

**IN THE MATTER OF THE FACTFINDING BETWEEN**

**TRAVIS UNIFIED SCHOOL DISTRICT**

**PUBLIC EMPLOYER**

**AND**

**TRAVIS UNIFIED TEACHERS ASSOCIATION**

**EMPLOYEE ORGANIZATION**

**RECOMMENDATIONS OF FACTFINDING  
PANEL**

**PERB CASE NO. SF-IM-2760-E**

**RONALD HOH, NEUTRAL FACTFINDING  
PANEL CHAIRPERSON**

**GREGORY DANNIS,  
DISTRICT PANEL MEMBER**

**THEODORE BYNUM, ASSOCIATION  
PANEL MEMBER**

**APPEARANCES**

For the District:

Lawrence Schoenke, Attorney

For the Association:

Martin Kahn, Negotiations Specialist

**AUTHORITY**

This proceeding arises pursuant to the provisions of the Educational Employment Relations Act, California Government Code Section 3540, et seq. (hereinafter EERA). Travis Unified School District (hereinafter District) and Travis Unified Teachers Association (hereinafter Association) have been unable to agree upon the terms of their collective bargaining agreement for the 2007-08 fiscal year through their negotiations and mediation. Pursuant to Section 3548.1 of the EERA, they therefore jointly chose the undersigned factfinding panel to make "findings of fact and recommended terms of settlement" in accordance with Section 3548.3 of the EERA.

The hearing was held before the factfinding panel on June 16, 2008 and was completed late on that date. During the hearing, the parties were afforded the opportunity to submit documentary and oral testimony and argument in support of their respective positions. Subsequent to completion of the hearing, the parties requested and were granted the opportunity to file written post-hearing summary closing statements with the panel. Those statements were received by the panel on July 8, 2008.

After receipt of those summary closing statements and preparation by the panel chairperson of a draft factfinding report, the factfinding panel met in executive session via telephone on August , 2008 to discuss the outstanding issues. This report is issued in accordance with the panel's determinations at that executive session.

At the hearing, the parties agreed that, with the exception of the issues set forth below, the parties have agreed on all other issues during the course of negotiations:

1. District Ability to Pay
2. Article 4.6 - Release Time
3. Article 9 - Class Size
  - A. Article 9.1 General
  - B. Article 9.2.3 - Grades 6-8 - P.E. Class Sizes
  - C. Article 9.4.2(a) (new) - Special Education Pre-School Class
  - D. Article 9.4.7 (new) - Mainstream Special Education and Opportunity Students
4. Article 18 - Salary and Fringe Benefits

#### **THE POST-HEARING SUMMARY STATEMENT DISPUTE**

Subsequent to the filing of the summary closing statements, the Association objected to elements of the closing statement submitted by the District, on the grounds: 1) that the District's post-hearing closing statement consists of 16 pages – six pages beyond the number agreed upon by the parties at the hearing; and 2) that the attachments to the District's closing statement involving claimed evidence rebuttal to the Association's comparable districts proposal be excluded from consideration by the panel, on the grounds that such

data needed to be presented at the hearing itself and subjected to rebuttal or questions by the Association, as was the data and argument that was actually presented by the District at the hearing.

With regard to the first of the above contentions, it is the panel chairperson's view that the arguments presented in the District's closing statement, irrespective of its length, were identical or similar to those made by the District at the hearing itself. The District's extension of the post-hearing closing statement to six pages beyond the agreed-upon length of such closing statement – while technically improper under the agreement made at the hearing – did not prejudice the Association in any way in that the arguments contained therein were essentially the same as those made by the District at the hearing itself, at which time the Association had the opportunity to address and/or rebut them. The panel chairperson thus declines to exclude the last six pages of such a District document as agreed by the Association.

With regard to the presentation of additional evidence attached to the post-hearing closing statement by the District and raising contentions concerning the claimed impropriety of the Association's proposed comparability group, the time for presentation of such contrary evidence is at the hearing itself, and not as an evidence attachment to the post-hearing closing statement. Such a District action prevented the Association from either rebutting contentions made therein or the proper "vetting" of the claims contained in that evidence. Indeed, the panel chairperson would be surprised if the District had not made a similar objection had the Association attempted to present such new evidence via the post-hearing closing statement. That additional evidence is, therefore, not properly before the panel and will not be considered by the panel chairperson in drafting the recommendations on the issues here.

## **STATUTORY CRITERIA**

Section 3548.2 of the EERA concerns the criteria to be considered by the factfinding panel in making its recommendations. That Section provides as follows:

In arriving at their findings and recommendations, the factfinding panel 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 employee-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) Such other facts, not confined to those specified in paragraphs (1) to (6), inclusive, which are normally or traditionally taken into consideration in making such findings and recommendations.

The panel's recommendations herein have been made with due regard to the above statutory criteria.

## **FINDINGS OF FACT**

### **BACKGROUND**

The District provides elementary and secondary education services to adjacent Travis Air Force Base, portions of the cities of Fairfield and Vacaville, and portions of unincorporated

Solano County. It serves approximately 5,300 students via five grade K-6 elementary schools, one grade 7-8 middle school, one grade 9-12 high school and two high school alternative programs. The Association represents approximately 302 certificated District employees, excluding management, administrative and confidential employees. The parties are currently operating under and governed by a three year collective bargaining agreement (hereinafter contract) which is scheduled to expire by its terms on June 30, 2008.

**COMPARABILITY**

The parties in this proceeding have a somewhat limited dispute over which districts constitute the appropriate comparability group(s) for comparisons made under Section 3548.2(4) of the EERA.

The District proposes a comparability group consisting of the nine other unified school districts which exist along with the District in Solano County, as well as adjacent Yolo County. Those districts are as follows:

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|---|
| Benicia Unified School District<br>Davis Unified School District<br>Dixon Unified School District<br>Fairfield-Suisun Unified School District<br>Vacaville Unified School District<br>Vallejo City Unified School District<br>Washington Unified School District<br>Winters Unified School District<br>Woodland Unified School District |
|---|

In support of the panel's utilization of that comparability group, the District argues that those nearby unified districts are the districts with which this District competes for quality employees, and that as unified districts they face many of the same problems and issues faced by the District. The District further points out that nearly 90% of the District's teachers live in communities or areas served by these unified districts.

The Association agrees that the District's proposed comparability group is appropriate for comparison purposes under Section 3548(b)(4) of the EERA. It further proposes as properly comparable under that section, however, districts statewide which, like the District, receive significant amounts of "Impact Aid" – Federal assistance dollars for local school districts that have lost or lessened property tax revenues due to the presence of tax-exempt Federal land such as military bases, or that experience increased expenditures due to the enrollment of federally connected children, including children living on Indian lands. That proposed group consists of the following districts:

<b>Districts Receiving a Significant Amount of Federal Impact Aid</b>					
<b>District Names</b>	<b>Type</b>	<b>County</b>	<b>ADA</b>	<b>Federal Aid as a % of Total Revenue</b>	
Central Union Elementary	Elem	Kings	1,810	31.0%	3
Coronado Unified	Unif	San Diego	2,891	9.5%	9
Fallbrook Union Elementary	Elem	San Diego	5,412	17.0%	6
Klamath-Trinity Joint Unified	Unif	Humboldt	916	33.7%	2
Lompoc Unified	Unif	Santa Barbara	10,127	8.8%	12
Morongo Unified	Unif	San Bernardino	8,901	10.4%	8
Muroc Joint Unified	Unif	Kern	2,010	22.9%	5
Oceanside City Unified	Unif	San Diego	19,170	9.1%	11
San Pasqual Valley Unified	Unif	Imperial	694	39.6%	1
<b>Travis Unified</b>	<b>Unif</b>	<b>Solano</b>	<b>5,068</b>	<b>13.9%</b>	<b>7</b>
Valley Center-Pauma Unified	Unif	San Diego	4,247	9.2%	10
Wheatland Elementary	Elem	Yuba	1,304	23.6%	4

In support of that proposed comparability group, the Association argues that such a group constitutes a better "apples to apples" comparison since, like the District, all receive a significant portion of their budget dollars from federal aid, and all but two are unified

districts. It points out that, among other unified districts in Solano County, the District receives nearly 9% more in federal aid than the average among those districts.

#### DISCUSSION

This factfinding chairperson has addressed the issue of comparability in a large portion of the nearly 100 interest factfinding and interest arbitration decisions he has issued in seven states within the past twenty-three years. As the chairperson has found in those decisions, the most appropriate employers for comparability purposes generally are: 1) those near the similarly-situated, generally similar sized districts with which the subject District competes for quality employees; and 2) similarly-situated districts not necessarily nearby, which are unique in some ways and subject to the same demographics, budget pressures, and related elements.

In this case, it is apparent given these elements that both of the proposed groups are properly comparable under Section 3548.2(4) of the EERA. Certainly a comparison of nearby unified districts with which the District competes for employees is proper under that standard. Likewise, the District is unique compared to those nearby districts in the relatively high level of federal Impact Aid which it receives. This is particularly so where as here, the percentage level of District Impact Aid is near the average among those "Impact Aid" districts. Comparison to those districts is thus likewise appropriate under those statutory provisions.

In view of the above, I therefore find that both the District's and the Association's proposed comparability groups are proper for comparison purposes under Section 3548.2(4) of the EERA.

#### **ISSUE #1 - DISTRICT ABILITY TO PAY**

Initially in this proceeding, the District argues that it does not have the ability to pay either the cost of the Association's proposal or any amount above the 0% increase contained in its salary offer before the panel.

In support of that contention, the District asserts that the combination of reduced federal Impact Aid income, the State's proposed funding cuts for 2008-09, the ongoing annual operating deficit between unrestricted income and expenditures, and the ongoing impact of the 8% salary increase granted to Association-represented teachers in 2006-07, are all supportive of the District's inability to pay. It claims that the Association's 2007-08 salary proposal under current financial projections will produce operating deficits of \$2,091,190 in 2008-09 and \$1,028,272 in 2009-10, and would result in peril to the District's ongoing financial viability by creating negative ending fund balances of \$926,890 for 2008-09 and \$1,968,011 for 2009-10. It asserts, contrary to the Association's contentions, that Section 3547.5 of the EERA requires school districts to look beyond the Association-claimed limited one year period involved in this case and instead project two additional years forward, and that the above negative projections are based upon sound financial assumptions made by both the District and pertinent County and State agencies. It further points out that over \$1.1 million in budget cuts have already been implemented for what is now the 2008-09 year, and that failure of the State legislature to enact the Governor's proposals for school funding will require additional reductions in that budget, further negatively impacting the District's ability to pay.

The District further argues in this area that federal revenue from Impact Aid has dropped between the 2002-03 and 2007-08 from \$6,968,067 to \$4,575,645, and is projected to drop to \$3,608,505 annually by 2010-11. It claims that even without a salary increase for Association-represented employees in 2007-08, the District is projecting ongoing operational deficit spending of \$1.4 million in 2007-08 and a total of \$4.5 million over a three year period through 2009-10, and claims that such a budget projection will result in significant ongoing cuts in programs, personnel and services to students in those years. It contends that granting

the Association's demand would increase ongoing expenditures beginning in 2007-08 deficit by \$1,276,000, exacerbating the District's deficit spending and requiring even more draconian cuts to programs and services.

The District further argues that under current State budget numbers, the District is expected to lose nearly \$2 million in funding in 2008-09, greatly impacting in a negative way its unrestricted general fund balances. It argues that due to the decreases in base housing at Travis Air Force Base and uncertainty of federal funding levels, the District has been told to reduce its reliance on federal funding and treat federal Impact Aid as one time rather than ongoing revenue. It points out that the Solano County Office of Education has certified the District as being of "qualified" financial status, meaning that the District may not be able to meet its financial obligations for the current year and the subsequent two fiscal years. It argues that its State unrestricted funding without Impact Aid is the lowest among comparable employers, and is \$270 lower per student than the statewide average. Finally, it claims that its 8% salary increase for 2006-07 to bargaining unit teachers was far more than in comparable districts, and thus also impacts available funds to pay District teachers in 2007-08.

The Association argues in contrast that the District has the ability to pay for the Association's economic proposal at issue in this case. In support of that contention, it points out that the District received a 4.58% State funding increase in 2007-08, which when combined with the District's 37 student increase in average daily attendance, resulted in a basic unrestricted State funding increase to the District of \$1,489,764 – more than enough to fund the Association's salary proposal. It further points to the \$4,575,648 projected dollar increase the District will receive for 2007-08 in federal Impact Aid – a revenue stream which at that level is unique amount Solano County districts. It claims that the District's contribution

toward medical benefits is fixed at \$4,800 per year, and that the District will save additional dollars by not being required to fund medical benefit costs increases that could exceed \$2500 additional per year for bargaining unit employees. It additionally contends that virtually none of the increases in State funding will be required to pay for District salary schedule step/column costs, where the net costs projection in that subject area ranges from a District savings of \$5,056 to a cost of only \$18,527, depending on the cost of newly-hired employees. It contends that although the District argues that federal Impact Aid may decline over the next three years, such a claim is based only on projections, and the District's own data showed that its 2007-08 District Impact Aid projection was over \$290,000 less than the amount actually received.

The Association further argues in this area that the District's unrestricted, unallocated 2007-08 ending fund balance continues to grow, and is now \$530,000 higher in the 3rd Interim Financial Report than it was in the 2nd Interim Report, and claims that such an amount is both above and beyond the District's 3.0% reserve for economic uncertainties and in and of itself sufficient to fund a 4.75% salary increase for this unit. It asserts that because the salary contract year disagreement before the factfinding panel concerns only 2007--08, the District's projection of inability to pay based almost entirely upon projections for 2-3 years beyond 2007-08 is improper, and that the District clearly has the ability to pay the Association's proposed salary increase for the year subject to this proceeding. It argues that the District has not contradicted any of the Association's analysis of District revenues and expenditures for 2007-08 in additional COLA funding, additional federal Impact Aid funding, or the absence or low level of District increased costs for either salary schedule step/column movement or medical benefits. It further argues that District and its consultant School Services of California projections for future years almost universally have projected less in State revenue COLA and

State revenue limit deficit aid than the District actually received, and that this is one of the major problems with the prospective multi-year budgetary projections made by the District. It points out that the 8% salary increase in 2006-07 for District teachers was in conjunction with an 8.99% increase in funded base revenue limit received by the District for that same year, that none of the 2006-07 Impact Aid dollars were used to fund that increase, and that the District was therefore not negatively impacted budget-wise by that salary increase.

#### DISCUSSION

The overall budget picture presented by the District is far from a rosy one. It projects under its proposal here that the District will have operating budget deficits of over \$2 million in 2008-09 and over \$1 million in 2009-10, as well as negative ending fund balances in both of those years. It also projects ongoing operational deficit spending of \$1.4 million in 2007-08 – the fiscal year now recently completed – even without any salary increase granted to Association-represented employees. While federal Impact Aid has in the past and continues to serve as a vital fiscal function in the District, both military housing and the percentage of military-connected District students have declined somewhat steadily since the year 2000, and there is little reason to believe that federal Impact Aid will increase in the future given the declining trends contained in those numbers. In addition, while it is true as the Association argues that both the "Fiscal Crisis Management Assistance Team" and the Solano County Office of Education are not neutral sources of analysis of District budget data, those sources have designated the District, based on statutory requirements, as one which will be required to show that it has the clear financial ability to meet its current and future financial obligations in view of its existing financial circumstances.

At the same time, it is undisputed that the District received a 4.58% State COLA increase for 2007-08 and that the District grew by 37 students, further increasing the amount

of State aid for that year. In addition, however, even District financial advisor School Services of California projects a 5.66% COLA increase for the District in 2008-09 based upon the Governor's May budget revision figures as a "general guideline" concerning State aid for that year. While the District argues that under current State budgetary figures that entire growth percentage will be deficiated due to the difficult State budget circumstances, it is more than possible that at least a portion of that amount will be restored when agreement on the State budget is reached. In addition, although it is true as the District contends that it received the smallest amount of State aid in 2007-08 among its comparability group, that \$1,489,764 figure fails to take into account the additional \$4,575,648 the District received in federal Impact Aid – funding it alone receives at such a high level among the districts in the District's comparability group. While such funding shows a decline over the years that likely will continue to at least some degree, those dollars represent funding that may be spent as the District sees fit, and only the District receives such a large amount among its nearby, otherwise similarly-situated employers. That amount in conjunction with the 2007-08 State COLA and average daily attendance allowance increase produced a total dollar aid increase for 2007-08 of \$6,065,412. While the panel majority recognizes that significant portions of that amount are not available for salary increases, that figure clearly contains available amounts sufficient for the District to pay a salary increase amount above its 0% proposal here.

In addition, the data shows that the District received nearly \$300,000 more in federal aid than it had projected for 2007-08, and that its ending balance increased between the recently-issued 2nd and 3rd Interim Financial Reports. Finally in this area, the District in contrast to many comparable employers incurred no added District cost for medical benefits in 2007-08, and it will incur little or no added salary schedule step/column increased costs for that year.

Although the District argues through its panel member that the panel is required to make a finding concerning the District's ability to pay for the Association's salary offer here, the panel majority finds no such requirement in the statute. Rather, the statutory criterion set forth in Section 3548.2 requires the panel to consider "...the financial ability of the public school employee-employer." What the panel is required to do under that criterion is to determine a salary level, if any, which the District has the "financial ability" to afford. The recommendation below is consistent with that statutory charge to the panel.

Based upon the entire above, it is apparent to the panel majority that the District can afford to fund a salary increase above the 0% it proposes in this proceeding. While it is significantly less clear that it has the long-term ability to pay for the Association's salary request here, it is clear as more specifically discussed below that other statutory factors warrant a salary recommendation lower than that proposed here by the Association. It is the panel majority's further finding that the District has the ability to pay that recommended amount.

#### RECOMMENDATION

The District has the ability to pay for a 2007-08 salary increase more than its 0% offer here, and likewise has the ability to pay the 2007-08 salary recommendation set forth below.

#### **ISSUE #2 - ASSOCIATION RELEASE TIME**

Article 4 of the current contract concerns Association and Teacher Rights. Section 4.6 - Release Time - provides as follows:

##### 4.6 RELEASE TIME

The District shall pay the full cost of 20% FTE release time for the TUTA President. TUTA may purchase up to an additional 20% release time at the actual salary cost of the time. The Association and the District, each spring,

shall agree to the release schedule for the following year.

In addition, the Association may purchase up to fifty (50) days of release time for officers or other Association representatives at the District costs of a substitute. District's Chief Personnel Officer must receive 3 days advance notice of the need for the release time if two or more people will be out for one day or if one or more people will be out two or more consecutive days, and prior approval if ten (10) or more people are released for any one day.

The Association proposes to increase the number of days it may purchase for release time referred to in Paragraph 2 above from up to fifty (50) days to up to one-hundred (100) days.

In support of that proposal, the Association argues that it used 48.5 of its allotted 50 days in 2006-07, and that additional release days are necessary when the District takes adverse positions as it has in the bargaining and factfinding involved here. It contends that any additional necessary release days would not be used frivolously, but would instead be used to handle District/ Association business in a timely manner, and that Association leaders generally would prefer to be teaching in the classroom rather than on Association business. It claims that such additional days would be of no cost to the District, since the Association would reimburse the District for such days. Finally, it asserts that judicious use of release time enhances the teaching profession and promotes best professional practices.

The District opposes any change in the provisions of Section 4.6 related to increased release time days. In support of that position, it argues that the Association failed to show a compelling need for, and evidence or valid data demonstrating the need for, increased release time. It claims that learning is disrupted when District students do not have consistent contact with the assigned teacher, and that any increase in teacher release time would result in such lesser teacher-student consistent contact. It argues that other comparable districts with one exception do not provide more than the current level of release time for their bargaining unit members. It contends that the Association failed to

show any examples of Association inability to conduct its business in the absence of extending the number of release time days above the current level.

#### DISCUSSION

The panel chairperson, in his prior interest factfindings and interest arbitration hearings and decisions, has consistently utilized the following standards for recommendations or awards concerning issues involving contract language areas which are non-economic in nature. It is my intention to apply the same standard to such issues in this case:

1. The party proposing the contract language change has the clear burden of justifying the factfinding panel's adoption of that proposed language change;
2. The party proposing the contract language change must: 1) show with specific evidence that a problem exists with the current language; 2) show that it has attempted to resolve the issue with the other party in negotiations without any success; and 3) show that the proposed contract language change resolves the demonstrated problem without being contrary to any other existing contract language.

The evidence before the panel fails to show the existence of a problem with the current release time purchase maximum of 50 days. Instead, although such data is disputed by the Association, District data showed that in 2005-06 and 2006-07, the Association utilized only 17 days and 12 days, respectively, of its allotted 50 days for Association business. In addition, the Association provided no comparability data to support its position, and District comparability data showed that in its comparability group, only one district had more than 50 days of Association release time, and that the average in that group was significantly less than the 50 days currently enjoyed by the Association.

In view of these elements, the Association has not shown the need for its proposed Association leave day increase. The panel thus recommends retention of the status quo in this contract area.

## RECOMMENDATION

The panel majority recommends no change to the contract Section 4.6 concerning Association leave.

## **ISSUE #3 - CLASS SIZE - GENERAL**

Section 9.1 of the parties' contract addresses general information relating to class size. It provides as follows:

### 9.1 GENERAL

The following class sizes shall be defined as applicable for all schools in the District:

Grades K-3: 20\*

Grades 4-6: 30

Grades 6-8: (academic subjects): 30\*\*

Grades 9-12 (academic subjects): 30\*\*

\*This class size shall exist so long as the State of California continues to fund the class size reduction program, at grades K-3, at current levels, including the annualized increases in the District's base revenue limit for this program. If funding should fall below the level stated above, the maximum class size shall revert to twenty-eight (28).

\*\*Should the District propose the implementation of block scheduling the parties shall initiate bargaining over the implementation and impact of scheduling and class size prior to implementation.

The District proposes that the individual academic class size at grades 7-12 be increased from 30 to 32, with a maximum of 180 students per day at grades 7-8 and 150 students per day at grades 9-12. It further proposes that the Elementary Preparation Time class size for grades K-3 be increased from 20 to 30.

In support of that proposal, the District contends that it maintains class sizes that are much lower than the average found in comparable districts, and that even if its proposal were implemented, the District would still have smaller class sizes than comparable districts. It claims that the current District class size maximums increase the number of teachers employed and raise the costs the District must commit to the bargaining unit in comparison

to other districts. It argues that the grade 1-3 Elementary Preparation Time class size cap is unique among districts with Elementary Preparation Time, in that it tracks the 20 student cap for preparation time with the requirements of the State Class Size Reduction Program – an element which is not required under that Program.

The Association opposes any change to the general class size provisions of Section 9.1. In support of that position, it argues that the current low class sizes in the District help the District to maintain its existing high student test scores. It claims that the District has not previously raised funding as an issue in this area.

#### DISCUSSION

The District's comparability data shows in the general area of class size for grades 7-8 and 9-12, that while the District's level of class size maximum is lower than the average in the comparability group, it is in the panel majority's judgment not sufficiently less to justify the recommendation of the District's proposal by the panel. Merely showing lower class size maximums does not in and of itself, meet the District's proof burden in this area. In our judgment, given the complexity and importance of this area, adjustments in such general class sizes and their impact given available dollars are better made by the parties themselves at the bargaining table rather than in this proceeding. This is so at least in part because the panel does not know what the Association gave up in the course of the negotiations in order to obtain the current grade 7-12 class size maximums. Any changes in that area should therefore be made – as the current class size limits were made – through the give and take of the bargaining process.

The one exception to this general rule relates to the tracking of class size Elementary Preparation Time for grades 1-3 with the 20 student cap required by the State-mandated Class Size Reduction Program. Such a tracking of Elementary Preparation Time class size with Grade

1-3 elementary class size itself is not required by the State program, and the data shows that no other comparable district has similar tracking of such Elementary Preparation Time class size to the cap required by the Class Size Reduction Program at that level. That data additionally shows that in the only comparability data presented in this area, the average Elementary Preparation Time class size without including the District is 29.75 students – a figure virtually indistinguishable from the District's proposal in the this area.

Based on this evidence, the District has shown the existence of a legitimate problem with the current language as well as with the current cost of Elementary Preparations Time class size when compared to such costs in similarly-situated districts which should be addressed by the panel, particularly in view of the comparability data in this area. It is the neutral chairperson's intent to make a recommendation which will be both consistent in numbers to the comparability group average and result in legitimate savings to the District.

The District panel member has convinced the panel chairperson that the chairperson's original suggested recommendation of increasing Elementary Preparation Time class size maximums in those grades from 20 to 25 students will not produce any salary savings or free up funds for the unit-wide salary recommendation here. Therefore, in view of the comparability data, the existing high cost of Elementary Preparation Time, and the demonstrated \$243,000 salary savings contained in the District's proposal, the panel majority recommends the District's proposal in this area.

#### RECOMMENDATION

The panel majority recommends an increase in the Elementary Preparation Time class size maximum in grades 1-3 from 20 to 30 students. It otherwise recommends no change to Section 9.1 - General - of the contract.

#### **ISSUE #4 - PHYSICAL EDUCATION CLASS SIZE - GRADES 6-8**

Section 9.2.3 of the current contract sets a class size limit maximum of 40 for Physical Education in Grades 6-8.

The Association proposes to reduce the maximum class size for Grades 6-8 Physical Education from 40 students to 30 students. In support of that proposal, it contends that the existing 40 student maximum is 10-20 more students than the maximum number in either elementary physical education or secondary academic classes. It argues that only 49.5% of District's Grade 6-8 students pass all six components of physical fitness under State-issues requirements, and that this passage rate would improve with the reduced class size maximum in this area. It asserts that the increased class size numbers in physical education between the elementary and secondary levels both compromise total student engagement and increase safety issues for both students and teachers. It claims that such high maximum class size numbers are not conducive either to teaching standards or to improving student fitness. It contends that the problems with such high class size maximums are particularly acute in inclement weather, since during such times students cannot be properly housed, activities cannot be properly conducted, and such indoor activities often interfere with lessons being conducted in other classes. Finally, it claims that the cost of its proposal would be equivalent to just ½ full time teacher.

The District opposes any change to the Grade 6-8 maximum class size level for Physical Education. In support of that position, it contends that the Association did not provide any real evidence or valid data demonstrating a compelling need to lower this class size maximum, particularly in the claimed safety issue area. It argues that the cost of the Association's proposal in this area would be equivalent to one full time teacher at an average cost of \$71,977. Finally, it argues that with the exception of three districts in its comparability

group, class size maximum for Physical Education in grades 6-8 exceed 40 in all other districts within that group.

#### DISCUSSION

While it appears that Physical Education class size maximums for grades 6-8 are among the highest in the District, and that there may be accompanying issues which arise from that larger class size maximum, the comparability data shows only a modicum of support for the Association-proposed class size reduction. The majority of comparable districts in the data presented have either equal or larger class size maximums in this area. There was additionally no specific showing that a decrease in Physical Education class size maximum would ipso facto result in improvements in student passage rates under State-issues requirements. In addition, while the parties disagree over the cost of the Association's proposal in this area, the panel believes that as a general rule, available dollars should be applied to bargaining unit-wide salaries and benefits, rather than to contract changes impacting only a small number of unit employees. The panel majority therefore recommends no change to the class size maximum for Grades 6-8 Physical Education.

#### RECOMMENDATION

The panel majority recommends no change to existing contract language of Section 9.2.3 concerning Grade 6-8 Physical Education class size maximum.

#### **ISSUE #5 - PRE-SCHOOL SPECIAL EDUCATION CLASS SIZE/CASELOAD LIMIT**

Section 9.4 of the contract addresses Special Education class sizes and caseloads. Section 9.4.2 sets forth that Special Day Education per school class size shall be 14 students, that the involved teacher shall receive \$13.61 per day per student for each student over 14, and that no Special Day per school class shall exceed 16 students.

The Association proposes a new Section 9.4.2(a), which would create a Special

Education pre-school caseload limit of 14, and a 5-to-1 student-to-adult ratio. In support of that proposal, the Association points out that Special Education pre-school and Structured Classroom Intensive Learning Program teachers are the only District teachers who are not protected by caseload/class size limits. It argues that contract caseload/class-size protection is necessary for the involved teachers to meet the students' Individual Education Plan (IEP) elements under State requirements in this area. It contends that the nature of the student involved, as well as the difficulty in teaching to state standards while providing for the safety of so many students, make the caseload limit necessary. Finally, it asserts that the District provides no opportunities for mainstreaming these students into regular District classes, which would reduce the number of such students in the classroom for part of the day.

The District resists inclusion in the contract of class size/caseload limits for preschool Special Day Education classes. In support of that position, the District argues that student enrollment in the District's one pre-school Special Day Class is not fixed at the beginning of a school year, but instead typically starts out very low and builds over a school year. It claims that such classes typically operate only four days per week for the pre-school program, with 2 to 2-1/2 hour morning and afternoon sessions consisting of no more than eight students. It asserts that establishing a class size limit of 14 could cause the need to add annually a pre-school instructional unit and the corresponding need each March to lay off the teacher from that position, at a District cost of up to \$5,000, in order to assure that the District does not spend General Fund dollars on Special Education programs. Finally, it contends that class sizes under Section 9.4 of the contract will remain in this area as required by the State Education Code, as well as at the 5 to 1 ratio set forth in the California Code of Regulations.

#### DISCUSSION

The evidence shows that the State Education Code and State Code of Regulations

appear to already provide that the student-to-staff ratio for Special Education pre-school classes shall not exceed 5 to 1, and it thus appears that a portion of the Association's proposal is already mandated by State law. It further appears that variations in Special Education pre-school student level occur during a school year, making the caseload/class size maximum proposed by the Association difficult and potentially costly to apply, particularly given the costs potentially associated with any District layoff of that teacher each year. Additionally, the panel believes that available dollars are better applied to across-the-board salary and benefit increases, rather than those limited in benefit to one or two teachers. This is particularly so where as here the District appears to already be in compliance with State laws and regulations in this area.

#### RECOMMENDATION

The panel majority does not recommend addition to the contract of the Association's proposal in this area, and instead recommends no change to the language of contract Section 9.4.2.

#### **ISSUE #6 - SECONDARY SPECIAL EDUCATION "MAINSTREAMING"**

Section 9.4.6 of the current contract provides in pertinent part that "No more than 4 elementary special day class students will be mainstreamed into any support music, P.E. or library classes in any time period."

The Association proposes a new Section 9.4.7, and a renumbering of the current Section 9.4.7 to 9.4.8. The new contract proposal would provide a limit of 4 Special Day Class or opportunity students in any secondary class. In support of that proposal, the Association contends that when there are more than four Special Day Class students in mainstream classrooms, it is very difficult for the teacher to meet the special needs of these students, as well as those of the up to 30 other regular education students in that classroom. It argues

that Special Day Class students require substantial support and individual attention in order to succeed, and that its proposed limits are crucial to student success in these classes. It asserts that multiple education levels must be taught and Individual Education Plan accommodations must be made in such classes – elements which are significantly more difficult when more than 4 Special Day Class students are in these classes. Finally, it argues that elementary teachers already have such a limit in Section 9.4.6 of the contract, and there is no basis for the District's variation in handling this area for secondary classrooms.

The District opposes the addition to Section 9.4 of the contract language at issue here. In support of that position, it argues that no other comparable district in its group has contract language that attempts to limit the number of special education or opportunity students in any secondary class. It contends that the proposal as presented by the Association has doubtful legal validity for any special education student whose parents wish to have their child in the least restrictive environment consistent with the student's Individual Education Plan.

#### DISCUSSION

Although the Association cited as a basis for its proposal in this area what it referred to as a "similar limit" in Section 9.4.6 concerning elementary classes, its proposal here in reality is significantly broader than Section 9.4.6, which addresses such a 4% Special Day Class student maximum being mainstreamed only into "...music, P.E. or library" classes. When that broader scope is considered in conjunction with the lack of any comparability data in this area, it is apparent that there is no support for the specific proposal in this area made here by the Association.

At the same time, however, the existence of some limitations in this area concerning elementary classes, along with the undeniable difficulty of teachers providing substantial

support and individual attention to such mainstreamed special education students while at the same time meeting the needs of the regular education students in the same classroom, make appropriate some limiting language in this area concerning secondary classes. In the panel's judgment, the existing language in the comparable Vallejo City Unified School District contract sets forth a degree of limitation in this area without hampering the ability of the District to meet the Individual Education Plan needs of students and federal and state requirements in this area. That language is therefore recommended.

#### **RECOMMENDATION**

The panel majority recommends the following contract language for a new Section 9.4.7 of the contract, and a renumbering of current Section 9.4.7 to Section 9.4.8.:

9.4.7 - Every effort will be made to balance the number of students with IEPs within all classes at each secondary school site. Special Education students shall not be mainstreamed into secondary classrooms that are at the contractually stated class size maximum limits.

#### **ISSUE #7 - SALARIES**

The current contract contains the 2006-07 teacher and counselor salary schedules in Appendix F. The teacher salary schedule based on a 183 day work year contains six lanes and twelve steps, plus career longevity increments based on length of service with the District. The current salary schedule amounts for certificated teachers range from \$44,296 at AB, Step 1 to \$75,790 at AB + 75, Step 12.

The Association proposes an across-the-board salary increase of 5.5%, retroactive to July 1, 2007. In support of that proposal, in addition to the Association ability to pay arguments set forth above, the Association argues that the District's 0% offer is entirely inconsistent with the 4.58% increase in State aid received by the District in 2007-08, as well as with the \$4.575 million in federal Impact Aid the District received for that year. It asserts that

among its Impact Aid district comparability group, the District generally ranks near or slightly above the median at all of the recognized benchmark comparison positions when those benchmarks are adjusted for benefits, but that it ranks 11<sup>th</sup> of the 12 districts in that group concerning District-paid health benefits contributions, and that District teachers have the highest employee out-of-pocket health insurance costs among those districts. It claims that the salary schedule places significant difficult obstacles to placement at the highest three columns of that schedule by requiring certain years of District service for such placements, and that these obstacles generally do not exist in comparable districts. It claims that the District's proposal would require bargaining unit members to absorb the entirety of the District's health insurance premium increases for 2007-08 – which range depending on the plan involved from \$956 to \$3,321, and that the District's offer would therefore be equivalent to a reduction in pay.

The Association further contends that the 4.58% State funding increase received by the District would be more than sufficient to pay for the Association's salary proposal, based upon the agreed-upon 1% salary cost of \$228,816. It asserts that over the last five years, the District's effort toward certificated bargaining unit compensation has declined from 50.08% to a projected 44.57% of the District's expenditures and outgo, that District salary schedule increases over the past ten years have not kept pace with annual increases in the District's Base Revenue Limit funding, and that over the same period salary schedule increases have barely kept pace with purchasing power when measured against as set forth in increases in the Consumer Price Index. Finally, it argues that the average 2007-08 salary increase among districts in its comparability group is 2.95%, while the average increase in the District's comparability group is 3.82%.

The District proposes no change to the existing salary schedule, and its offer is for a

0% salary schedule increase. In support of that proposal, in addition to the District's ability to pay arguments set forth above, the District contends that its average class sizes are lower than all but three districts in its comparability group as well as than the State average, and that such a position reflects a higher than average financial investment in classroom staff. It claims that the District has the highest teacher average cost among districts in its comparability group, with the large majority of District teachers earning between \$64,000 and \$84,000 per year. It argues that it spends approximately \$1,150,000 annually on elementary preparation time that comparable districts do not spend, and that this ongoing cost in this area is equivalent to about a 5% ongoing salary increase for those bargaining unit members. It asserts that it pays an average of \$870 more per teacher than the statewide average and about \$3,600 more per teacher on average than unified districts in seven Bay Area counties. It claims, contrary to the Association's contention, that an "apples to apples" comparison on step/column/longevity costs reveals a District cost of \$53,373 for such movement, equivalent to a .23% salary increase for 2007-08, and significantly more than the Association's claim in this area.

The District further argues that District salary settlements over the last twelve years have exceeded the cost of living as measured by the Consumer Price Index, and that such a comparison does not include increases to health and welfare benefits or step/column movement. It contends that the District's salary schedule is highly competitive when measured against its comparability group, with the District ranking first at the benchmarks BA + 60 Step 10 and Average Teacher Salary, and second at benchmarks BA + 30 Step 1 and Maximum Teacher Salary. It asserts that District teacher total compensation is among the highest in its comparability group, ranked second, first, third, and first, respectively, at the above benchmarks. It points out that District teachers also have a shorter workday than the

average in that group at only 6.5 hours per day. It contends that since the last factfinding settlement in 2004-05, the District is tied for the highest percentage salary settlement in its comparability group, and that its average compensation has been above the regional average since 1995-96. It claims that its commitment to teacher compensation is demonstrated when comparing the amount of average daily student attendance funding and the percent of expenditures spent on bargaining unit members when measured against those in its comparability group, with the District maintaining a #1 ranking at both of those comparisons. Finally, it contends that District career teacher earnings are the highest in its comparability group at the 10 year, 20 year, and the 25 year earnings calculations, and argues that its current offer would maintain at that position all three of those rankings as well as maintaining the District's ranking in average salary paid.

#### DISCUSSION

The parties have essentially been at impasse since negotiations on this contract began in March, 2007 and obviously philosophically disagree as to the breadth of the District's financial difficulties and the District teachers' current relative standing among districts which might be comparable under the EERA. More specifically, they philosophically disagree about the propriety and utility of the District's 0% salary offer, which the District has maintained at all times since the beginning of these negotiations.

Prior to specifically discussing the panel majority's view of whether a salary increase is appropriate under the evidence presented and if so, what level of such increase is appropriate, it is our belief that certain background elements should first be briefly addressed, which the panel majority believes legitimately impact the proper salary recommendation for the District for 2007-08. Those elements are set forth below.

First, when current salary levels alone are considered, it is apparent to the panel

majority that District teachers are quite well compensated in comparison to teachers in districts in both the District's and the Association's comparability groups. In the District's comparability group, Association-represented teachers rank first at the BA + 60 Step 10 and Average Teacher Salary benchmarks, and second at benchmarks BA + 30 Step 1 and Maximum Teacher Salary, and rank second, first, third and first, respectively, at those benchmarks in total teacher compensation. The District's career total teacher earnings are also the highest in the District's comparability group at the 10 year, 20 year, and 25 year calculation levels. Those salary schedule benchmark rankings are also significantly supplemented for many of the bargaining unit personnel by the approximately \$1.15 million per year which the District spends on elementary preparation time – a cost equivalent to about 5% additional on the salary schedule for those teachers and one which is not even approached among comparable districts. In addition, in large part because of the experience of its teaching staff, the District's average salary is likewise the highest within its comparability group.

Even among the Association's comparability group, District teachers rank favorably at virtually all levels when salary only is compared. The District ranks third among the twelve districts in that group at BA + 30 Step 1, fourth at BA + 45 Step 5, second at BA + 60 Step 10, first at BA + 75 Step 12, and eighth at Maximum Earnable Salary, at levels well above the averages at those benchmarks except at Maximum Earning Salary. It is apparent when such salary only data is compared that District teachers should not receive the level of salary increase contained in the Association's proposal, which given the average settlement data would increase those already-existing significant advantages at virtually every comparability level and group.

Second, while the District does not compare as well when salary and benefits combined are compared, the District remains above the average at each of the above levels

in the Association's comparability group except at the benchmark of Maximum Earnable Salary, at levels between \$1,400 and \$5,400 above the averages for salary and benefits for those benchmarks. In the District's comparability group, District teachers rank in total compensation second at the Beginning Teacher level, first at BA + 60 Step 10, first at Average Total Compensation, and third at Maximum Total Compensation. Although District teachers do have a relatively high out-of-pocket insurance cost and a relatively low District insurance contribution, the data shows a limited impact of those elements upon District teachers' relative advantages in these comparability groups.

Third, although the Association is largely correct that much of the District's claimed financial distress is projected for future years rather than for the year of 2007-08 in dispute here, Section 3547.5 of the EERA requires the District to consider contractual agreement costs for both the current and subsequent years, and to certify that the District can meet the costs incurred in those years under the contract. That Section provides as follows:

3547.5. (a) Before a public school employer enters into a written agreement with an exclusive representative covering matters within the scope of representation, the major provisions of the agreement, including, but not limited to, the costs that would be incurred by the public school employer under the agreement for the current and subsequent fiscal years, shall be disclosed at a public meeting of the public school employer in a format established for this purpose by the Superintendent of Public Instruction.

(b) The superintendent of the school district and chief business official shall certify in writing that the costs incurred by the school district under the agreement can be met by the district during the term of this agreement. This certification shall be prepared in a format similar to that of the reports required pursuant to Sections 42130 and 42131 of the Education Code and shall itemize any budget revision necessary to meet the costs of the agreement in each year of its term.

(c) If a school district does not adopt all of the revisions to its budget needed in the current fiscal year to meet the costs of a collective bargaining agreement, the county superintendent of schools shall issue a qualified or negative certification for the district on the next interim report pursuant to Section 42131 of the Education Code.

Although it is also true as the Association suggests that much of the projections for

such future costs are no more than educated guesses, the panel believes that this element likewise impacts the propriety of a panel recommendation anywhere near that contained in the Association's proposal.

Fourth, while the parties disagree concerning the cost of District salary schedule step/column/longevity movement, it is clear that, whatever the proper amount is, that amount is relatively small, and should have little impact upon the panel's recommendation. District data shows that 191 of the District's 302 teachers did not receive a step or column increase in 2007-08 because they were at the top of their lane or at the end of the salary schedule. At the same time, while that evidence reflects little step/column costs, it also reflects the substantial District costs associated with so many teachers being at the top of their lanes.

Fifth, the Association's data on the average salary settlements for 2007-08 (the District did not provide such data) shows that the average salary increase among those federal Impact Aid districts which have reached contract agreement is 2.95%, and the average among those contract settlement districts in the District's comparability group is 3.82%. Given the highly favorable position of District teacher compensation when compared to compensation received among districts in both of those comparability groups, the data supports a salary recommendation here which is lower than the average in each of those groups.

Sixth, the panel majority's recommendation herein concerning maximum Elementary Preparation Time class size will, according to the District's data, decrease ongoing salary costs by 3.25 FTE teachers, or \$234,000. That savings is properly applied toward the unit-wide salary increase recommended here by the panel majority.

Finally in this area, while the District has shown the likelihood of at least a degree of financial difficulty particularly in future years, the data simply does not support the 0%

proposal of the District here, and instead supports a relatively small, across-the-board increase. Every other district except two which has achieved contract agreement in both the parties' comparability groups has recorded at minimum a 1.5% salary schedule increase, and there was no showing that the District's financial difficulties are worse than even the most financially challenged of those districts. These elements, as well as the discussion infra concerning the District's ability to pay, in the panel majority's judgment, supports a salary increase of at least that amount here.

In view of all of the evidence and particularly of the above-cited elements, the panel majority recommends a salary increase of 2.15% across the board for all District teachers, retroactive to November 1, 2007. Such an amount would provide a 2.15% benefit to District teachers at a District cost of 1.72% over the current salary level, for a total dollar cost based on the agreed-upon 1% increase cost amount of less than \$400,000, not counting step/column/longevity. Such a recommendation would provide significant deference to the District's current and future potential financial difficulties, while at the same time likely preserving District teachers' highly favorable positions at virtually every salary schedule benchmark among comparable employers, as well as the existing advantages in class size and length of workday. Based upon District average salary amounts, it would at minimum allow District teachers to cover any dollar increase that occurred in the health care benefit for 2007-08, and thus not result in a compensation decrease for any bargaining unit employee. This amount would also continue to be supplemented under this recommendation for District elementary teachers by the existing highly favorable elementary preparation time pay teachers receive when viewed against comparable districts. Finally, in view of the above discussion concerning the subject of the District's ability to pay, that cost amount is affordable to the District, particularly given its relatively low cost.

## RECOMMENDATION

In the area of salary, the panel majority based upon all of the evidence recommends that the parties agree to a 2.15% salary increase across the board for the 2007-08 year, retroactive to November 1, 2007.

## CONCLUSIONS OF LAW

In accordance with EERA Section 3548.2, the factfinding panel majority, for reasons set forth above, hereby recommends as follows:

ISSUE #1 - ABILITY TO PAY - That the District does have the ability to pay both an amount above its 0% salary offer here, and the salary recommendation of the factfinding panel set forth below.

ISSUE #2 - ASSOCIATION RELEASE TIME - That the parties agree to no change to section 4.6 of the contract concerning Association Leave.

ISSUE #3 - CLASS SIZE - GENERAL - That the parties agree to an increase in the Elementary Preparation Time class size maximum in Grades 1-3 from 20 to 30 students, and that Section 9.1 - General - of the contract otherwise remain unchanged.

ISSUE #4 - GRADE 6-8 PHYSICAL EDUCATION CLASS SIZE MAXIMUM - That the parties agree to no change in the existing contract language of Section 9.2.3.

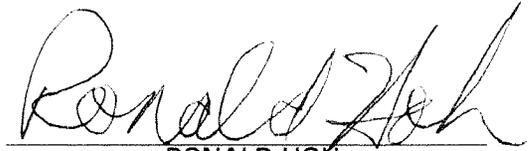
ISSUE #5 - PRE-SCHOOL SPECIAL EDUCATION CLASS SIZE/CASELOAD LIMIT - That the parties agree to no change in the language of contract Section 9.4.2.

ISSUE #6 - SECONDARY SPECIAL EDUCATION 'MAINSTREAMING' - That the parties agree to the following contract language for a new Section 9.4.7 of the contract and to a renumbering of current Section 9.4.7 to Section 9.4.8:

9.4.7 - Every effort will be made to balance the number of students with IEPs within all classes at each secondary school site. Special Education students shall not be mainstreamed into secondary classrooms that are at the contractually stated class size maximum limits.

Issue #7 - 2007-08 SALARIES - That the parties agree to a 2.15% across-the-board salary increase for all bargaining unit employees, retroactive to November 1, 2007.

August 10, 2008

  
\_\_\_\_\_  
RONALD HOH  
Factfinding Panel Chairperson

Concur       Dissent

\_\_\_\_\_  
GREGORY DANNIS  
District Panel Member

Concur       Dissent

\_\_\_\_\_  
THEODORE BYNUM  
Association Panel member

FACT FINDING PROCEEDINGS UNDER  
CALIFORNIA GOVERNMENT CODE SECTIONS 3548.2 AND 3548.3

In the Matter of a Dispute	)	
	)	
Between	)	
	)	
TRAVIS UNIFIED	)	CONCURRING OPINION,
SCHOOL DISTRICT	)	ASSOCIATION MEMBER OF
	)	THE FACT FINDING PANEL
	)	
And	)	PERB NO. SF-IM-2760-E
	)	
TRAVIS UNIFIED TEACHERS	)	
ASSOCIATION CTA/NEA	)	
	)	

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FACT FINDING PANEL

Ronald Hoh, Panel Chair  
Gregory Dannis, District-Appointed Panel Member  
Theodore R. Bynum, Jr., Association-Appointed Panel Member

HEARING

JUNE 16, 2008

APPEARANCES

Lawrence M. Schoenke, Attorney  
Miller Brown & Dannis  
For the District

Martin A. Kahn, Emeritus  
Negotiations Specialist  
California Teachers Association

**CONCURRING OPINION OF THE ASSOCIATION APPOINTED PANEL MEMBER**

The issues involved in this matter are crucial to the quality of education students of the Travis Unified School District receive. Quality education in Travis is a necessity, an expectation and an imperative that must be satisfied with purposeful

action not promises. This community, above many others has voted funding to ensure it. Anything else is unacceptable. Having highly qualified and well-compensated teachers are the necessary keys to maintaining an exceptional program. All of the research supports this view. Travis teachers are among the best in the nation. They have not been compensated according to the effort made by the taxpayers of this District and the District's ability to pay more. We ask that the parties use this report as one small step to secure this goal.

The Chair has been diligent, persuasive and presents a fair, reasoned and more than affordable resolution. He should be commended for his forthrightness and skill in crafting these recommendations. I urge the adoption, at a minimum, of the 2.15% salary increase.

### **CONCURRENCES:**

I concur with the recommendation of the Chair regarding the Issue #1, the Ability to Pay.

Issue #2 - Association Release Time - My concurrence with this issue is an effort to compromise and reach agreement between the parties.

Issue #3 - Class Size in General - I concur in part. I concur that there should be no change in increasing elementary class size, and that Section 9.1 remain unchanged.

Issue #4 - Grades 6 thru 8 Physical Education Class Size Maximum - I concur with this recommendation on this issue. My concurrence with this issue is an effort to compromise and reach agreement between the parties.

Issue #6 - Secondary Special Education Mainstreaming - I agree with the panel that the parties have agreed to the following contract language for a new Section 9.4.7 of the Contract and the renumbering of 9.4.7 to 9.4.8:

9.4.7 - Every effort will be made to balance the number of students with IEPs within all classes at each secondary school site. Special Education students shall not be mainstreamed into secondary classrooms that are at the contractually stated class size maximum limits.

Issue #7 - Salaries - 2007-2008 - I concur with the recommendation - that the parties agree to a 2.15% across the board increase for all bargaining unit employees retroactive to November 1, 2007. I agree to this issue, Salary, as a compromise to settlement of this dispute. Much more could be and should be paid Travis Teachers.

## **DISSENTS:**

I dissent in the opinion with Preparation Time - Class Size Maximum in Grades 1-3 from 20 to 30 students be increased in grades 1-3 from 20 to 30 students. This move I believe to be educationally unsound and not in keeping with the needs of the students. Such a move hinders learning and teaching of State mandated subjects.

Issue #5 - Pre-School Special Education Class Size/ Caseload Limit - I dissent in this recommendation because I think it was clear from the Association expert that establishing such a case load limit is a necessity and should be easy to enact.

I present the following data and argument hoping that the facts presented will motivate the parties to settle the dispute and in hope that the community will insist upon a settlement that fairly compensates teachers.

## **ISSUE: ABILITY TO PAY**

**1. The District has the ability to pay for the Association's proposed salary increase because it received a 4.58% state funding increase in 2007-08.**

The 2007-08 year is the contract year in dispute in this factfinding. In this year the Travis District received a 4.58% increase to its basic unrestricted state funding (Base Revenue Limit per Average Daily Attendance or BRL/ADA). This increase represented an additional \$252 per ADA bringing its BRL to \$5,755.37 per ADA. Combined with a 37 increase in ADA, increased basic unrestricted state funding to the District totals \$1,489,963.73. Given that the cost of a 1.0% increase to all unit member salary schedules and stipends with salary driven statutory costs is \$228,816, new basic unrestricted state revenue is more than sufficient to fund the Associations proposal.

**2. The District has the ability to pay for the Association's proposed salary increase because the District has no increased costs for bargaining unit medical benefits.**

The District's contribution to bargaining unit medical benefits is fixed at \$4,800 per year. Neither party is proposing to increase that amount in 2007-08. Premium increases for medical benefits will have to be absorbed by the employees in amounts that could exceed \$2,500 additional per year. In the past, the Association has relied in salary increases to help its members offset increases to medical benefit premiums. The District proposal for no salary increase leaves bargaining unit members to absorb all benefit cost increases.

Because none of the increase in state funding described above will be used to increase the district's contribution to medical benefit, all those new dollars are available for a salary increase.

**3. The District has the ability to pay for the Association's proposed salary increase because the District has little or no increase cost for employee step and column advancement on the salary schedule.**

Although some Association bargaining unit members do advance a step or column on the salary schedules each year, the cost of such advancement is often offset by senior employees leaving the salary schedule through retirement or resignation. An analysis of the net cost of step/column advancement in Travis shows that, for this year, the net "cost" to the District ranges from a savings of - \$5,056 or a cost of \$18,527 depending on the cost of newly hired employees. This analysis is based on the cost of the 2006-07 salary schedule with the 2006-07 placement compared to the cost of the 2006-07 salary schedule with the 2007-08 placement. The Association's analysis is not contradicted by the District.

Because virtually none of the increase in state funding described above will be used to pay for step/column increases, all those new dollars are available for a salary increase.

**4. The District has the ability to pay for the Association's proposed salary increase because the District is budgeted to receive \$4,575,648 in Federal Impact Aid.**

As analyzed above under comparability, Travis receives annual unrestricted Federal Impact Aid because it operates schools on the Travis Air Force Base, and enrolls many students who are military dependents living both on and off the Air Force base. The District now calculates that that it will receive

\$4,575,648 in Impact Aid for 2007-08, and amount only \$174,480 below the \$4,750,128 it received in 2006-07. Interestingly, for 2007-08, the year in dispute, the District in its adopted budget originally estimated Impact Aid at \$4,282,882, but now indicates it will be \$4,575,648, and increase of \$292,766. Although the District argues that Impact Aid may decline over the next three years, such a decline is based only on projections, and the Association argued that projections have a way of being wrong. The District's own projection for 2007-08 alone was off by over \$290,000. In addition, the District's own analysis shows that Impact Aid does fluctuate over time but does seem to average out of a period of years.

Because Travis receives a significant amount of unrestricted Federal Impact Aid, the District has the enhanced ability to pay for the Association's proposed salary increase.

**5. The District has the ability to pay for the Association's proposed salary increase because the District's unrestricted, unallocated 2007-08 ending fund balance continues to grow.**

The District's 2007-08 2<sup>nd</sup> Interim Financial Report (as of 1/31/08) showed that the District would end the year with an unrestricted, unallocated amount of \$556,390. However, in calculating its 2007-08 3<sup>rd</sup> Interim Financial Report (as of 5/20/08), the unrestricted, unallocated amount now stands at \$1,085,852, a \$529,462 increase over the 2<sup>nd</sup> Interim Report. This amount is above and beyond the District's 3.0% reserve for economic uncertainties.

The District has the ability to pay for the Association's proposed salary increase because the \$1,085,852 is available for a compensation increase, and alone represents a 4.75% increase (based on the cost of a 1.0% increase) for Association members.

**6. The District has the ability to pay for the Association's proposed salary increase because the District's effort toward employee compensation has declined over the past 5 years.**

The effort the District has made toward Association bargaining unit compensation can be measured in part by the percent of total district expenditures and other outgo each year that goes to pay for Association bargaining unit member salaries and stipends. Based on the District's 2007-08 3<sup>rd</sup> Interim Financial Report, bargaining unit salaries and stipends will amount to only 44.57% of total district expenditures and outgo. In 2006-07 the percent was 49.76, and over the last five years it was as high as 50.08% in 2004-05. Although

the District argued that it has made a substantial effort toward bargaining unit compensation, the decline in the percent of outgo committed to bargaining unit salaries contradicts the District's argument.

A reason for the steep decline in the 2007-08 percentage is that the District did receive a significant increase in state funding as argued above, yet offers no increase in bargaining unit salary. Therefore the District has, to date, chosen to spend part of its increased funding in areas other than bargaining unit compensation. The Association argues for maintenance of effort on the part of the District. The District has the ability to stem its decline in effort by committing its increased 2007-08 revenue to bargaining unit salaries.

**7. The District has the ability to pay for the Association's proposed salary increase because the District's effort toward employee compensation has not kept pace with increased funding over the last 10 years.**

Since 1997-98, the Travis District's annual increase in unrestricted state Base Revenue Limit funding increased by a net total of 49.01%. During the same period, Association bargaining unit salaries increased by a total of only 35.10%.

The Association again argues for maintenance of effort on the part of the District. In each of the past 10 years, where there was an increase in state funding, the District negotiated a salary increase, albeit at a percentage below the increased funding percentage. The District's proposal for no salary increase at all this year is inconsistent with its limited past efforts.

**8. The District's inability to pay argument is based only on budget projections for 2008-09 and beyond, and not based on the reality of 2007-08.**

The contract year that is at impasse in this dispute, and that is properly before the Factfinding Panel is 2007-08. Yet the District bases virtually all of its inability to pay argument on projections, what might happen, in 2008-09 and two or three years beyond. The District does not base its inability to pay argument on its 2007-08 revenue, expenditures and balances all of which become more certain as this fiscal year draws to a close.

The Association argues that projections beyond the current year are at best a weak look into the future, and in retrospect are rarely accurate. Those projections often miss the level of future state funding increases, the changes in state funding deficits, and funding of equalization aid to districts (of which Travis is a major beneficiary). The Panel should treat such projections lightly.

Further, the District has not contradicted any of the Association's analysis of what is actually happening to the District's revenue and expenditures in 2007-08. The District does not contradict the fact that the District received a 4.58% increase in state funding that resulted in \$1,489,964 in additional state funding, or that it will now receive \$292,766 more in Federal Impact Aid than it originally stated in its 2007-08 adopted budget. In addition, the District does not contradict the fact that it will have no increased costs for step/column advancement or for medical benefits. Therefore the District cannot defend its proposal for no salary increase based on an inability to pay in 2007-08. **For all of the reasons stated above, the District does have an ability to pay for the 2.15% increase recommended by the panel, at a minimum and the greater increase recommended by the Association.**

#### **ISSUE: SALARY INCREASE FOR 2007-08**

The Association concurs on this issue for the sake of compromise to reach settlement. The issue before the Factfinding Panel was what should be the percent increase, if any, to Association bargaining unit salaries for 2007-08? Based on the above analysis showing that the District has the ability to pay, and the reasons to be discussed below, the Association argues that a 2007-08 salary increase is both doable and necessary.

#### **1. When compared to other school districts in California that receive significant Federal Impact Aid, Travis bargaining unit member salaries are just average.**

Looking at the five salary schedule benchmarks (BA+30 Step 1, BA+45 Step 5, BA+60 Step 10, BA+75 Step 12, and Maximum Attainable) of the twelve districts, Travis is above the average at two benchmarks, near the average at two benchmarks, and below the average at one benchmark.

#### **2. When compared to other school districts in California that receive significant Federal Impact Aid, the Travis District provides the lowest contribution to employee health benefits.**

Among the twelve districts analyzed, the Travis District's contribution to unit member health benefits ranks 11/12 in District cost per unit FTE's; ranks 10/12 in weighted average cost per FTE's enrolled in health plans; ranks 11/12 in maximum possible district contribution to unit member health plans. Further, Travis unit members' high out-of-pocket-costs rank them 3<sup>rd</sup> lowest out of 12, among these districts. As discussed earlier, Travis bargaining unit members bear

the burden of paying more and more out-of-pocket to cover the increasing cost of medical benefits.

**3. When compared to other school districts in California that receive significant Federal Impact Aid, “total compensation” for Travis unit members is below average.**

Combining salary schedule benchmarks with the maximum district contribution to unit member health benefits yields an amount of “total compensation”. Travis unit member’s total compensation ranks below average on 4 of the 5 benchmarks, and average on one benchmark.

**4. The average negotiated salary increases for 2007-08 range from about 3.0% to almost 4.0% within any comparison group presented in Factfinding,**

The average negotiated 2007-08 salary increase among the eleven other Federal Impact Aid districts that have settled is currently 2.95%. Even using the District’s comparable list of Solano County districts, the average increase is currently 3.82%.

A salary increase is supported by the facts, and for all of the reasons stated above, the Factfinding Panel should recommend a salary increase in line with the Association’s proposal.

**ISSUE: CLASS SIZE (Create Preschool Caseload of 14)**

The Association dissents on this issue. The Association made a compelling and un rebutted case for creating caseload limits for the preschool classes which serve students ages 3 to 5 with severe special needs including autism, mental retardation, ADHD, hearing and orthopedic impairments, and communication delays. Law requires non-disabled peers be enrolled in the class to serve as communication and behavior role models. These students would not be part of the caseload limit, as they do not have Individualized Education Plan; however, they do require the teacher’s time and attention. The number of assessments, IEP reviews, and individualized planning required for special education students of this age is extremely time-consuming. Working with the parents is also required to assist with teaching self-help skills, toilet training, communication skills, and social skills.

This District argued that class size started low and increased throughout the year. In actuality, the class began the 2007-08 year with ten students and had fifteen students enrolled by November Most of the referrals for this class come from the Special Education Preschool class at Scandia. Additional referrals

would be made if the self contained class was not already exceeding manageable limits. Testimony supported the Association regarding the class in running two sessions a day; the 4 and 5 year old preschoolers attend class 5 days a week while the 3 year old students attend four days a week. Considering this specialized population and the importance of early intervention, fourteen students is the absolute maximum caseload that will allow for success in meeting these students' individual special needs.

### **Class Size: Rebuttal to Elementary Prep Time Coverage**

The Association dissents on this issue. The District sought to increase the class size limits from 20 to 30 in first through third grades in classes that provide elementary teachers' preparation time, but does not make its case! The Association's contended that these classes, including Physical Education and Music, are integral to the child's whole education and have academic benefits as well. Academic classes (K-3) are limited to twenty students in our collective bargaining agreement to insure quality education. Whether students are learning math or musical concepts, class sizes of twenty are optimal and increasing class sizes runs counter to best practice, a multitude of research to the contrary and unrebutted testimony. The Association believes that to implement this provision the District will lose substantial funding from the state for increasing K-3 class sizes. The District's demand is without merit and should be denied.

### **CONCLUSION:**

I urge the parties to accept this salary recommendation as minimum, looking to provide greater compensation to maintain the high level of teacher excellence and to attract additional highly qualified teachers. I urge the parties to keep prep-time teacher class size maximums at 20 to 1 to maintain the excellent learning environment.

- Concur*  
*TRB* ISSUE #1 - ABILITY TO PAY - That the District does have the ability to pay both an amount above its 0% salary offer here, and the salary recommendation of the factfinding panel set forth below.
- Concur*  
*TRB* ISSUE #2 - ASSOCIATION RELEASE TIME - That the parties agree to no change to section 4.6 of the contract concerning Association Leave.
- Concur*  
*TRB* ISSUE #3 - CLASS SIZE - GENERAL - That the parties agree to an increase in the Elementary Preparation Time class size maximum in Grades 1-3 from 20 to 30 students, and that Section 9.1 General - of the contract otherwise remain unchanged. *Dissent*  
*TRB*
- Concur*  
*TRB* ISSUE #4 - GRADE 6-8 PHYSICAL EDUCATION CLASS SIZE MAXIMUM - That the parties agree to no change in the existing contract language of Section 9.2.3.
- Dissent*  
*TRB* ISSUE #5 - PRE-SCHOOL SPECIAL EDUCATION CLASS SIZE/CASELOAD LIMIT - That the parties agree to no change in the language of contract Section 9.4.2.
- Concur*  
*TRB* ISSUE #6 - SECONDARY SPECIAL EDUCATION 'MAINSTREAMING" - That the parties agree to the following contract language for a new Section 9.4.7 of the contract and to a renumbering of current Section 9.4.7 to Section 9.4.8:

9.4.7 - Every effort will be made to balance the number of students with IEPs within all classes at each secondary school site. Special Education students shall not be mainstreamed into secondary classrooms that are at the contractually stated class size maximum limits.
- Concur*  
*TRB* Issue #7 - 2007-08 SALARIES - That the parties agree to a 2.15% across-the-board salary increase for all bargaining unit employees, retroactive to November 1, 2007.

August 10, 2008

\_\_\_\_\_  
Chairperson

RONALD HOH  
Factfinding Panel

Concur      Dissent

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GREGORY DANNIS  
District Panel Member

Concur

Dissent

*Theodore R. Bynum Jr.*  
*As specified above* 8/15/2005

THEODORE BYNUM  
Association Panel

member

**IN THE MATTER OF THE FACTFINDING BETWEEN**

**TRAVIS UNIFIED SCHOOL DISTRICT**

**PUBLIC EMPLOYER**

**PERB CASE NO. SF-IM-2760-E**

**AND**

**TRAVIS UNIFIED TEACHERS ASSOCIATION**

**EMPLOYEE ORGANIZATION**

**CONCURRING AND  
DISSENTING REPORT AND  
OPINION BY GREGORY J.  
DANNIS, DISTRICT PANEL  
MEMBER**

**INTRODUCTION**

The Chair of the Panel writes a long and detailed Final Report for use by the parties and, as the District Panel Member, I thank him for his intensive efforts. However, I cannot totally concur in that Final Report for the reasons stated in this Concurring and Dissenting Report and Opinion.

The Travis Unified School District is on the cusp of financial disaster. It did not happen overnight and will not be resolved in a short time. However, the District must start to fix this problem now and all parts of the school community must contribute to that effort. This situation has many internal and external causes, not the least of which are the State Budget deficit and the Federal Government cut backs in Impact Aid over the last six years. In addition, the District has over the years implemented a generous teachers' salary schedule and maintained class sizes that are smaller than its neighboring school districts. Those latter two items are good things, but in hard financial times they become costly and difficult to maintain. Since salary and benefits are almost 90% of the District's budget, a significant source of savings must necessarily come from

that area. The District offer of 0% for 2007-08 is just the small first step to deal with the ongoing budget issues.

By recommending a salary increase, although described as modest, the Panel Report pushes the District closer to the “tipping point” past which the District may not be able to fund the necessary and important programs for the students of the District from its ongoing revenues. This raises a whole host of problems and issues the scope of which cannot be even foreseen at this point, but, as school districts under State administration can attest, would not be in the best interest of students and families in the community.

**ISSUE #1 - DISTRICT ABILITY TO PAY**

**While Implicitly Finding that the District Cannot Pay the TUTA Demand for 5.5%, the Final Report Is Misleading In Finding An Ability To Pay More than 0%.**

*A. There Is An Invalid Assumption Regarding Projected COLA Revenue For The 2008-2009 State Budget That Necessarily Invalidates The Recommendation And The Conclusions Stated Therein.*

In the second paragraph of the DISCUSSION of Issue #1 – District Ability to Pay – it is stated that the COLA for the revenue limit for 2008-09 is 5.66% based on the Governor’s May Revise. This is a serious and fundamental error since all indications are that this amount will be deficated to 0% COLA. The assumption of this level of funding or any level near 5.66% necessarily invalidates the Recommendations and conclusions regarding the District’s ability to pay and the neutral’s recommended salary increase. While it is stated that “it is more than possible that at least a portion of that amount will be restored when agreement on the State budget is reached,” there is no evidence in the Record or any glimmer of optimism in the reports from Sacramento that this is possible, let alone probable. By making a recommendation based on an illusory hope, both the bargaining unit and the public will be misinformed and misled.

All of the documents provided in the Hearing reflect that the 5.66% statutory COLA for 2008-09 will not be funded; rather, it will be deficated by the same amount, resulting in an effective COLA on the revenue limit of 0%. On page 30 of the District's Binder, the School Services Projection Dartboard (the use of which is mandated by the Solano County Office of Education and the California Department of Education) states that the COLA will be effectively deficated by 5.66% - for a Net Funded Revenue Limit Change of 0% for 2008-09.

This information is unrefuted, was not challenged at the hearing, and is consistent with all published information on this matter. Therefore, since the recommendations and conclusions regarding ability to pay and salary are at least partially dependent on an erroneous assumption that there will be increased revenue in 2008-2009, such recommendations and conclusions are invalid and must be changed accordingly.

***B. There Are Budget Assumptions Which Are Not Supported By The Evidence; The Calculations On Funds Available Are Based On Erroneous Assumptions That Invalidate The Recommendation And The Conclusions.***

In that same paragraph referenced above, the Final Report states, apparently relying on the TUTA calculation from their Tab 22 (which does not account for adds and deducts required by CDE), that the revenue limit unrestricted increase from 2006-07 to 2007-08 was \$1,489,764. Added to that figure is the TOTAL federal impact aid in the amount of \$4,575,648 for 2007-08 for an overall total of \$6,065,412 available new money in 2007-08. Even assuming for the sake of argument that the \$1,489,764 figure is true (a point not conceded), by misconstruing the \$4,575,648 as "new" or "additional" federal impact aid over that received in 2006-07, the \$6,065,412 total amount stated is necessarily erroneous. This finding uses already encumbered

(spent) money (for salaries and all other ongoing expenses) as if it were free and available to fund a salary increase, when in fact this money is not available at all.

The actual amount of federal impact aid received in 2007-08 compared to 2006-07 was a decrease of \$174,477 (see page 35 of the District Binder), giving the District (using TUTA numbers) \$1,315,287 in increased unrestricted funding for 2007-08, not \$6,065,412.

Also, this calculation does not take into account increases in expenditures (some of which exceed the COLA by substantial amounts) for other ongoing non-salary items in the budget, such as maintenance and operations, books and supplies, utilities, fuel for busses, and other ongoing costs, making that amount of \$1,315,287 not totally available for salary increases. This is shown by the Third Interim Report spreadsheet (page 56 of the District Binder) indicating an ending unappropriated balance of \$1,051,953 for 2007-08. However, as the District pointed out, the deficit for 2008-09, even without a salary increase, will be \$926,890, which, in this current budget year, wipes out the 2007-08 ending balance.

While it is acknowledged in the Report that “significant portions of that amount [the federal Impact Aid] are not available for salary increases,” it continues to recommend a salary increase and does not acknowledge that the identified federal funds are unavailable for a salary increase, mainly due to the high salary schedule and small class sizes already maintained by the District. Also, it is noted that TUTA argues, “that, among other unified districts in Solano County, the District receives nearly 9% more in federal aid than the average among those districts.” However, there is no follow up comparison which would show that the District is much more than 9% ahead (up to 26% in some cases) of the neighboring districts in total salary paid after 10, 20, and 25 years (except for Fairfield-Suisun USD, which just gave a 5% raise, and Travis remains 4 to 6 % ahead of that district even with its 5% raise). (See pages 163-164 of the

District Binder.) Clearly, the District's federal Impact Aid is being primarily spent to support the current very high salary schedule and low class size in the District and nothing is available for salary increases.

***C. The "Inability to Pay" Recommendation is not Responsive to the Specific Issue Presented. The Issue is whether the District is Able to "Pay" TUTA's proposed Salary Increase, the Answer to Which is Clearly "No." The Issue is not whether the District is Able to "Pay" for a Salary Increase Greater than Zero.***

The Report recommends that "[t]he District has the ability to pay for a 2007-08 salary increase more than its 0% offer here, and likewise has the ability to pay the 2007-08 salary recommendation set forth below." By clear implication, this Recommendation supports the District's position that it cannot afford to pay the 5.5% demand by the Union. However, this finding, as written, creates confusion by not deciding the issue at hand.

I am not aware of or familiar with any Factfinding Report in my 28 years of experience in which the inability to pay question is answered with a conclusion to a different question – whether the District is able to pay anything. Rather, it is my experience that the inability to pay question is properly confined to whether the District can afford to pay for the Union's proposal. The ability to pay question is not directed toward whether the District can afford to pay more than it is offering.

The conclusion as currently written unfairly reverses the inquiry at hand and shifts the burden of proof and persuasion to the District, thereby making it appear that the District did not prevail on a position it was never required to defend – whether it could afford to pay more than its own offer. It is the Union that was required to prove that the District could afford the Union's offer – a position that the Union clearly did not prove. If this conclusion remains as written, this

“reversal” of the issue and the burden of proof and persuasion will mislead the bargaining unit and the public to understand that the District did not prevail on this issue when, in fact, it did, as otherwise acknowledged in the Report.

By contrast, it is certainly appropriate to discuss in the salary section in Issue #7 whether and to what degree, if any, the District can afford to fund any compensation increase (not conceded at this point). Based on all the evidence and the proper, usual, and customary framing of the ability to pay question, however, it is the inability to pay TUTA’s 5.5% demand that must be determined here. The Recommendation is invalid and must therefore be re-framed to state the District has established that it does not have the ability to pay for a 5.5% increase to the teacher salary schedule as demanded by TUTA.

#### RECOMMENDATION

The District does not have the ability to pay for a 2007-08 salary increase of 5.5%.

#### ISSUE #2 - ASSOCIATION RELEASE TIME

I concur with this Recommendation.

#### RECOMMENDATION

The panel recommends no change to the contract Section 4.6 concerning Association Leave.

#### ISSUE #3 - CLASS SIZE - GENERAL

*A. This Recommendation Does Not Provide The District With The Flexibility Sought By The District In Its Proposal Or The Flexibility That Almost All Comparable Districts Have At The Grades 7-12.*

By not recommending the class flexibility at Grades 7-12 available to almost all of the District comparable districts, the District will continue to incur an annual cost of \$90,000 (see page 116 of the District Binder). This amount of money is not currently budgeted and is not accounted for in either the Discussion of Inability to Pay or on the Salary issue. In addition, this Discussion asserts that the flexibility sought by the District should be obtained through the negotiations process. This is precisely what the District attempted to do, without success. As such, our statutory process calls for the issue to be addressed at the third stage of this negotiations process – factfinding. Therefore, based on the comparability data presented at the hearing, this Recommendation should include this part of the District’s proposal.

This change should be recommended.

***B. Increasing Elementary Prep Class Size to 30 Students in Grade 1-3.***

I concur in the Recommendation on Elementary Prep Class Size.

**RECOMMENDATION**

The panel should have recommended the language for Article 9.1 presented by the District at the table and at the Hearing on both the secondary flexibility and the Elementary Preparation Time class size maximum in grades 1-3 from 20 to 30 students.

**ISSUE #4 - PHYSICAL EDUCATION CLASS SIZE - GRADES 6-8**

I concur with this Recommendation.

**RECOMMENDATION**

The panel recommends no change to existing contract language of Section 9.2.3 concerning Grade 6-8 Physical Education class size maximum.

**ISSUE #5 - PRE-SCHOOL SPECIAL EDUCATION CLASS SIZE/CASELOAD LIMIT**

I concur with this Recommendation.

RECOMMENDATION

The panel does not recommend addition to the contract of the Association's proposal in this area, and instead recommends no change to the language of contract Section 9.4.2.

**ISSUE #6 - SECONDARY SPECIAL EDUCATION "MAINSTREAMING"**

I concur with this Recommendation.

RECOMMENDATION

The panel recommends the following contract language for a new Section 9.4.7 of the contract, and a renumbering of current Section 9.4.7 to Section 9.4.8.:

9.4.7 - Every effort will be made to balance the number of students with IEPs within all classes at each secondary school site. Special Education students shall not be mainstreamed into secondary classrooms that are at the contractually stated class size maximum limits.

**ISSUE #7 - SALARIES**

*A. There is a lack of evidence, data, or facts to support a 2.15% raise.*

In the Report, it is first acknowledged that other comparable districts have given raises with the low of 1.5%, but, without further explanation or factual support, there is a recommendation that the District give a 2.15% raise, effective November 1, 2007, in the absence of any frame of reference. Actually, the Report fails to note that two of the comparable districts provided by the District gave no raises in 2007-08 (see page 163 of the District Binder) and one, likewise, one of the comparable districts provided by the Union has given no raise for 2007-08 (See Tab 16 of the TUTA Binder). In addition, it is not unusual to have a 0% salary offer in this District during difficult budget times. In the difficult budget years of 2002-03 and 2003-04 there were no raises. (See District Binder pg. 10.) Unfortunately, the State has a budget deficit again

like it did in the earlier part of this decade with the result being that the District has no other choice than to hold the line.

The Report contains no analysis or explanation for the 2.15% figure. This is doubly troubling since, as it is acknowledged, the District salary schedule will remain higher than most of the comparable Districts and all of the Solano County districts even without an increase, the District's working conditions are superior to most if not all the comparison Districts, and there are enormous deficits projected in the "out" years without a salary increase.

Contrary to the conclusion that there is money in the budget and the recommendation for a "modest" raise, the District provided extensive information on its budget and its projections as required by law showing substantial financial problems. The Solano County Superintendent of Schools has expressed her deep concern and has even appointed a fiscal expert under the Education Code to assist in creating a plan to cut the current projected deficit. This will be even more difficult if over \$988,000 in new salary costs (\$90,000 for secondary class size overages, \$399,000 in back pay for 2007-08, and \$499,000 for increased salaries for 2008-09) are layered on top of the \$926,890 deficit for 2008-09.

***B. The Recommendations of the Panel Will Put the District on the Road to State Takeover***

As a result, given the full impact of the back pay for 2007-08 and the full raise of 2.15% for 2008-09, the total impact of the Recommendations in the Report on the current budget would be:

- \$90,000 on the secondary class size issue,
- \$399,000 for back pay for 2007-08,
- \$499,000 for the 2.15% raise in 2008-09. (Page 14 of District Binder 1% TUTA Cost Approximately \$232,000)

TOTAL: \$988,000

These increases, in addition to the currently projected deficit of \$926,890, will result in a deficit of more than \$1,900,000 for this year and more than \$2,900,000 in 2010-11. This would require a draconian 20% cut in other salaries and District expenditures in the unrestricted budget categories currently budgeted at about \$10,000,000 (after subtracting teacher salaries and contributions to restricted programs required by law) (see page 56 of the District Binder). That task is beyond daunting. It is virtually impossible and will require significant future cuts in teacher compensation or a State loan or both to bridge that gap.

C. ***The Public Welfare and Interest Must Be Considered.***

In the District's Summary of Arguments, it raised a point not addressed by the Report. Will a salary increase that would put the District into insolvency be in the interests and welfare of the public? The statutory criteria include this crucial point and it should be discussed in the Final Report.

I repeat the District's point here:

It is vital, however, for the panel to consider the complete language of the statutory criterion, i.e., "the interests and welfare of the public." Govt. Code §3548.2. (Emphasis added.)

The District presented un rebutted evidence to the panel establishing that even *without granting a salary increase* to TUTA in 2007-2008, the District is projecting ongoing, operational deficit spending of \$1.4 million in 2007-2008, and a total of \$4.5 million over a three year period (to 2009-2010) and resulting in a projected negative ending fund balances of \$926,890 for 2008-2009 and \$1,968,011 for 2009-2010. Absent a change in the state's financial fortunes, this means the District will need to make expenditure reductions each year for the next two years. This means that significant ongoing cuts in

programs, people and educational services to students will be required. Granting TUTA's salary demand (5.5%) would *increase* ongoing expenditures by \$1,276,000 beginning in 2007-2008 (\$1,870,963 if applied District-wide). This would exacerbate the District's deficit spending and require even more draconian cuts to programs and services to students.

The numbers cited in the District's argument, when increased by \$988,000, become even more frightening and insolvency cannot be in the interest and welfare of the public (the students and parents served by the District).

#### RECOMMENDATION

In the area of salary, the panel should not recommend any increase in the salary schedule in light of the lack of funds to provide any increase and the dire financial consequences of such an act.

Dated: August 15, 2008

  
\_\_\_\_\_  
GREGORY J. DANNIS  
District Panel Member