

Jerilou H. Cossack
Arbitrator/Mediator/Factfinder
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FACTFINDING REPORT

In The Matter Of:)
)
SAN FRANCISCO UNIFIED SCHOOL)
DISTRICT)
)
District)
)
and)
)
INTERNATIONAL UNION OF)
OPERATING ENGINEERS, STATIONARY)
LOCAL No. 39, AFL-CIO)
)
Exclusive Representative)
_____)

PERB Case No. SF-IM-2772-E

APPEARANCES:

For the District: Tom Ruiz, Senior Executive Director
Labor Relations
San Francisco Unified School District
555 Franklin Street, Room 306A
San Francisco, CA 94102

William Michael Quinn, Jr., Esquire
Senior Deputy General Counsel
San Francisco Unified School District
555 Franklin Street, 3rd Floor
San Francisco, CA 94102

For the Exclusive Representative:
Kevin O’Hair
Business Representative
International Union of Operating Engineers,
Stationary Local No. 39, AFL-CIO
337 Valencia Street
San Francisco, CA 94103

In accordance with Article 9 of the Educational Employment Relations Act (EERA), factfinding was deemed appropriate due to the existence of a continuing and unresolved controversy between the District and the Exclusive Representative.

San Francisco Unified School District (District) is a public school employer within the meaning of Section 3540.1(j) of EERA. Stationary Engineers Local No. 39 is a recognized employee organization within the meaning of Section 3540.1(l) of EERA and has been duly recognized as the exclusive representative of this bargaining unit in the District.

The parties to this factfinding have complied with the public notice provisions of Section 3547 of EERA. They agreed to waive the time constraints of EERA Sections 3548.2 and 3548.2(a) pertaining to the convening of the factfinding hearing and the issuance of findings of fact and recommended settlement. They have complied with EERA regarding the selection of the Factfinding Panel and are timely and properly before the Panel.

The contract issues which are appropriately before the Factfinding Panel are as follows, all other matters having been agreed upon by the parties during the course of negotiations:

- Article 7 A & D Compensation and Hours
 - Section A Schedule of Compensation
 - Section D Uniform Allowance
 - Section D Multiple License Premium
- Article 8 Benefits
- Article 12 Working Conditions
- Article 19 Apprenticeship/School-to-Work Program
- Article 24 Duration of Agreement

An impasse in bargaining was declared by the Union in January 2008. The informal mediation process proceeded as scheduled; the parties continued to meet with the mediator in an effort to reach agreement until March 20, 2008. The Public Employment Relations Board certified the matter to factfinding on April 1, 2008.

Pursuant to EERA Section 3548.1, a Factfinding Panel was appointed. The

following persons were designated as Panel members:

Ronald W. Bennett - District Appointed Member

Kevin O'Hair - Exclusive Representative (Union) Appointed Member

Jerilou H. Cossack - Chairperson

The Panel met in executive session on June 2, 2008 at the District offices. A hearing was subsequently held the same day at the District offices. The following persons were present and/or gave testimony:

On behalf of the District: Tom Ruiz, Myong Leigh, Stephanie Cain, and Mimi Chwang.

On behalf of the Exclusive Representative: Kevin O'Hair and Rick Harris.

The Panel met and deliberated in executive session on June 2, 2008 at the District offices, but was unable to achieve consensus.

Background

The District provides education for children from pre-school through 12th grade. Total enrollment is 55,497 students. There are 104 K through 12 school sites and 37 pre-school sites. The District employs 3,443 certificated employees, 1,157 paraprofessionals and 1,107 classified employees. There are 12 Stationary Engineers, 1 Chief Engineer and 1 Maintenance Planner in the bargaining unit here at issue.

The District's 2007/08 cost of 1% of the Union's bargaining unit is \$12,548, including statutory benefits. The cost of 1% for all District personnel, including statutory benefits, is \$4,261,476. The District has settled its contracts with other bargaining units under similar terms to the offer made the Union here. In the 2006/07 school year the District maintained a minimal statutory reserve of 5.87% of total expense.

Article 7 Issues

The District shares the same Civil Service, Health Insurance and Pension Systems as the City and County of San Francisco (City) and the City College of San Francisco (College). The Union proposes the City and the College as the appropriate comparable

universe.

The Union seeks parity with the College and proposes the following hourly wage rates effective 7/01/07, plus a 2 % COLA increase effective 7/01/08 and a 3.75 % COLA increase effective 6/30/09: Stationary Engineer, \$34.28; Sr. Stationary Engineer, \$38.60; Chief Engineer, \$42.96; and Maintenance Planner, \$45.11.¹

The Union also proposes a Multiple License Premium of 7.5%. The District requires Stationary Engineers to perform work which requires specialty licenses. About 90% of the Stationary Engineers employed by the City receive a Multiple License Premium.

The Union proposes increasing the Uniform allowance from \$225.00 per year to \$400.00 per year.

The District proposes the following school districts with enrollment above 10,000 students as the appropriate comparable universe: Fremont, Fresno, Hayward, Los Angeles, Sacramento, and West Contra Costa Unified School Districts.

The District rejects the College and the City as appropriate comparables, asserting the common civil service it shares with these entities is solely for classification purposes and not for the purpose of compensation. The City and District share over 136 classifications; there is no agreement to equalize salaries in any of them. The District does not enjoy the same revenue sources as the City and has no access to the money coming into the City. The District has chronic declining enrollment, which further limits its financial flexibility.² The District proposes a 3 % cost-of-living increase, effective

¹ Information provided at the hearing by the Union showed the following hourly wage rates: District Stationary Engineer rate of \$32.13 as of 6/30/07, College rate of \$35.19 as of 7/01/07, and City rate of \$34.96 as of 4/05/08; Sr. Stationary Engineer District rate of \$36.26 as of 6/30/07, College rate of \$39.74 as of 7/1/07, and City rate of \$39.37 as of 4/5/08; Chief Engineer District rate of \$40.40 as of 6/30/07, College rate of \$44.24 as of 7/1/07, and City rate of \$43.82 as of 7/5/08; and Maintenance Planner District rate of \$43.41 as of 6/30/07, no College rate since this is not a classification employed at the College, and City rate of \$46.02 as of 4/5/08.

² The District provided information at the hearing showing that as of 6/2/08 four of its comparable districts paid the Stationary Engineer more than the District wage rate and

12/12/07. The District also proposes to promote one Stationary Engineer (7334) to Sr. Stationary Engineer (7335). The District would not augment the Uniform allowance and would not add premiums.

Article 8 Issues

Both parties would have the District continue to pick up increased employer costs of health premiums for active and retired members. Such pick up would count as part of total compensation.

Article 12 Issues

The Union proposes establishing seniority as the determinative factor in awarding shifts and vacation.

The District would retain the status quo.

Article 19 Issues

The Union proposes establishing an Apprenticeship Training Fund with a \$500 District contribution to the Fund for each person represented by the Union and employed by the District on a full-time paid status on December 31 of the preceding year.

The District proposes joint development of a process and protocol, including identification of resources and personnel commitments that could be utilized, for an apprenticeship program which could lead to future Union positions within the District. The District would make annual payment of \$100 for each person represented by the Union and employed on a full-time paid status on December 31 of the preceding year.

Article 24 Issues

The Union proposes a two year agreement.

The District proposes reopening on April 2008 on all economic issues, including salaries and benefits, and two language items per side relating to terms and conditions.

three districts paid less, one district paid the Sr. Stationary Engineer more than the District rate and three paid less, two districts paid the Chief Stationary Engineer more than the District rate and two paid less, and one paid the Maintenance Planner more than the District and five paid less.

Statutory Criteria

EERA Section 3548.2 specifies the Panel “shall consider, weigh, and be guided by” all of the following criteria:

State and federal laws that are applicable to the employer.

Stipulations of the parties.

The interests and welfare of the public and the financial ability of the public school employer.

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.

The consumer price index for goods and services, commonly known as the cost of living.

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.

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.

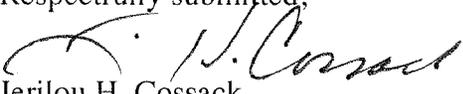
Discussion

The Panel considered the proposals of each party in light of the statutory mandates. It sought to balance the Union’s desire to achieve parity with the City and College with the fiscal constraints faced by the District and recommends the following as a fair and equitable settlement of this matter which is consistent with the statutory requirements:

- A 3% cost of living increase, effective 12/12/07.
- Provide each member of the bargaining unit with a one-time signing bonus of \$2,000.00.
- Within 30 days of ratification, the District shall request the Personnel Commission to administer a test for the purpose of helping the existing two provisional Stationary Engineers become permanent.

- Increase the Uniform Allowance to \$350 per year.
- Modify Article 12 to provide for seniority to be determinative in the selection of vacation time.
- Establish a venue for dialogue about improved maintenance practices in order for discussion on this topic to be included in bargaining the contract for the following school year.
- Establish a venue for joint development of a process and protocol for an apprenticeship program which could lead to future Local 39 positions within the District.
- In January of each year the District shall make annual payments to the Apprenticeship Training Fund in the amount of \$200 for each person represented by the Union employed on a full-time, paid status by the District on December 31 of the preceding year.
- Augment the Tuition Reimbursement Program so that District will set aside \$5,000 annually for exclusive use by employees covered by the Agreement and increase the maximum annual allocation for each covered employee to \$500 per fiscal year.
- The term of the Agreement shall be for one year.

Respectfully submitted,


 Jerilou H. Cossack
 Factfinding Panel Chair

Concur

Dissent

Concur

Dissent


 Ron Bennett, District Panel Member

Kevin O'Hair, Union Panel Member

Date: July 7, 2008

Date: _____

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- Augment the Tuition Reimbursement Program so that District will set aside \$5,000 annually for exclusive use by employees covered by the Agreement and increase the maximum annual allocation for each covered employee to \$500 per fiscal year.
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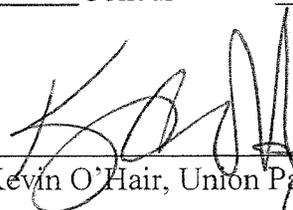
Respectfully submitted,


 Jerilou H. Cossack
 Factfinding Panel Chair

_____ Concur _____ Dissent

Concur _____ Dissent

 Ron Bennett, District Panel Member


 Kevin O'Hair, Union Panel Member

Date: _____

Date: 7/3/08