA to the BRL, and (2) were more than twice the increase to the CPI.

The Panel Chair relied heavily on the incorrect assumption that WESTA was nearly 3% below the funded increase to the BRL to support a recommendation for a compensation increase even though WESTA teachers already have the highest average salary in the entire Sacramento Region. Because the recommendation is not based on facts, I believe the recommendation is not appropriate since WESTA compensation actually exceeded the funded increase to the BRL by 1.67%.

Passing Through the COLA

The Panel Chair's recommendation seems to measure the District's level of effort by whether it "passed through" the increase granted by the State. Most knowledgeable observers recognize that a school district cannot simply pass through the COLA. To do so ignores other on-going costs – e.g. step and column costs, extra duty pay, as well as increases in the cost of goods and services.

Passing through the COLA is not sound fiscal policy in most circumstances. In a District with sharply declining enrollment, it is not responsible.

The Panel Chair suggests that the school board should increase salaries and "bet on the come." The suggested bet is that the District will save enough money from future teacher retirements, an increased ADA conversion factor (the District is already at 96%), or some other as yet undetermined plan elements to help the District afford a pay increase.

For the reasons set forth above, I disagree with the Chair's advisory recommendation that the District should risk giving an on-going salary increase at this time and under these conditions. The District and the Board have a fiduciary responsibility to make policy decisions that will: (1) protect educational opportunities for the students of the District; (2) maintain the fiscal solvency of the District; and (3) balance these first two parameters with the desire to fairly compensate employees.

I cannot agree with a recommendation that would result in cuts to more programs and educational opportunities for students in order to give a pay raise to bargaining unit members, when the unrefuted facts show that they have highest average salaries in the entire Sacramento Region, particularly when funding such raises into the future, given the severe declining enrollment and the lack of adequate State funding, could cause the District to eliminate class size reduction and make other onerous program cuts.

I cannot support risky fiscal management policies when there is no clear indication that the District will be able to afford ongoing and compounding expenditures into the future. This is not a growing district. It is a severely declining district which has a unique and compounding factor of losing both Federal and State support for each student lost.

I also respectfully dissent and disagree with the Panel Chairperson's conclusions in the following additional ways:

! **Retirement Options and Incentives**

No District incentive exists now, nor did it exist in the 2007/08 school year. In fact, the District and the union previously agreed that the "old" incentives would expire (and did expire) on June 30, 2007.

! **All Other Issues Certified to Factfinding**

As to all other issues, the Panel Chairperson has chosen to make no findings of fact and has made no recommendations other than to suggest that the issue(s) should be bargained in the next bargaining cycle. These issues are not moot since it was an inability to reach agreement on all of them as part of a package deal that caused the parties to reach an impasse and to have the entire "controversy" certified to factfinding. I believe the Panel had an obligation to find facts and to make recommendations on each and every one.

At the factfinding hearing, there was no question that two (2) issues – Compensation and Professional Duties and Responsibilities – were the primary reasons that the parties were at impasse. For the Panel Chair to make a recommendation on one and ignore the other is a disservice to, and an inconsistent use of, the impasse resolution process. It will not help the parties to reach an agreement. Indeed, it will likely become a hindrance.

As a result, on the key issue of Professional Duties and Responsibilities, I have set forth the facts that I have found and my recommendations.

Based on survey data from other comparable districts, it is the norm that:

- ! As professionals, teachers have acknowledged responsibilities which will on occasion require them to perform tasks outside the duty day.
- ! Teachers are required to attend an evening Open House to celebrate children's learning and to present the school to the community.
- ! Teachers are required to attend a Back To School Night for the benefit of students and parents.
- ! Teachers are required to supervise a number of activities related to the educational program (dances, athletic events, student clubs, etc.) each year
- ! Teachers are required to conference with parents about the educational progress of their children (and not only if the child is in danger of failing). Because it is an economic hardship for many working parents to take a day off work, opportunities for evening conferences are typically provided.
- ! Teachers have a defined on-campus duty day – for both regular days and minimum days. In Wheatland, for example, this could be a 6 ½ hour duty day (7:30 am to 2:30 p.m. with a half hour lunch).
- ! Within the on-campus duty day, teachers can be assigned to a wide variety of activities in support of the educational program (e.g. to teach, to attend staff development, to attend staff meetings or to render other educational-related services).
- ! Government Code Section 3548.1(b)(4) expressly requires the factfinding panel to consider the employment conditions of comparable school districts. The survey of comparable districts showed that an overwhelming 96% of comparable districts have contract language which requires teachers to perform the tasks referenced above.

RECOMMENDATIONS

1. It is my recommendation that any compensation paid to WESTA unit members for 2007/08 be a one-time payment.

2. It is my recommendation, on the issue of Professional Duties and Responsibilities, that contract language be inserted into the collective bargaining agreement that would conform to the findings set forth above.

Signature: _____

Ruben L. Ingram

Ruben L. Ingram, SEAC/ACSA Alliance and District Representative on the Factfinding Panel

Date: _____

August 9, 2008