

IN THE MATTER OF FACTFINDING
PURSUANT TO GOV'T CODE SECTION 3548 et. seq.

PLEASANTON JOINT SCHOOL
DISTRICT,

Employer,

FINDINGS AND RECOMMENDATIONS
PERB No. SF-F-159,
M-1196 (R-139)

and

AMADOR VALLEY TEACHERS
ASSOCIATION,

Association.

Before a Factfinding Panel composed of:

Association Member

CHARLES J. DAVIES
California Teachers Association
Regional Resource Center
2177 Diamond Blvd., Suite 1
Concord, CA 94520

Employer Member

JAMES PINNELL
Hudak & Pinnell
7996 California Avenue, Suite F
Fair Oaks, CA 95628

Chairperson

EMILY MALONEY
105 Soquel Avenue
Santa Cruz, CA 95060

Appearances for the Parties:

For the Association

Barbara Van Becker
Chapter Services Consultant
California Teachers Association
2177 Diamond Blvd., Suite 1
Concord, CA 94520

For the Employer

Robert Kingsley
Hudak & Pinnell
7996 California Avenue, Suite F
Fair Oaks, CA 95628

PRELIMINARY

PLEASANTON JOINT SCHOOL DISTRICT (herein "Employer" or "District") and AMADOR VALLEY TEACHERS ASSOCIATION (herein "ASSOCIATION" OR "UNION") are parties to a collective bargaining agreement (herein "Agreement") (Jt. Ex. 1) covering the period July 1, 1984, to June 30, 1987. The Agreement. Article XXV, Par. B., provides for a reopening of negotiations during each school year of the Agreement term on (1) Article X - Health Welfare; (2) Article XI - Salary; (3) Calendar; and (4) One unspecified Article per party.

The following issues, at impasse in reopener negotiations between the parties for the 1985-86 school year, have been submitted to this factfinding panel:

1. Salary for 1985-86 School Year
2. Reassignment and Transfer
3. Leaves
4. Calendar (1985-86)

Pursuant to appointment by the Public Relations Board on June 20, 1986, the factfinding panel conducted a hearing at the District offices in Pleasanton, California, on July 8, 1986, at which hearing evidence and argument were presented by the parties with respect to the issues at impasse. The panel then met in executive session on July 16, 1986, at Concord, California, and now issues its findings and recommendations.

FINDINGS OF FACT

1. Salaries for 1985-86

a. Proposals

The District has offered an adjustment to the 1984-85 salary schedule of 4% and a onetime 1985-86 "bonus" of 1% based upon the new 1985-86 salary schedule.

The Association seeks a salary schedule improvement of 11.25%, and a change in the present \$500 increments at Class VI, Steps 16 and 20, to the same increment of some \$1,060 that exists between the other steps in this class.

Salary schedules for classified and management employees have been adjusted by 5% for 1985-86. Salary projections for the Superintendent of the District show a 1984-85/1986-87 increase of 21%.

b. Cost of Proposals and Ability to Pay

An adjustment of 1% to the bargaining unit salary schedule, based on Association data, amounts to approximately \$58,500. In its calculations, the District has included hourly and substitute teachers whose salary schedule(s) has/have apparently been adjusted in the past on the basis of the adjustment granted bargaining unit employees. The District thus

1/ It is the panel's understanding that problems associated with wording in the last paragraph on the current salary schedule have been resolved and that the Association is no longer proposing deletion of that language.

claims that a 1% adjustment would cost some \$60,000, including salary-related costs the figure would be \$66,000.

The adjustment sought by the Association would cost from \$658,125 to \$742,500, while the District proposal would range from \$292,500 to \$330,000, depending upon whether the calculations are based on Association data or data presented by the District, as set forth above.

There appears to be little if any dispute between the parties as to the funds available to the District to fund salary increases. Rather, the dispute, as more fully set forth below, has to do with the manner in which the some \$692,367 in unrestricted funds remaining at the close of fiscal 1985-86 should be allocated.

c. Other Factors

The District presented data for three groupings of school districts: (1) all school districts in Alameda County; (2) eight elementary districts of comparable size (2500-5000 ADA) in contiguous counties; and (3) a larger sample of elementary districts which includes the four elementary districts in Alameda County and 15 selected elementary districts from nearby counties ranging in size from 1271-5321 ADA.

The District's comparative data, based upon a 4% adjustment to the bargaining unit salary structure, shows that the salary at AB+75, Step 12, is higher than any other Alameda County district and higher than

any of the eight elementary districts of comparable size in the contiguous counties. At Step 7, AB+45, the District would rank third among the eight comparable districts and first among the other Alameda County districts. At Step 12, AB+75, the District would rank number one when compared with either the eight comparable elementary districts or the Alameda County districts.

The Association presented data, using 4% salary adjustment figures, showing that the District would rank fifth among Alameda-Contra Costa County districts at Step 10, AB+60; 16th at Step 1, AB+30; 20th at Step 1, AB; and fifth at Step 12, AB+75, in contrast with a 1st place ranking in this category for 1984-85.

The Association presented other data showing (1) that the percent of budget allocated by the District to bargaining unit salaries has declined from 58.76% in 1982-83, to 56.15% in 1983-84, to 52.36% in 1984-85, and to 51.52% in 1985-86 if the District salary proposal is implemented; (2) that the consumer price index for the Bay Area has risen approximately 72% from 1978 to 1986, in contrast with an increase in the District salaries for the same period, based on Step 12, AB+75, of some 45.6%; and (3) that beginning salaries of employees outside of public school employment range from a low of \$20,688 for a Bachelor's Degree to as high as \$33,288 for Master's Degrees, in contrast with the beginning salary in the District, at AB+30, Step 1, again factoring in a 4% adjustment, of \$19,232.

Finally, the Association brought to the panel's attention that there are presently two unfair practice charges pending before PERB relating to an alleged unilateral change by the District in the 1985-86 calendar; i.e., a minimum day on March 21, 1986, the Friday preceding spring break, to a full teacher workday, and the other charge having to do with an alleged refusal of the District to bargain in good faith. There was also a one-day walk-out/strike by the teachers in the course of 1984-85 negotiations.

Other data presented by the District with respect to salaries shows (1) that the District granted total increases to teachers during the 1981-1985 period of 29.83% (based on compounded increases of 8%, 7%, 7%, and 5%), while increases in comparable districts average in the range of 22.87%; (2) that the increased cost of health benefits for the 1985-86 year amounts to .21% of salary, with an additional cost equalling 1.69% of salary for movements of teachers on the salary schedule; (3) that the District expends approximately 86.3% of its budget on personnel, 9.0% for operating expenses, 3.8% for school supplies and special categorical expenditures, and less than 1% on maintenance; (4) that the District has the lowest Base Revenue Limit among the Districts with which it has compared salaries; (5) that California lottery sales show a declining trend; (6) that among 240 elementary districts surveyed, 20% indicated that Lottery income was used for salary adjustments, with 13% providing

"off the schedule" increases as opposed to adjustments to the salary schedule; (7) that a comparison of the CPI with total teacher compensation for the 1979-80/1985-86 period shows an increase in the CPI of 47.6% and an increase in total teacher compensation of 64.7% and (8) that projections made by School Services show that State appropriations needed to maintain current services will collide with the State's Gann Limit in 1986 and that reductions/cutbacks will be required thereafter to stay within the Gann Limit.

2. Reassignment and Transfer

The District seeks to change the present language of Article VII of the Agreement covering reassignment and transfer. Without setting forth the full text of the District's proposal, the principal changes sought to be made by the District include (a) setting forth the provisions of reassignment and transfer under distinct, separate paragraphs (in contrast with the present language addressing the subjects essentially as one); (b) requiring teachers to declare for purposes of reassignment and transfer whether they are to be considered K-3, 4-6, or 7-8 teachers, with the proviso that teachers would not be transferred or reassigned outside of such declared grade levels without their express agreement; (c) eliminating first consideration in the filling of vacancies to personnel of the District; (d) requiring notification of assignments for the coming year by the last teacher work day, rather than by June 1; (e) eliminating seniority

as the criterion when all other factors are substantially equal for both reassignments and transfers; (f) adds "past evaluations" as a criterion to be considered for transfers; (g) changing May 1 meeting date to discuss proposed staffing for following year to May 15; (h) qualifying the requirement, with "whenever possible," for a conference with an affected teacher prior to a District-initiated transfer; (i) eliminating language affording the Association to request negotiation of transfer and reassignment rights in the case of school closures and openings, and in the case of school openings eliminating the present 90-day advance notice to be afforded the Association to request negotiations.

The Association seeks to retain the current language of the Agreement with a change in the criteria to be considered for reassignments and transfers, as follows:

Reassignment and transfers shall be based upon, in the following order of importance, seniority in the District, appropriate credential, academic preparation including major and minor, pupil and teacher welfare, and program needs.

The current Agreement sets forth the criteria as:

...not necessarily in the following order of importance, seniority in the District, program needs including school and student needs, appropriate credential, academic preparation including major and minor, and pupil and teacher welfare.

3. Leaves

a. Illness or Injury - Under Article VI.B.4 of the present Agreement,

the District may require an employee who is off on sick leave for five or more consecutive days to provide a doctor's certification/verification of the illness. The District seeks to change that provision to give it the discretion to request verification of use by an employee of any leave provided by the Agreement.

The Association seeks to retain the present illness verification language.

b. Personal Necessity Leave - The Association seeks to change the provisions of Article VI.F. from the current six days of sick leave to be used for personal necessity, subject to District approval, to three days at District discretion and three days at teacher discretion.

Data presented by the Association for 14 Alameda-Contra Costa districts shows "no questions asked" personal necessity leave ranging from 1 to 7 days; in 10 of those districts, these days are charged against sick leave, while in 4 districts the time is paid without charge to sick leave.

The District proposes retaining the present personal necessity leave provisions and increasing the number of discretionary leave days under VI.O. from 2 to 4 days, with the substitute's salary to be deducted from the teacher's pay as presently provided.

c. Child-Rearing Leave - The parties agreed in the course of factfinding to addition of the following language as the first paragraph under VI.L.:

Upon request, the Board shall grant an employee who is a natural father, adopting parent, or any unit member with an infant under 1 year of age, a leave with compensation not to exceed 25 school days. The teacher shall receive the difference between his/her salary and the amount paid to the substitute. The 25 school days are to be consecutive with the arrival date of the child.

d. Leaves of Absence for School Business - The parties agreed in the course of factfinding to District-proposed language replacing the present VI.H., as follows:

1. Leaves of absence may be granted without loss of pay upon request of the unit member and recommendation of the Superintendent or his designee for attendance at meetings, conventions, or conferences of distinctly educational groups, or to serve on committees or commissions of such groups at which the Superintendent decides that the District should be represented. Travel, per diem and other necessary expenses may be allowed at the discretion of the District.
2. Upon request, an employee may receive, in writing the reason/s why his/her request was not approved if the Board does not honor the request.

e. Leaves for Association Business - Under the present Agreement, unit members involved in negotiations or in the handling of grievances receive time off with pay for negotiations or grievance meetings scheduled during their regular worktime. In addition VI.J. provides that officers of the Association or members designated by the Association may be given release time for attendance at organization meetings and conferences, with the Association to bear the cost of substitutes.

The Association proposes a change that would provide up to 50 days of release time, exclusive of time off for negotiations and grievance processing, for use by officers or members designated by the Association for Association business, with the cost of substitutes to be borne by the Association.

The District proposal would provide up to 15 days of release time for attendance at organization meetings and conferences, with no one individual to be permitted use of more than five of those days during any one school year.

4. Calendar

As noted above, p. 6-7, the District changed a minimum day during the 1985-86 school year to a full workday for teachers, and there is a unfair practice charge pending before PERB on this issue. The District would have this factfinding panel make a determination on this issue; the Association maintains the matter is properly before PERB and not this panel.

POSITIONS OF THE PARTIES

1. Salaries

The Association acknowledges that salaries compare very favorably with surrounding districts at the AB+60 and AB+75 columns but fall significantly below at the AB and AB+30 starting levels. The Association points out that the District failed to employ the SB 813 provision for

special State money to enhance beginning salaries (Education Code Section 45023.4), and that the projected continued increase in ADA for the District, the projected resignation and retirement of teachers portends a problem for the District in obtaining qualified new teachers if attention is not given to improving the salary schedule.

The Association further maintains that the District's ranking at AB+75, Step 12, with the 4% adjustment proposed by the District, will show a drop to fifth place from the first place ranking it had among comparable districts for 1984-85; that the data shows that as a percentage of budget the amount expended for teacher compensation has declined some 7.24% since 1982-83; that in order to bring the salary level to that which would apply had the District maintained its 1982-83 level of funding for teacher salaries, a 14.39% adjustment to the salary schedule would be required.

The Association asserts that whether or not District salaries compare favorably with surrounding districts there is a need for an increase in teacher salaries on the basis of a comparison with salaries paid in other industries performing similar services; i.e., paid to employees having similar educational background; that in order to retain and to attract qualified, capable teachers, salaries paid teachers must be brought into line with salaries paid in other industries.

As further justification for the 11.25% increase sought, the Association points to the adjustments granted by the District to other employees for 1985-86, including the Superintendent, and to the increase in the CPI for the Bay Area which it maintains has outstripped salary adjustments in the District by some 25% over the 1978-1986 period.

Finally, the Association argues that the panel should give consideration to the climate of labor relations in the District, which it maintains is deplorable; this consideration should apply, according to the Association, not only in the panel's determination of appropriate recommendations with respect to matters at impasse but also with regard to resolving the long-standing dispute between the parties, going back apparently to the one-day strike of the teachers in the course of 1984-85 negotiations.

The District takes the position that its total compensation package, of a 4% salary schedule adjustment, a 1% bonus, .21% increased payment for health benefits, and 1.69%, or 6.9%, is eminently fair on the bases that (1) District salaries compare very favorably with those of comparable districts; (2) the District has over the 1981-85 period granted salary increases to teachers considerably in excess of those granted other districts, particularly when the District's base revenue limit is compared with such districts; and (3) in granting such increases the District has

had to make difficult choices which have including the closing of a school, eliminating positions, eliminating the transportation system, and deferring attention to maintenance, to capital outlay, to support personnel, books and supplies, etc.

The District maintains that all that it can reasonably allocate for salary improvement for 1985-86 is \$323,367, which will fund the increase offered by the District; that \$369,000 of the total unrestricted funds of \$692,367 remaining at the close of the 1985-86 school year must be allocated to educational program needs and to maintenance deferred during the 1981-84 period which is estimated to cost \$4,000,000.

As to the Association's argument with respect to Education Code 45023.4 money, the District asserts that prior to the passage of that legislation the District had already adjusted its instructional minutes to a level meeting or exceeding the incentive levels which generate additional State money for the District. Salaries negotiated for the teachers took into account the added length of the instructional day, while other priorities had to be adjusted in favor of such salary increases. The District attacks the Association's argument with respect to this issue as an effort on the Association's part to be paid a second time for the longer instructional day.

The District also argues that lottery monies should be used to

restore programs that were reduced in order to grant salary increases to teachers that far exceeded either CPI increases or revenue limit adjustments. In this regard, the \$369,000 of unrestricted funds remaining at the close of the 1985-86 school year, which the District seeks to allocate to program and maintenance needs, is equal to the amount of lottery funds received by the District for 1985-86.

The District maintains that an appropriate comparison with the CPI must be on the basis of total teacher compensation, not simply on the basis of adjustments made in the salary schedule each year. Using a comparison of total compensation with the CPI, teacher compensation has increased 64.7% over 1979-80, in contrast with a 47.6% increase in the CPI. Thus, there is no merit to the Association's argument that an increase in the CPI over the period in question justifies an increase in teacher salaries.

2. Reassignment and Transfer

The District has proposed changes to the Reassignment and Transfer article on the basis that the current language does not serve the best interest of the total educational program. The District's rationale for the proposed changes includes (a) the change cleans up the language of the current Agreement by setting forth reassignment and transfer provisions separately; (b) eliminating seniority as the determining factor when all

factors are relatively equal will give the District the flexibility that is required in making staffing decisions, which flexibility is of particular importance in light of the anticipated growth in District enrollment over the next five years; (c) the threat of grievances with respect to reassignment and transfer actions, and the management time spent in discussions attempting to resolve such grievances; in this regard, the District maintains that the problem has been complicated by the Association arguing both in support of the teacher selected and the teacher denied the position, placing the District in a damned-if-you-do, damned-if-you-don't position.

As to the change in the school closure and opening language, the District maintains that the requirement of a 90-day notice to and negotiations with the Union should be eliminated; that emotions are high at such times so that negotiations cannot be productive; and that unnecessary time delays are thus imposed upon the District in staffing a school to the detriment of program development.

The Association is adamant with respect to this issue, maintaining that (a) the current language has served the parties well for the some six years that it has been in the Agreement; (b) that criteria to be applied in making reassignments and transfers is very adequately set forth in the current language; (c) that the current language was the result of

several years of bitter conflict over the handling of transfers and reassignments; (d) that seniority is an objective criterion well understood by all teachers so that giving it first priority in transfers and reassignments tends to minimize disputes and grievances; in this regard the Association maintains there have been only two grievances that have gone to arbitration over reassignment and transfer during the four-year period the language has been in effect; (e) that the current language affording the Association an opportunity to negotiate with respect to school closures and openings serves both parties in that the unique elements of the situation can be fully considered before transfers/reassignments are made.

3. Leaves

a. Illness or Injury - The District maintains that the present requirement of verification of illness for absences of 5 or more consecutive days does not address the problem of sick leave abuse; that absences of 5 or more consecutive days normally do not present cases of abuse; that it is the one-day sick leave use on a regular or pattern basis that presents the greatest potential of employee abuse. The District argued that there have been problems of Friday and Monday absences allegedly for illness during the skiing season, for example, which it considers to be an abuse of the sick leave program. There was, however, no data presented by the District that would illustrate such a problem.

The Association maintains that the District's proposal on this issue is unreasonable, that a person may not feel well enough to report to work but yet not be ill enough to require medical attention; and that requiring such verification could also be costly and lead to unnecessary usage of medical benefits.

b. Personal Necessity - The Association takes the position that the language of the current agreement defines personal necessity in such a narrow fashion that virtually no teacher has been granted such leave; that teachers who need leave for personal reasons, therefore, only enjoy such leave at a loss of pay. The Association further maintains that it is important that leave be available for which reasons need not be given for occasions of a very private nature for which teachers need to be absent.

The Association maintains that its proposal is in line with the practice in other districts and does not increase the District's total commitment to personal leaves, since the current six days for personal necessity would simply become 3 days at District discretion and 3 days at teacher discretion.

The District maintains that its proposal retaining the present language for personal necessity leaves and increasing from 2 to 4 the discretionary days that may be taken, with the employee to pay the substitute's salary, is a fair and adequate proposal.

c. Leaves for Association Business - The District takes the position that under the current language of the Agreement the District has the discretion in the granting of time off for Association business for stated purposes. The Association maintains that the District has routinely granted its requests for release time for Association business, essentially as defined by the Association.

Although no data was presented by either party with respect to the number of days that have been requested by the Association and/or granted by the District for Association business, the District apparently seeks by its language to limit such leave to 15 days, to be used only for organization meetings or conferences, with no employee to use more than 5 days of such leave per year. The District maintains that the Association's proposal, seeking 50 days of release time at Association discretion, is unreasonable; that the potential for use of substitutes for such absences constitutes a threat to the educational program.

The Association maintains that until the current school year the District had granted its request for release time without any controversy, but that the District has now indicated its unwillingness to grant such leave time except for grievance processing. For this reason, the Association maintains, it did not request release time during the 1985-86 school year for Association business that it would otherwise have requested and

received in previous years.

The Association maintains that other Districts, depending upon the size of the district, grant up to full time leave for Association presidents during the tenure of office; that release time is required for Association business beyond that necessary for attendance at organization seminars and conferences; e.g., to prepare for this factfinding session, to prepare for negotiations, grievance meetings, etc., and that its request for the use of 50 days at its discretion is reasonable and will not be a cost to the District since the Association pays the costs of substitutes for such release time.

The Association further maintains that limiting any one individual to five release days is unreasonable since conduct of Association business may fall more heavily on certain individuals, in particular the Chapter president.

4. Calendar

Covered at p. 11.

RECOMMENDATIONS

1. Salary

5% adjustment to the salary schedule, with a change in the increments at Steps 16 and 20, Class VI, to bring them in line with the differential existing between other steps in this class (of some \$1,060.00).

hand, there was no convincing evidence presented by the District to support its position that there should be a lesser adjustment to the teachers' salary schedule than the 5% made for other employees in the District; e.g., there was no showing that the classified employees rank lower among comparable districts than do the certificated.

The panel acknowledges the validity of the Association's argument, that while District salaries compare favorably with those paid in surrounding districts it is well recognized that teachers' salaries generally are low in comparison with salaries paid other occupational groups. Thus, any district with adequate resources should do as much as it reasonably can to improve teacher salaries, rather than to attempt to justify low salaries for its teachers on the basis of low salaries paid by other districts. Here, the panel is tempted to recommend that the full amount of the unrestricted reserves remaining at the close of the 1985-86 school year be applied to teacher salaries. However, the District's claim that it is facing deferred maintenance costs of some \$4,000,000 has not been refuted by the Association. Prudence therefore requires that the panel temper its recommendation to 5%.

The panel makes another observation about the need to improve teacher salaries in the District. It is noted that of the 185 members of the bargaining unit, 127 have over 10 years of service, with 18 having over

15 years and 52 having over 20 years' service. Very clearly, the days are coming when the District will be seeking to employ new teachers. The panel therefore recommends that the parties consider adjustment to the salary schedule that will provide for a higher starting salary, or adopt a policy that new hires will be brought in at a higher step. In the meantime, however, there are 98 teachers who have twelve or more years of service with the District, 70 of whom who have progressed to Steps 16 and 20 at \$500 increments, in contrast with the approximately \$1,060 increment that applies to other step progressions in Class VI. Twenty eight teachers are due to move on to Step 16 during the next five years. It is the panel's opinion that equity calls for the same incremental adjustments at Steps 16 and 20 as apply at the other steps and therefore recommends adoption of the Association's proposal in this regard.

2. Reassignment and Transfer

The panel recommends retention of the present language with modifications only to (a) change the requirement of notification of assignments from June 1 to the last workday of the school year; (b) include

2/ In this regard, it should be noted that it appears that the District indeed failed to take the necessary steps to obtain additional money that would have been available under Education Code Section 45023.4 to bring up the low end of the salary schedule. If the panel is correct in this observation, then the District should certainly be faulted for this failure.

past evaluations among the criteria for transfers; (c) change the May 1 meeting to discuss proposed staffing for the following year to May 15. The use of seniority as the determining factor when all other factors are substantially equal is, as the Association argues, an objective criterion which employees generally can accept. As to the District's argument that application of the criterion of seniority has given rise to grievances, a number of observations are made. First, the record would appear to support the Association's position that the present language has served to alleviate, not exacerbate, problems in transfers and reassignment. Further, the District's determination as to relative equal ability is subject to challenge by the Association only upon a showing that the determination was arbitrary, capricious, or discriminatory. District determinations as to who should be transferred or reassigned could be subject to the same challenge by the Association if seniority was only one factor, and not the determinative factor in reassignments and transfers.

As to the District's argument that notice to the Union and an opportunity for the Association to negotiate with respect to school closures and openings results in expenditure of a great deal of time, delaying implementation of openings, closures, etc., it is the opinion of the panel that discussions with the Association with respect to reassignments and transfers involved with school closures and openings will be taking place

either before or after the fact. To proceed with these actions, without a thorough thrashing out with the Association, would be likely to result in as much disruption, if not more, through unrest among the teachers, speculating as to what may or may not take place, and through challenges by the Association on behalf of aggrieved or disgruntled members after the action has been taken.

On balance, then, the panel believes it to be in the best interests of the parties and the educational program to retain the present transfer and reassignment language, with limited modification as set forth above.

3. Leaves

The panel recommends granting the proposal of the Association, providing for three days of personal necessity leave, at teacher discretion, charged against sick leave, with the remaining three days to be subject to District approval. This appears to be consistent with the practice in other districts, and it will address a problem that teachers may have from time to time in taking care of important personal business.

The panel also recommends changing the language of the Agreement to provide the District the right to require verification of absences for illness when it has an objective, reasonable basis for believing that an employee is abusing the sick leave program. The panel recommends that the program be implemented in such a way that (1) the District will provide notice in writing to a teacher that it is concerned that sick leave is

being used improperly, setting forth its reason therefor, and (2) the teacher will be advised in such notice that verification (in the form specified; i.e., doctor's certificate, or such other verification that may be appropriate under the circumstances), will be required for the next absence taken by the teacher for illness. The District's requests for verification for illness or injury will, of course, be subject to the test of reasonableness applying to any exercise of management discretion.

It is the panel's opinion that this recommended provision will take care of the District's concern with respect to use by teachers of sick leave, and it will also protect the Association from what it claims could be harassment of its members.

Further, the recommendation of implementation of the Association's proposal for three days of non-questions-asked personal necessity leave should do well to counter any possible use of sick leave for other than legitimate illness or injury.

The panel recommends retention of the present language giving the District discretion with respect to the granting of leave for Association business, with elimination of the requirement that such leave be only for organization meetings and conferences.

The District's proposal to limit the leave to 15 days, with a maximum of 5 days per individual, appears to be too restrictive. On the other hand, there was not a sufficient showing by the Association of usage by its off-

officers of this leave or of practice in other districts that would justify its request for release time of up to 50 days. Nor was there a showing that requests for release time have actually been denied by the District.

Again, the District's discretion in granting release time will, of course, be subject to challenge as arbitrary, discriminatory or capricious.

4. Calendar

The panel's jurisdiction with respect to this issue is unclear. However, in light of the Association's request that the panel take cognizance of the difficult employer-employee relations that exist in the District, the panel recommends that the parties commence immediately to put their time, energy, and resources into positive efforts to work together. Among such efforts would be payment by the District to the teachers of the extra time worked on the minimum day involved, in exchange for withdrawal by the Association of the unfair practice charge on this issue.

The parties should also consider putting together a joint committee, composed of persons not already thoroughly immersed in the hostility that seems to prevail, such committee (a) to attempt to identify the holes that the parties insist upon falling into in their conduct of labor relations, (b) to suggest some means of filling those holes, and (c) to plant in those spaces a firm commitment to rationale, reasonable dealings in the future. By developing such a commitment, which should include a commitment on

the part of the District to engage in full disclosure with the Association at all times with respect to budget data, the parties should be able to realize a significant savings in terms of the time and resources that are presently being put into dispute resolution procedures, including this fact-finding proceeding.

Dated: July 17, 1986

CHARLES J. DAVIES
Association Member

JAMES PINNELL
District Member


EMILY MALONEY, Chairperson