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Fact-finding Panel Chairperson

**FACTFINDING PROCEEDINGS PURSUANT TO  
CALIFORNIA GOVERNMENT CODE SECTIONS 3548.2 AND 3548.3**

**In the matter of the** ) **PERB CASE NO: SF-IM-2817-E**  
 )  
**TRAVIS UNIFIED SCHOOL DISTRICT** ) **REPORT AND RECOMMENDATIONS**  
 )  
**And** ) **Hearing date: August 19, 2009**  
 ) **Location: Cordelia RRC**  
**THE TRAVIS UNIFIED TEACHERS** ) **4751 Central Way**  
**ASSOCIATION** ) **Cordelia, CA 94534**  
 )  
 )

Panel members:

Gregory J. Dannis, Esq. District Representative  
Richard E. Boyd, Association Representative  
Thomas L. Hodges, Esq. Chairperson

Association Representatives Present:

Sheryl Greenstreet, Bargaining Unit Chairperson  
Marty Kahn, CTA Emeritus staff  
Becky Flanigan, CTA Regional Uni-serve staff  
Nancy Morin, TUTA bargaining team member  
Mark Pennington, TUTA bargaining team member  
Carl Testerman, TUTA bargaining team member  
Kim Hopper, TUTA bargaining team member  
Jeanette Wylie, TUTA President

1 District Representatives Present:

2 Larry Schoenke, Attorney at Law

3 Ken Forrest, Assistant Superintendent Business and Operations

4 Anna Pimentel, Director, Fiscal Services

5 Kate Wren Gavlak, Superintendent Travis USD

6 Suzanne Speck, School Services of California

7 John Gray, School Services of California

8 **I. INTRODUCTION**

9 **A. THE PRESENTATIONS**

10 The panel commends the parties for their thoughtful participation in the fact-finding  
11 process. Both the Association and the District had carefully and meticulously prepared the  
12 information presented to the panel and were responsive to questions from the panel as well as  
13 from each other throughout the hearing.

14 **B. THE FACT-FINDING CONTEXT**

15 As a result of the national recession and the delay of the California Legislature in  
16 adopting a budget, all public agencies, particularly school districts now face uncertainty that  
17 historical funding levels will in any manner be preserved. The District reminded the panel that  
18 its revenue limit from two prior years had suffered from application of State deficit formulae as  
19 well as a current one-time reduction of \$250.00. The limit thus has shrunk from approximately  
20 \$5,700.00 in 2008-2009 to approximately \$5,000.00 for the current year. (See District materials,  
21 p. 73) Hereinafter references to Exhibits will be designated either T (TUTA)  
22 Or D (District) followed by page or Exhibit Number.

23 In the spring of 2009, the District took dramatic steps to reduce its expenditures by laying  
24 off 52 teachers. More recently, the District raised class sizes and eliminated certain elementary  
25 school preparation periods which lowered staffing needs by an additional 13 teachers. The total  
savings to the District from these actions alone amounted to approximately \$4.0 million dollars.

1 (See D, Tab "Issues for Fact-finding" Attachments PK1, PK 2, T. Exhibit 16, p.1)) These  
2 documents also note an additional \$1.65 million dollar reduction labeled "8 % reduction".

3 (Ibid)

4 Although the District presents a scenario of insolvency, particularly in 2010-11 (D. p.50),  
5 it is important to note that the salary proposals before the panel are for one year, 2009-10.

6 **C. THE DISTRICT**

7 The District serves students in the Fairfield and Vacaville communities and the children  
8 of military personnel stationed at Travis Air Force Base. In 2008 it employed approximately 270  
9 teachers and served about 5,400.00 students. (T, Tab 1) In 2008-2009 two schools were honored  
10 as California Distinguished schools. It was apparent to the Panel during the brief span of the  
11 hearing that both the Association and the District, despite the labor issues they have faced take  
12 great pride in their school district and retain their focus on student achievement.

13 **II. THE ISSUES**

14 On August 11, 2009, the District adopted Board Resolution 2009-10-20 eliminating  
15 certain elementary school preparation periods and raising class sizes throughout the district. (T,  
16 Tab 12) Prior to this action, those matters had been represented as issues at impasse. The  
17 Board's action is now the subject of an unfair labor practice charge; thus, it is the panel's belief  
18 that it had no jurisdiction to hear those matters. The remaining issues heard by the panel were:  
19

- 20
- 21 1. An Association proposal to adopt a teacher evaluation calendar providing for  
22 evaluations of permanent teachers every five years
  - 23 2. An Association proposal for a 0% salary increase for the 2009-2010 year.
  - 24 3. An Association proposal for the addition of a third health coverage option in  
25 each of the two existing available plans, Kaiser and Healthnet

1 4. A district proposal to reduce the teacher work year by one day.

2 (The panel agreed that this issue had been resolved)

3 5. A District's proposal to reduce the 2008-2009 teachers' salary schedule by 8%  
4 for the 2009-2010 school year.

5 **III. FINDINGS OF FACT**

6 **A. EVALUATION PROPOSAL**

7 The parties revealed that the Association's proposal to alter the evaluation schedule for  
8 permanent teachers to five years implicated substantial disagreement between the parties as to  
9 the appropriate criteria for teacher evaluation in general. The Panel did not receive information  
10 and detail concerning the disagreements as to evaluation criteria sufficient to prompt a suggested  
11 decision.  
12

13 **B. HEALTH OPTION PROPOSAL**

14 The panel understands that the provision of a third coverage option by each of the  
15 Districts current health carriers is a no cost item to the District. The Panel further understands  
16 that the District has no objection to the additions but cannot guarantee that rapid enrollment is  
17 possible, since applicable enrollment periods have expired.  
18

19 **C. SALARY PROPOSALS FOR 2009-2010.**

20 1. Ability to Pay

21 a. The statute does not set forth the ability to pay as a separate consideration.

22 The actual language reveals that the panel must be guided by . . .

23 " . . . (3) The interests and welfare of the public and the financial ability of  
24 the public school employer. . . "

1           Thus, the panel must consider multiple factors when assessing a district's ability to pay  
2 for its services to the public.

3           2. The District's finances.

4           a. The District's total general fund expenditures for 2009-2010 are estimated to  
5 be \$43.6 million with estimated revenues of \$38.3 million

6           b. The expenditure for unrestricted certificated salaries in the current budget is  
7 estimated to be \$15.84 million dollars—a reduction of \$4.05 million dollars from 2008-2009  
8 resulting from the reduction in force inclusive of the reduced staff needs from raising class size  
9 and eliminating preparation periods. As set forth hereinabove, the district has reduced its  
10 certificated teaching staff needs by 65 teachers.

11           c. The District's ending general fund balance for 2009-2010 is estimated to be  
12 approximately a negative 4.219 million dollars. (D. p. 48, 49)

13           d. The District has budgeted in a special reserve fund for Capital Outlay  
14 Projects the amount of 2.4 million dollars. (2009-2010 special reserve budget) It was established  
15 at the hearing that the moneys had been set aside to refurbish Scandia School, a school on Travis  
16 Air Force Base. The District stated that approximately \$1 million dollars of these funds had not  
17 yet been encumbered.

18           e. The District has also budgeted in a special reserve fund the amount of  
19 approximately \$352,000 ostensibly to fund post-retiree benefits. (2009-2010 special reserve  
20 budget) It was disclosed at the hearing that, in fact, there are no expenditures presently expected  
21 in this account.

22           f. The parties agreed and the District documents established that in computing the  
23 cost of increasing or decreasing the present teacher salary schedule, 1% equals approximately  
24  
25

1 \$205,000; thus, an 8% reduction to the present schedule would result in recovering  
2 approximately \$1.64 million dollars in the current general fund budget. (Hearing testimony)

3 g. The District has used “one-time” money in the amount of \$1.78million dollars  
4 from the federal government to retain approximately 19 teachers.

5 (T. Exhibit 13)

6 h. The District reported that the State had relaxed the requirement of a 3%  
7 Reserve for Unexpected Emergencies to 1%. District Tab 12 contains two documents both of  
8 which contain an estimated reserve of 1.39 million dollars, which equals about 3% of the  
9 estimated general fund expenditure budget.

10 i. The Association estimated that reducing the reserve to 1% would make  
11 available about \$800,000 in the general fund for 2009-2010. (T. Exhibit 14)

12 j. The 2009-2010 general fund budget contains planned expenditures of  
13 approximately 1.8 million dollars for specified purposes, a number of which are non-personnel  
14 costs, e. g. Materials and Supplies, Equipment. For example, Professional Consulting Services  
15 and Operating Expense totals approximately \$627,000. (T. Exhibit 14, p. 2) The total  
16 expenditure for these enumerated purposes is 1.8 million dollars. Application of a 3% reduction  
17 to this total would produce a return to the general fund of approximately \$500,000.dollars

18  
19  
20 3. The interest and welfare of the public.

21 The mission of every public school district is to simultaneously provide custodial care  
22 and education to children. The public expects that priority will be given to the human  
23 components of the system—that in the long run what is of greatest importance is the enduring  
24 relationship between students and teachers. The desired elements of the education enterprise are

1 a teacher, a student, a book, and a building. In desperate times, the public expects at least the  
2 preservation of the teacher and the student.

3 The public is also entitled to some expectation of stability and continuity of the services  
4 they are paying for. Assuming, arguendo, that the public is satisfied with the efforts made to  
5 care for and educate its children, the status quo is a powerful force; needing more than a  
6 whimsical reason for change. To reduce teachers' salaries without a compelling reason is a  
7 significant jolt to the status quo and may cause morale problems and further labor unrest.  
8

9 Moreover, the teachers in this District are also members of the public who may suffer  
10 economically like others. Teachers have mortgages and children in college. Some have  
11 burdensome medical costs and other pressing obligations. A reduction in income of even several  
12 hundred dollars per month could be devastating.

13 Additionally, the retention of an additional 1.64 million dollars in the expenditure budget  
14 has no beneficial economic impact in the business community, which services the district.

15 These elements must be considered within the concept of the "interest and welfare of the  
16 public".

#### 17 4. Comparable wages

18 There was no agreement between the parties as to what school districts are properly  
19 considered comparable. Even if there were agreement on a finite list of "comparable" districts,  
20 it is difficult to imagine that the legislature intended the concept to be used to impose a draconian  
21 reduction in salary to lower a ranking within the group.  
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1           5. Cost of living

2           The Association has asked for no increase for the current year, hence this criterion is  
3 inapplicable. The District presented no evidence that the cost of living has dropped by any factor  
4 justifying a commensurate reduction in pay.

5           6. Overall compensation.

6           The Panel assumes that since the District has in the past approved all the salary and  
7 benefits currently accorded to its teachers that overall compensation is not at issue.  
8

9           7. Other facts

10          a. The District has available at least 1.0 million dollars it has not encumbered for the  
11 refurbishing of Scandia School

12          b. The District has available approximately \$352,000 dollars in an account to pay for  
13 post-retirement benefits with no expenditures currently expected.

14          c. The district may lawfully reduce the amount it must set aside for unexpected  
15 emergencies from 3% to 1% producing about \$800,000 of unrestricted general funds.

16          d. The foregoing sources equal 2.15 million dollars.

17          d. The district has spent "one-time" money on continuing personnel obligations, e.g.  
18 stimulus funds of 1.78 million.

19          e. Even revenue limit funds are "one-time". The State allocated approximately  
20 \$5,700.00 per student to the District and then reduced it by \$250.00 and gave the District about  
21 \$5,000.00. The limit was further reduced from prior levels by a deficit formula. The increases  
22 were received "one-time" and then disappeared  
23

24          f. The Association presented data that certain economic projections from 2004 through  
25 2009 were generally erroneous compared with actual developments. (T. Exhibit 15)

1 g. 8% of the current total expenditure for teacher salaries equals approximately 1.64  
2 million dollars.

#### 3 IV. RECOMMENDATIONS

##### 4 A. Evaluations

5 As set forth above, the Association wishes to calendar evaluations for permanent  
6 employees each five years. There remains a dispute, however, as to the criteria upon which  
7 certificated evaluations should be based. The Panel recommends that the current status quo of  
8 teacher evaluations remain in place and that parties return to the bargaining table to pursue a  
9 possible agreement.  
10

##### 11 B. Health Benefit issue

12 It was agreed upon in the hearing that the provision for a third lower cost plan by each of  
13 the Districts Health carriers was of no cost to the District. The District agreed to seek the ability  
14 of employees to enroll in such options, but expressed that it may be delayed since initial  
15 enrollment periods had elapsed.

16 The Panel recommends that District arrange for the addition of the requested options  
17 forthwith and attempt to provide enrollment opportunities as soon as possible.

##### 18 C. Salary

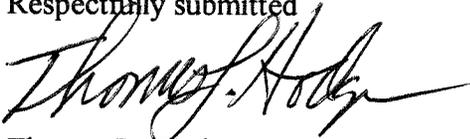
19 The Board has more available in its 2009-2010 expenditure budget than the \$1.64 million  
20 dollars it seeks from an 8% rollback of salaries. Of particular concern are monies presently  
21 devoted to refurbish a school building and monies budgeted in a no expenditure account at the  
22 same time a proposal is on the table to roll back salaries. Other monies budgeted are in non-  
23 personnel categories and to the extent possible should be reduced to free funds to preserve and  
24 protect teachers salaries. Additionally, the District can reduce the statutorily required 3% reserve  
25

1 to 1%, freeing approximately \$800,000 dollars in the general fund. A salary decrease has  
2 already occurred from the increase in workload represented by the elimination of preparation  
3 periods and the increase in class size.

4 The Panel recommends no reduction whatsoever in the current salary schedule.

5 The Panel incorporates by reference as if fully set forth any concurring or dissenting  
6 opinion as may be attached hereto.  
7

8 Respectfully submitted

9 

10 Thomas L. Hodges  
11 Fact-finding Chairperson

12 August 26th 2009.  
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**CALIFORNIA TEACHERS ASSOCIATION**

**VIA U.S. MAIL & EMAIL**

**Fact Finding Report**

Concurring Opinion

Case No. SF-IM-2817-E

Between

Travis Unified School District

And

Travis Unified Teachers Association/CTA/NEA

The Travis Unified Teachers Association/CTA/NEA firmly concurs with the fact-finder's report and with respect to all aspects of this matter.

Sincerely,

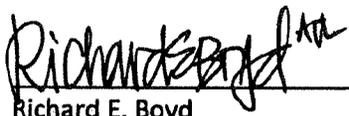
Richard E. Boyd  
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(925) 676-2822 office  
(925) 676-2915 fax  
Email: [rboyd@cta.org](mailto:rboyd@cta.org)

Concur   X  

Dissent \_\_\_\_\_

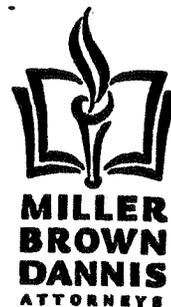
Concur in part \_\_\_\_\_

Dissent in part \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Richard E. Boyd". The signature is written in a cursive, somewhat stylized font. There is a horizontal line drawn across the signature, and a small mark resembling a checkmark or a flourish is visible at the end of the signature.

Richard E. Boyd  
Association Panel Member

GREGORY J. DANNIS  
ATTORNEY AT LAW  
gdannis@mbdlaw.com  
SAN FRANCISCO



**IN THE MATTER OF THE FACTFINDING BETWEEN**

**TRAVIS UNIFIED SCHOOL DISTRICT**

**PUBLIC EMPLOYER**

**AND**

**TRAVIS UNIFIED TEACHERS ASSOCIATION**

**EMPLOYEE ORGANIZATION**

**PERB CASE NO. SF-IM-2817-E**

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

**I. INTRODUCTION**

The Report and Recommendations ("Report") of the Panel Chair in this matter present me, the District's Panel Member, with a difficult challenge.

On the one hand, I agree with and therefore concur with the Chair's more salient statements of fact (set forth specifically below) which establish that the Travis Unified School District is on the precipice of insolvency.

On the other hand, I cannot agree with and therefore dissent from the Chair's recommendations which, in sum, would require the District to utilize one-time funds to continue bargaining unit salaries at a status quo level for one more year at the most. This will only serve to

perpetuate and exacerbate the "expenditure/revenue cliff" on which the District finds itself and will bankrupt the District and whatever remains of any stable relationship between the District and the Association.

I also cannot in good conscience endorse a recommendation which, in my professional opinion, violates the statutory criteria the Panel is obligated to follow. Specifically, the Panel is required to "be guided by" among other criteria, "State and federal laws that are applicable to the employer." (Government Code section 3548.2, subd. (b)(1).) Thus, in assessing any proposed agreement with the Association, the District is required to certify that it can balance its budget for the present and subsequent two fiscal years, which will be discussed more below in the Dissent.

The District presented ample and unchallenged evidence establishing it cannot maintain status quo salaries (or class sizes or elementary preparation time) in the current or subsequent years. Inexplicably, however, the Chair's recommendations ignored the relevant law and found that "Although the District presents a scenario of insolvency, particularly in 2010-11..., it is important to note that the salary proposals before the panel are for one year, 2009-10." Using this finding as a foundation, the Chair then cobbles together one-time funds to purportedly maintain status quo salaries for the 2009-10 school year and does not address, analyze or mention the fiscal catastrophe thereby created in subsequent years. This will likewise be discussed more in the Dissent.

This I cannot condone. This kind of myopic, single year approach, one time money gimmicks, and "let's hope for the best next year" attitude are precisely the mistakes the State of California has made over the last few decades, resulting in billion dollar deficits, an erosion of the social safety net, a near-last in the nation ranking in dollar support for education, and junk bond status. I cannot change how the state does business, but I will not join in a recommendation that this District adopt this literally bankrupt approach.

## II. CONCURRENCE

### A. Evaluations

The Report states: The Panel recommends that the current status quo of teacher evaluations remain in place and that parties return to the bargaining table to pursue a possible agreement.

### RECOMMENDATION:

I concur with this Recommendation.

### B. Health Benefits

The Report states: The Panel recommends that District arrange for the addition of the requested options forthwith and attempt to provide enrollment opportunities as soon as possible.

## RECOMMENDATION:

I concur with this Recommendation.

### **C. Inability to Pay**

The Chair's findings include the following:

- "In the spring of 2009, the District took dramatic steps to reduce its expenditures by laying off 52 teachers. More recently, the District raised class sizes and eliminated certain elementary school preparation periods which lowered staffing needs by an additional 13 teachers. The total savings to the District from these actions alone amounted to approximately \$4.0 million dollars." (Report, p.2.)
- "On August 11, 2009, the District adopted Board Resolution 2009-10-20 eliminating certain elementary school preparation periods and raising class sizes throughout the district." (p. 3.)
- "The District's total general fund expenditures for 2009-2010 are estimated to be \$43.6 million with estimated revenues of \$38.3 million." (p.5.)
- "The expenditure for unrestricted certificated salaries in the current budget is estimated to be \$15.84 million dollars—a reduction of \$4.05 million dollars from 2008-2009 resulting from the reduction in force inclusive of the reduced staff needs from raising class size and eliminating preparation periods. As set forth hereinabove, the district has reduced its certificated teaching staff needs by 65 teachers." (p.5.)
- "The District's ending general fund balance for 2009-2010 [sic] is estimated to be approximately a negative 4.219 million dollars." (p.5.)

Based on the foregoing findings, it is readily apparent that the Chair's subsequent rejection of any salary decrease is based squarely on the fact that the District has already reduced expenditures by approximately \$4 million dollars via changes in class size and elimination of elementary preparation time. In other words, the Chair has recognized that the District cannot afford and has an inability to maintain the status quo.

It is significant that the Association presented no evidence to rebut or challenge the District's need to at least close this \$4 million hole and, by extension, the District's need to take the action it has taken. Indeed, in presenting its Exhibit 16 to the Panel, the Association representative stated in effect that "If the reductions in force hold up, we see no reason to recommend any other reductions than the already lost 65 FTE" due to the class size and preparation period changes.

The Chair himself stated at the conclusion of the hearing his view that the estimated deficit in 2009-10 was approximately \$4 million and the District laid off 65 FTE teachers to save approximately \$4 million, resulting in "a wash."

The Chair's final recommendation includes the following statement:

"A salary decrease has already occurred from the increase in workload represented by the elimination of preparation periods and the increase in class size." (p. 10.)

### RECOMMENDATION

Based on all the foregoing, I therefore concur with the Chair's findings and recommendations that, taken as a whole establish the District is in extremely perilous fiscal health – in critical condition, if you will – to the degree that it cannot afford to maintain the status quo with regard to class sizes and elementary preparation time. I strenuously disagree, however, with the Chair's conclusion that the District can afford to maintain the status quo with regard to salaries and work year for the reasons set forth in my Dissent immediately below.

### III. DISSENT

As indicated above, I must dissent from the Chair's ultimate recommendations. I will neither be a party to hastening the insolvency of the District nor join the Association in its apparent abdication of any responsibility to preserve the District as a viable, ongoing concern whose primary purpose is to educate the children of the District community.

The Report exacerbates the real threat to the fiscal solvency of the District to the detriment of every member of the District community, especially students and teachers. By stripping the District budget bare to maintain already unaffordable salaries, students will suffer from a lack of equipment, deteriorating facilities, and a hamstrung management team with no flexibility to respond to emergencies. In sum, the Report calls for fiscal, operational, and eventually educational instability for years to come.

The District is in the midst of a financial disaster. It did not happen overnight and will take years to fix. The District must take radical steps to fix this problem now and all parts of the school community must contribute to that effort. This situation has internal and external causes, some grounded in declining revenue and others in escalating expenses, the combination of which can only yield a negative number – in this case, a number in the millions of dollars.

On the revenue side, the already daunting state budget deficit worsened from December 2008 to July 2009. The federal government has reduced ongoing Impact Aid over the last six years due to the removal of base housing at Travis AFB.

Despite these unprecedented reductions in revenue, the District's expenditures – primarily on personnel costs – remain uncommonly high. Over the last ten years the District has maintained a generous teacher salary schedule and smaller class sizes than those in neighboring districts. Well paid teachers and small classes are certainly preferred, but in hard financial times they become difficult to maintain, especially when they are vastly superior to comparable districts. These salaries and class sizes have wiped out whatever internal reserves the District

had, unlike neighboring districts. Since salary and benefits are almost 90% of the District's budget, a significant source of savings must necessarily come from salary savings.

By recommending a status quo salary schedule supported by using one-time money, the Report would render the District insolvent at the end of this school year. The District will be unable to fund necessary and important educational programs for students from its ongoing revenues in 2010-11 and beyond. Its cash reserves will be gone and it will be a burden on the State of California which will by law take over control of the District's affairs. As school districts under state administration can attest, insolvency is not in the best interest of students, families or, indeed, teachers themselves.

A. **District Ability To Pay**

**While Implicitly Finding The District Cannot Meet its Current Obligations Without Significant Certificated Staff Savings, The Final Report Erroneously Concludes There is An Ability To Maintain A Status Quo Salary Schedule.**

**I. *There Is An Invalid Assumption Regarding The Ability Of The Governing Board To Use One-Time Money For Ongoing Costs Affecting This Year And The Two Ensuing Years.***

As I pointed out in the Introduction, the Final Report states:

Although the District presents a scenario of insolvency, particularly in 2010-11 (D. p.50), it is important to note that the salary proposals before the panel are for one year, 2009-10.

This "approach" fails to acknowledge and comply with the law applicable to the factfinding process. As stated in the District's Statement of Position (and noted in the Introduction above), Government Code section 3547.5 provides:

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.  
[Emphasis supplied.]

In addition, Education Code section 42127.6, subdivision (e), provides, as the County Superintendent has done in the case of the District, for a fiscal adviser appointed by the County Superintendent with the following powers:

(1) Develop and impose, in consultation with the Superintendent of Public Instruction and the school district governing board, a budget revision that will enable the district to meet its financial obligations in the current fiscal year.

**(2) Stay or rescind any action that is determined to be inconsistent with the ability of the school district to meet its obligations for the current or subsequent fiscal year.** This includes any actions up to the point that the subsequent year's budget is approved by the county superintendent of schools. The county superintendent of schools shall inform the school district governing board in writing of his or her justification for any exercise of authority under this paragraph.

(3) Assist in developing, in consultation with the governing board of the school district, a financial plan that will enable the district to meet its **future obligations**.

(4) Assist in developing, in consultation with the governing board of the school district, a budget for the **subsequent fiscal year**. If necessary, the county superintendent of schools shall continue to work with the governing board of the school district until the budget for the subsequent year is adopted.

(5) As necessary, appoint a fiscal adviser to perform any or all of the duties prescribed by this section on his or her behalf.

[Emphasis added.]

The District provided extensive evidence at the hearing establishing that it could not meet its current or future fiscal obligations under a status quo scenario regarding wages (or elementary preparation time or class size). The District's evidence was responsive to its legal obligation to illustrate its fiscal health, or lack thereof, for the current and subsequent two years. Instead of considering this evidence, the neutral confines the scope of his inquiry and findings to the current year without regard to the devastating future impact of the recommendations. Instead of meeting his legal obligation to consider the future fiscal health of the District based on multiyear projections, the Chair blithely dismisses the utility of all projections based on a single Association Exhibit by finding "The Association presented data that certain economic projections from 2004 through 2009 were generally erroneous compared with actual developments." (Report, p. 8.) It is of no import, apparently, that these same projections are the ones used by the State of California, county offices of education, and the Fiscal Crisis Management and Assistance Team (FCMAT – the agency that intervenes to assist districts in fiscal distress).

The District's budget has already been certified as "negative" by the Solano County Superintendent of Schools. Thus, the District is one of less than two dozen school districts (out of approximately 1000 in California) that have been found to be unable to meet its current and future obligations. Accordingly, the County Superintendent, as noted above, has appointed a fiscal adviser under the Education Code to assist in creating a plan to reduce if not eliminate the current projected deficit. The fiscal adviser has "stay and rescind" authority as set forth in the Education Code section cited above.

The Fiscal Adviser most certainly will not approve – indeed, cannot approve – a "scheme" in which a district, already in negative status and projected to become insolvent, purports to utilize one-time revenue to maintain, for one year, salaries it can no longer afford. The Fiscal Adviser cannot allow such a "scheme" to create an even taller "cliff" over which this District will fall. As such, the Report fails completely to fulfill its statutory purpose to "recommend terms of *settlement*" since its prescription for bankruptcy is inherently unacceptable

and fated for rejection by the Fiscal Adviser. (Government Code section 3548.3, subd. (a), emph. added.)

The Report recommends transferring one time revenue from reserves to the general unrestricted fund account of certificated salaries in order to maintain the status quo for 2009-2010. This is a serious, fundamental and reckless mistake since all indications are that there will be no future funding from the sources from which the one-time money was received. In short, that money will be spent in support of ongoing salaries will then disappear – *and the Report acknowledges and endorses this!*

The Report appears to justify this “pay now, go broke next year” approach by noting “The District has spent “one-time” money on continuing personnel obligations, e.g., [federal] stimulus funds of \$1.78 million.” (Report, p. 8.) As the District evidence illustrated, these *federal* funds were used to save approximately 19 teacher jobs *because the stated purpose of the federal law was to save jobs*. One can only imagine the outcry had the District spent this money on some other purpose! Moreover, as the District stated at the hearing, the California Legislature, in its questionable wisdom, specifically recognized the one-time nature of these funds by exempting these funds from consideration in analyzing whether a district can meet its multiyear projection requirements. In other words, the money will go away, it will create an operating deficit, but a county office cannot declare a budget qualified or negative based on this fact alone.

In any event, the District’s expenditure of these one-time federal funds can in no way serve as a precedent or rationale for utilizing “regular” District revenues in the same manner.

The Report posits an amount of \$2.15 million comprised of one-time federal Impact Aid (\$1 million), spending two thirds of the Reserve for Economic Uncertainties (\$800,000), and reserve funds for future post employment benefits for retirees (\$350,000). It states that this more than makes up the \$1.65 million that would be generated from an 8% salary reduction. However, either these funds are not available or are inappropriate to be used in support of ongoing obligations such as salaries.

For example, how will the District restore its reserves, as required by law in the ensuing two fiscal years, when its obligations in fiscal year (FY) 2010-11 exceed those of FY 2009-10 and there will be, as established by the evidence presented, \$4 million less revenue in FY 2010-11? By making a recommendation based on an illusory hope that somehow everything will be better next year. As the saying goes, “hope is not a strategy,” especially when the continued existence of a school district is at stake.

Evidence presented at the hearing establishes that the State Fiscal Stabilization Fund (SFSF) (\$1.7 million in the General Fund) and the Table 9 Impact Aid revenues (the \$2.4 million in Reserve Fund 40) is not ongoing funding. Thus, there will be a giant “cliff” over which the District Budget will fall in FY 2010-11. In fact, if analysts of the state budget process are correct, there will be a mid-year cuts in 2009-2010 revenue which will only hasten the District’s insolvency if the Chair’s recommendations are adopted. This evidence is unrefuted, was not challenged at the hearing, and is consistent with all published information on this matter.

## RECOMMENDATION

The District does not have the ability to pay (maintain) the status quo salary schedule; the current fiscal situation requires an ongoing salary rollback on the order of 8% effective with the 2009-2010 school year.

### **B. Salary**

#### ***1. There Is A Lack Of Evidence, Data, Or Facts To Support The Status Quo And A Salary Rollback Puts Travis Teachers In Second Position In The List Of Ten Comparable Districts.***

Voluminous data under the tab for Article 18 establishes that, even with an 8% rollback, Travis teachers would be second out of ten in career earnings at every level with comparable districts. (See pp. 118-119, Article 18 Salary and Fringe Benefits of the District Binder.)

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

As a result, given the full impact of the recommendation for status quo on the salary schedule, the total impact of the Recommendations in the Report on the current budget would be \$1.65 million more in certificated salary cost. That cost to maintain the status quo would be in addition to and exacerbate the currently projected negative shortfall of \$173,000 and deficits of more than \$1,013,703 for 2010-11 and \$2,262,928 for 2011-12. (See the chart in Tab 15 of the District Binder.) This would require a draconian cut in other salaries and District expenditures in the unrestricted budget categories currently budgeted at about \$4.4 million (after subtracting teacher salaries, contributions to restricted programs required by law, and debt service) (see the chart behind Tab 15 of the District Binder). This would require significant future cuts in teacher compensation or a State loan or both to bridge that gap.

#### ***3. The Public Welfare and Interest Must Be Considered.***

The District's Summary of Position raises a point that has been misstated in the Report. Specifically, the Report does not ask the vital question - Will maintaining a status quo salary schedule that would put the District into insolvency be in the interests and welfare of the public? The statutory criteria include this crucial element and it should more appropriately be discussed in the Report. The discussion in the Final Report talks at length about teachers and students, but does not really analyze the effect on students of the lack of maintenance on facilities and the impingement on the equipment and supplies funds that the Report seems to believe is over-budgeted.

I repeat the District's point here:

The District [] present[ed] clear evidence to the panel establishing that *maintaining the status quo* in 2009-2010 on certificated salaries and staffing would cause

the District to have negative shortfalls in 2009-2010 and in 2010-11. Absent a change in the state's financial fortunes, this would mean that the District will need to make expenditure reductions each year for the next three years, apparently from some source other than teacher compensation. This means insolvency of the District since even significant ongoing cuts in programs, people and educational services to students could not possibly garner more than \$2 million in 2010-11, let alone \$6 million for 2011-12. Granting TUTA's demand for the status quo would exacerbate the District's deficit spending and end with the District's insolvency.

Based on the foregoing, the panel cannot reconcile granting TUTA's demanded status quo salary, staffing, and class sizes and meeting the criterion of serving "the interests and welfare of the public."

The numbers cited in the District's argument establish that that insolvency cannot be in the interest and welfare of the public (the students and parents served by the District).

#### RECOMMENDATION

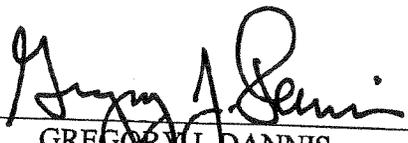
In the area of salary, the panel should recommend an 8% rollback in the salary schedule and all other rates under Article 18 in light of the lack of ongoing funds to pay the status quo and the dire financial consequences of failing to take such action.

#### IV. CONCLUSION

The recommendations and conclusions regarding ability to pay and salary are dependent upon an erroneous assumption - or "hope" - that there will be new ongoing revenue in 2010-11 that will somehow "bail out" the District from the grave mistake it would make in 2009-2010 if the Report were to be implemented. Such recommendations and conclusions are invalid, not based on any facts in evidence, contrary to the facts the District placed in evidence, doomed to rejection by the County and Fiscal Advisor, and ultimately without substance or merit.

I must therefore strenuously dissent as set forth above.

Dated: August 26, 2009

  
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GREGORY J. DANNIS  
District Panel Member