

FACT FINDING DISCUSSION AND RECOMMENDATIONS

Between	)	Re: Case No. LA-IM-3758-E
	)	
<b>Palmdale</b>	)	
<b>School District</b>	)	
	)	
and	)	
	)	
<b>Palmdale Elementary</b>	)	
<b>Teachers Association</b>	)	
<b>PETA/CTA/NEA</b>	)	
_____	)	

Impartial Chair

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

District Panel Member

John Gray, President  
School Services of California, Inc.  
1121 L Street, Suite 1060  
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Association Panel Member

Angela Su, Financial Services, CTA Staff  
CTA Representative  
1169 Mountain Avenue  
Norco, CA 92860-3120

Hearing Held

May 24, 2013  
June 27, 2013  
Palmdale School District  
Conference Rooms  
39139 10<sup>th</sup> Street E  
Palmdale, CA 93550-3419

## **BACKGROUND**

The Palmdale School District (PSD or District) and the Palmdale Elementary Teachers Association (Association or PETA), a local affiliate of the California Teachers Association and the National Education Association (CTA/NEA), are the parties in this fact finding matter. The certificated staff in this bargaining unit are members of PETA/CTA/NEA. There are about 945 members in this bargaining unit. The District was founded in 1888 and currently serves about 22,000 students. It is the fourth largest elementary school district in the State. The District serves this community with 18 elementary schools, 3 intermediate schools, 2 K-8 schools, 1 community day school, 1 special education facility and 18 head start programs (DF pg 2 and AF Tab 1).

Although the teachers and schools have received multiple recognition awards, there are multiple challenges as well. 21 of 24 of the District schools are in Program Improvement (PI) and two are identified as Persistently Low Achieving and were funded by a School Improvement Grant. The District is in year 3 of a School Improvement Plan (AF Tab 1).

The negotiations between these parties commenced on or about January 30, 2013 following the public hearings of the District's and Association's proposals for the re-opener of the 2012-13 Collective Bargaining Agreement (CBA or Agreement). The respective proposals were sunshined and approved by the District Board in November and December of 2012 (DF pg 10). Prior to the

"sunshining" of their respective proposals, the parties agreed to negotiate cost savings within the PETA unit, in the health benefits plan in May 2012, and reached a Tentative Agreement on September 7, 2012 which saves the District 2.3 million dollars (AF Tab 2 pg 1). This is important as the District specifically asked the Association to re-open the Agreement early and the District memorialized in writing, that this was one of their three re-openers for the 2012-2013 re-opener agreement (AF Tab 2).

The parties met four times January 30 and 31 and February 5 and 6, 2013. The District filed for Impasse with PERB on February 7 and PERB declared impasse on February 15, 2013. The California State Mediation and Conciliation Service (CSMCS) assigned Mediator Joe Rios. They met in formal mediation sessions on March 14 and April 2, 2013. When they were unable to reach agreement, the mediator certified the parties to Fact Finding on April 3, 2013. PERB acknowledged a District request to fact finding on April 10, 2013 (DF pg 10 and AF Tab 2, pg 1-4). Prior to the Fact Finding Hearing, the parties met and reached tentative agreement (TA) on 19 non-economic issues. Those T.A.'s are pending ratification, subject to reaching a TA on the economic issues (Chair's notation).

The District selected John Gray as its Panel Member and the Association selected Angela Su as their Panel Member. They selected Bonnie Prouty Castrey to Chair the Panel.

The issues before this Panel are Article IV Salary Standards; Article XIV Employee Benefits and Article XXXIII Duration and

Renegotiations (DF pg 12-13). In Executive Conference call with the Panel, the District also pled Inability to Pay. PETA contends that these issues are not properly before the Panel, as the parties were in Re-opener negotiations for 2012-13 only. The Panel Chair responded to this objection, rejecting it and moving forward with the Fact Finding Hearing on May 24, 2013 as PERB had previously determined that an impasse existed, assigned a State Mediator and he had certified the matter to Fact Finding.

At the hearing, both parties briefly presented their documentation and facts regarding the issues before the Panel and had time for clarifying questions. The Panel Members then worked in joint, separate and off the record confidential sessions in an attempt to assist the parties in reaching a Tentative Agreement.

When this effort was not successful, due to so many unknowns, including the State Budget and whether the Local Control Funding Formula would be adopted and the impact of the budget decisions upon this District, the parties agreed to meet again with the Panel on June 27, 2013. In preparation for that meeting, the Panel Members studied both parties' entire submissions thoroughly and the Chair drafted a rough draft of this Report and Recommendations for the Panel Members to discuss and to use this Report and Recommendation, with the parties, as a potential basis for reaching a tentative agreement.

That effort by the Panel was also unsuccessful, as there continue to be a multitude of unknowns in terms of the District's

funding although the State Legislature has passed a budget and as of June 27, 2013, Governor Brown signed the budget. Although, it is now known that there will not be further draconian reductions in districts' funding, there remain many unanswered questions regarding the implementation of the districts' funding including the impact district by district of the Local Control Funding Formula (LCFF). Logically, the Panel Chair and Members can only consider what we know today and hence what was presented at the hearing. Therefor, the Chair writes after analyzing both parties sets of facts in an effort to help them to find common ground as more light is shown on the State Budget's impact on this District's particular Budget.

#### **PERTINENT STATE LAWS**

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

In arriving at their findings and recommendation, the Fact Finders shall consider, weigh, and be guided by all the following 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 employer.
4. Comparison of the wages, hours, and conditions of employment of the employers involved in the fact finding proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in public school employment in comparable communities.
5. The consumer price index for goods and services, commonly known as the cost of living.

6. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits; the continuity and stability of employment and all other benefits received.
7. Any other facts, not confined to those specified in paragraphs (1) to (6), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations."

### **ADDITIONAL PERTINENT STATE LAWS**

#### **Government Code Section 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 the 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 the 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 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 the 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.

### **STIPULATIONS OF PSD AND PETA**

1. The District is a public school employer within the meaning of Section 3540.1(j) of the Educational Employment Relations Act (EERA).
2. PETA is a recognized employee organization within the meaning of Section 3540.1(d) of the Educational Employment Relations Act and has been duly recognized as the exclusive representative of this bargaining unit in the District.
3. The parties to this factfinding have complied with the public notice provisions of the Government Code Section

3547 when they publically noticed their respective proposals on November 6 and 27, 2012.

4. An impasse in bargaining for compensation and health benefits was declared by the District on February 6, 2013. The Public Employment Relations Board (PERB) determined the existence of an impasse on February 15, 2013. Joseph Rios was appointed by PERB to act as a mediator and the parties met with the mediator in an effort to reach agreement until April 2, 2013. On April 3, 2013, the mediator informed PERB that Factfinding was appropriate.
5. On April 8, 2013, the District notified PERB that it wished to proceed to Factfinding. On April 15, 2013, the District notified PERB that John Gray of School Services of California was designated as the District's Panel Member for Factfinding. In May, 2013, PETA notified PERB that Angela Su was selected as PETA's Panel Member for Factfinding. In May 2013, PERB was notified that the parties mutually agreed to select Bonnie Prouty Castrey as the Chair of the Factfinding panel. In selecting the Chair, the parties agreed to waive the time-lines of Government Code Section 3548.3.
6. There were no written tentative agreements regarding these articles. The parties did reach tentative agreements on 19 matters.
7. PERB appointed Ms Bonnie Castrey as the panel chairperson in May, 2013. (DF pg 5)

### **COMPARISON DISTRICTS**

The District used the comparison districts of elementary in LA County and surrounding area which are funded with Base Revenue Limit per ADA. They are likely to compete for teachers in this geographic area.

They are :

Adelanto Elementary  
Alta Loma Elementary  
Castaic Union Elementary  
Eastside Elementary  
Etiwanda Elementary

Keppel Elementary  
Lancaster Elementary  
Newhall Elementary  
Saugus Union Elementary  
Sulphur Springs Union Elementary  
Westside Union Elementary

The District selected districts in Los Angeles County and surrounding area which are base revenue limit districts per ADA. (DF pg 2)

The Association submitted comparison districts as follows:

Antelope Valley Union High School District  
Eastside Elementary  
Keppel School District  
Lancaster School District  
Mojave School District (Unified)  
Murdoc School District (Unified)  
Palmdale School District  
Southern Kern School District (Unified)  
Tehachapi School District (Unified)  
Westside Union School District  
Wilsona School District

Ten comparable districts were selected. Included were Los Angeles County and Kern County school districts with similar type, ADA, and/or within the geographic proximity. Over 85% of the PETA bargaining unit lives in Palmdale or Lancaster. (AF Tab 8)

In this case the parties only agreed on four school districts to compare PSD to, so the Chair will consider both parties comparisons giving heavy weight to those four elementary districts as they are very close geographically to PSD. They are Keppel, Westside, Eastside and Lancaster.

### ISSUES

As discussed above, the parties did not agree on the issues in Fact Finding as PETA asserted that they were only in Re-opener negotiations for 2012-13. As PERB had found an impasse and had a State Mediator assigned, who subsequently certified the parties to Fact Finding, in this Chair's opinion, the Panel must respond to

all the issues. These include:

- (A) Article IV-Salary Standards;
- (B) Article XIV-Employee Benefits;
- (C) Article XXXIII-Duration and Renegotiations
- (D) Inability to Pay

INABILITY TO PAY

DISCUSSION AND FINDING

The first issue is the question of inability to pay.

When a district asserts inability to pay, they have the heavy burden of proving that they cannot afford to continue paying salary and benefits at the level they currently are obligated to pay and/or that they cannot afford to negotiate increases in compensation.

State law requires that school districts must maintain a positive ending balance in the current year and two successive school years. In other words, the budget for fiscal year/school year (FY) 2012-2013, which commences July 1, 2012 and ends June 30, 2013, must have a positive ending balance and this District is required to maintain a minimum three (3) percent reserve for economic uncertainties, including all appropriate funds. In addition, FY 2013-2014 and FY 2014-2015 they must also be able to show a positive ending balance with at least the 3% reserve for economic uncertainty.

In considering this entire argument, it is a fact that schools in California are dependent on The State of California for their

revenue. Furthermore, the State has been in fiscal crises for several years since at least 2007 with billions of dollars in deficit budgets. Some economists have described California's budget as being in "free fall". As a result of the State budget shortfall, due to decreased revenues from sales tax, income tax, and other revenues, the State has unceremoniously cut school districts' unrestricted and categorical (restricted) funding by literally billions of dollars and has not maintained the Proposition 98 floor of funding. They reduced schools' funding in K-14 by at least 22 billion dollars.

For this District this decreased funding amounts to more than a twenty two percent (22%) decrease in unrestricted funding and about twenty percent (20%) in restricted/categorical funding from what would be required by statute (DF tab 14, pg 74). The District now only receives approximately 77-78 cents for every dollar they should be funded and about 80 cents for State categorically funded programs.

In addition, this District has sustained a loss of Average Daily Attendance (ADA) of some 1,402 students since 2008-09. This amounts to an ongoing loss of about 7,064,678 million dollars based on the current State's decreased funding of the Base Revenue Limit (BRL) 2011-2012 of \$5,039.00 per ADA through June 30, 2012 (DF tab 15, pg 76).

Had the State not cut its unrestricted funding, also referred to as the BRL over the past five plus (5) years, PSD would have

received, in the 2012-2013 FY, \$6,482.00 for each student attending class each day (ADA). With the State decreasing its funding of the BRL, the District received only \$5,038.00, a difference of \$1,444.00 equal to 22.3%. The 2007-08 school year is the last year in which the District received it's fully funded BRL at \$5,602.00. Since that time they have received from \$464.00 per ADA less to \$1,444.00 per ADA less in funding each year. As stated above, in this years funding that is equal to 22.3% less in general fund monies (DF Tab 20, pg 126).

While the tax initiative, Proposition 30, meant to stabilize education funding, was passed by the voters in the November of 2012 election; the amount of funding for school districts remains in question, at this writing. The Governor proposed a new funding model, using a weighted student formula called Local Control Funding Formula (LCFF). That proposed formula has now been modified, passed by the legislature and signed into law by the Governor along with the trailer bills for implementation. Realistically, however, Districts likely will not know for several weeks, how the actual funding for 2013-14 will be implemented. Therefore at this point in time, for budgeting purposes within State Law, looking out two years to 2013-14 and 2014-15, the District must make their budgeting assumptions and projections under the current funding model, using the BRL. For purposes of this Fact finding Report and Recommendations, the Panel must use known current law, however, considering the timing of this report,

the funding has changed and will have to be considered by the parties as they continue to negotiate and to consider their respective options.

To make matters even worse and more complicated for school districts, including PSD, the State has deferred payments of monies to school districts which has caused a serious cash flow issue for districts. In other words, the State has failed to pay schools on the dates they were to be paid. If the deferrals continue, this District may have to borrow externally and pay high interest rates on the borrowed money in order to pay its bills including salaries and benefits. The combined deferral of restricted and unrestricted dollars amounts to 81 cents on every dollar instead of 100 cents on every dollar (DF Tab 13, pg 31).

Complicating their budget picture even more, in January 2013, the LA County Office of Education disagreed with the District's positive certification in January 2013, and the County placed them in a "Qualified" status. Additionally, the District was required to submit a plan for substantial reductions and fiscal stabilization. (DF tab 16, pgs 77-83).

The LA County Office specifically ordered the Board to develop a fiscal stabilization plan to be submitted with the 2013-2014 budget by July 1, 2013, for the 2013-2014 Fiscal Year. They also posited that the increased deficit to the District's budget was primarily due to the Board's decision to restore the negotiated furlough days and the fact that the State continued to deficit each

dollar to the district (DF tab 16, pg 80).

According to the end of year projected figures for FY 2012-13, salaries and benefits account for 85.00% of PSD's unrestricted general fund budget (DF Tab 21, pg 127-136) and 87% of the combined unrestricted/restricted general fund (DF Tab 22, Pg 137-146). Unfortunately, that leaves only 13% - 15% of the entire budget, which is simply not enough areas of the budget to make cuts and thereby forces personnel reductions.

The District also points out that the passage of Proposition 30 in November of 2012 did not eliminate the District's fiscal problems, it simply prevented another severe cut in the budget from another year of decreased State funding (DF Tab 24, Pg 149).

Finally, the District has sustained a substantial loss in ADA since 2008-09. The P-2 ADA in 2007-08 was 20,524 and in 2011-12 it was 19,122. This is a total of 1,402 in ADA and represents an ongoing loss of over seven (7) million dollars. The P-2 numbers for 2012-13 were not known at the time of this Fact Finding Hearing on May 24, 2013, hence the additional loss in 2012-13 is not reflected in this document (DF Tab 15, pg 76).

The Association data recognizes that the District is spending down their reserves, however they argue that there are other cuts to be made before this bargaining unit should make additional cuts. They have co-operated with the District in making \$2.3 million in reductions in benefits provided by the Central Valley Trust (CVT).

They point out the District has additional options, which they

believe adds significantly to the District's ending balance. These options include lowering the book and instructional materials budget and using that money. Over the last five years (5) the District has spent on average, \$7.6 million in this category, yet in 2012-3, the District projected \$11.7 million and there is a suspension of new text book adoptions this year through and including 2014-15. Therefore, there is some \$5.2 million in unencumbered funds in this books and supplies account, which could be used to offset personnel cuts.

Next, they urge the District to apply for the Mandated Cost Reimbursement Grant from the State, a suggestion that the School Services of California has made to all districts.

They also point out that while staff in all areas has been reduced, the dollars budgeted for staff has increased.

The Association also suggests that the District should stop promoting alternative schools which cause a decline in enrollment and therefore in ADA as well.

They also support the Auditor's recommendation for better internal controls of District funds (AF Tab 7).

In giving consideration to the Associations options, the Chair urges the District to look at these areas and all of the budget for savings going into FY 2013-14 in order to minimize painful reductions to staff, which as the Association argues, may cause such great financial hardship, that mortgages could not be paid and people could lose their homes.

In analyzing all of this information, the Chair must consider this budget and the question of the District's inability to pay argument, in the context of the tremendous volatility of the economy during this entire timeframe which is known as the "Great Recession". During this time, both the state and nation have experienced dreadful economic issues and the state, as discussed above, has cut school districts revenues by over 22 billion dollars in this timeframe. Additionally, the one time Federal Stimulus monies came to districts and helped to save jobs, but also made budgeting extraordinarily challenging. Most districts in the state, did grow their ending balances. The State also made a payment on the last day of the year, which had to be "booked" for the year ending, but not spent till the next fiscal year. All these factors makes budgeting during these challenging times very difficult. Furthermore, it is important to remember that the ending balance is one time money and should not be used for any ongoing expenditures such as salaries and benefits. At this writing, the State and districts are also facing the unknown effects of the Federal Sequestration on programs to schools which are funded by the Federal Government such as Special Education.

From the Chair's study of the budget documents, it is a fact that the District is projected to continue spending down its reserves and thus will be continuing to deficit spend in the current fiscal year and for the foreseeable future. This, even though the 2013-2014 State Budget is projected to provide additional funding, including some restoration of the deficit,

which means that the District will receive more than 81 cents for each dollar it is owed, but still will not receive a full dollar for every dollar it is owed.

This is a major concern particularly considering the volatility of the State's structural deficit, which future elimination was greatly helped by the passage of Proposition 30, but which is not completely eliminated. Moreover, Proposition 30, with its increased sales and income tax is only effective for seven years.

Unfortunately, this remains a time of great fiscal uncertainty for school districts and the employees.

In Sum, with the lack of a fully funded BRL, the continuing deferment of allocated monies by the state, the District's ability to continue to pay the salaries and benefits at the current level is not sustainable.

As noted above, the District is currently in a "Qualified" status with the Los Angeles County Department of Education. Without significant additional economic relief, the District is in danger of being Negative in the "out years".

For all these reasons, based on the current known facts, the Chair concludes that the District meets its heavy burden of proof and does have an inability to continue to pay personnel costs including salaries and benefits at the current levels.

The following is a discussion of the contract issues before this Panel for analysis and recommendations for settlement by the parties of this dispute.

**ISSUES**  
**Article IV**  
**SALARY AND STANDARDS**

**SALARY**

The District has made alternate proposals for the 2013-14 school year. Either a salary reduction of 8.1% plus 9 Furlough days in 2013-14 and continuing into 2014-15 or a salary reduction of 3.8% and 9 furlough days in 2013-14 and continuing the 9 Furlough days into the 2014-15 school year with an increased salary reduction to 8.4%.

The District also proposes restoration language which states:

For each unrestricted increment of \$840,925 (the cost of 1% salary for the District) that is available in the unrestricted ending balance reported in the 2012-13 Unaudited Actuals when compared to the 2012-2013 projected 2<sup>nd</sup> Interim ending fund balance, 1% will be restored to the salary schedule (DF pg 11).

The Association argues that this fact finding procedure is only regarding the 2012-13 contract re-opener and does not necessitate going to the 2013-14, which is the third year of the current CBA. They believe strongly that the re-opener for 2013-14 should be "sunshined" by the parties and then for negotiations to commence. Since this current CBA only contemplates through June 30, 2014, they are totally opposed to addressing the 2014-15 school year. This would entail a new three year agreement from July 1, 2011 to June 30 2015.

The 2012-13 school year is essentially ended and while the Chair understands that 4 Furlough days were originally negotiated for the 2011-12 school year, they were restored by the Board in

2012-13, however as stated above the Association did respond to the District in May and negotiated some \$2.3 million in benefit reductions (AF Tab 2, pg 2).

In the Chair's opinion, salary is directly tied to length of the agreement in order to spread out the loss for the employees, over time, to provide time to assess the impact of the State funding of this District on their budget and for the Panel to meet the requirements of the law, to recommend a package which provides for the District's ability to meet their ending balances for each of three years under AB 1200 and its progeny.

The State Budget has now been passed by the Legislature and been signed by the Governor. As of this writing, the Chair does not know and hence cannot analyze the impact on the PSD Budget for 2013-14 and going forward. Unless, however, there is a very large infusion of money, which is quite likely, considering the recently adopted State budget with LCFF and additional monies, such as funding to implement common core standards, the Chair does think that this particular District will likely still need either a negotiated salary reduction or some furlough days or a combination of both in order to show a positive ending balance, in the budget, three years out.

An actual salary schedule reduction would place this District significantly behind the comparison districts. The Association shows that in the comparisons of salary alone the District is some \$3000.00 at BA+30, Step 1; \$4000.00 at BA+45, Step 5 and BA+60, Step 10; and \$10,000 at the Maximum with an MA (AF Tab 8).

When total compensation, both salary and benefits, is valued, as the District shows, they are second in both step 1 and step 10, however, at maximum salary with the District's average benefit contribution, they are fourth among the five districts or third from the bottom when compared to all their comparison districts (DF Tab 25, pg 153-154).

By either comparison a straight salary cut of 8% or more in addition to Furlough Days, which, depending on the number of days could represent a total of at least a 12% reduction in pay, would leave this District far behind their comparison districts.

For this bargaining unit each 1% is equal to \$620,911 and 1% of salary for all employees is \$840,925 (DF Tab 1, pg 15). Each Furlough Day for this bargaining unit is \$343,045 and for all employees is \$436,646 (DF Tab 2, pg 16). This bargaining unit has a school year of 184 days and by law, at this time, the school year can be reduced to 175 days. If all nine days are necessary, after the full impact of the State budget on this District is known, the District would realize \$3,087,405 from this bargaining unit in addition to the \$2.3 million already realized from the parties agreement to reduce health benefits.

The CBA states at 4.24 "The Association and the District agree to a joint budget review each school year." (DF CBA pg 15).

The Chair recommends that as soon as the impact of the State budget is known and the District has closed the books for 2012-13 and knows the Unaudited Ending Balance from all aspects of the budget, including the areas discussed above, that the parties

immediately engage in this joint budget review and determine how much money needs to be saved by this bargaining unit in the 2013-14 budget. This knowledge will be crucial in helping the parties to modify and/or reach an agreement. The Chair further recommends strongly that the parties have the District and Association Panel Members, who have years of experience, return to the District to analyze the impact of the State allocations to this District and to use their expertise to assist the parties in reaching agreement on the number of Furlough Days, if any, are necessary to assure that the District's Qualified Budget is rectified. Further, if it is determined that Furlough Days are necessary, the Chair recommends that all the Furlough Days, to the extent possible, be scheduled in the second semester, in order to adjust for the unknown impacts of the State Budget on PSD and all the accountability issues, which likely will not be known for some months.

#### **BENEFITS**

The District has made alternate proposals for the 2013-14 school year, both with a "hard cap".

The initial question is whether a "hard cap" is necessary in this instance?

A "hard cap" is designed to bring a bargaining unit to the table in order to negotiate benefit changes.

The District shows that with the comparison districts, they are contributing on average, \$16,164 per teacher to health benefits which is the second highest contribution in the comparison group they chose. It is also the highest contribution of only the four

closest districts, which both parties used in their data. The comparisons are based on the 2011-12 State Certified Reports from the J-90s (DF Tab31, pg 161).

When the Panel looks at the comparative data for total compensation, it is fair to conclude, that over the years, these parties have negotiated more dollars into benefits in order to meet an interest for affordable health care, however, that benefit picture is changing rapidly with the increases which the insurance company, CVT, is charging. As those changes occurred, the parties have made changes to their plans.

Two examples which the Association shows are that in May 2012, when the District proposed negotiating Benefits, as one of the District's 2012-13 re-openers, that they sat down and mutually agreed to a health benefits package that saves 2.3 million dollars (AF Tab 2). Additionally in 2006, the parties agreed that "Any unit members hired July 1, 2006 and forward shall be enrolled in the lowest cost benefits package." (DF CBA pg 57).

With a history of co-operation on the negotiation of benefits, to keep health benefits in line, the Chair recommends that the parties agree to a "soft cap" of \$16,750 and a 50/50 split of any increases. This amount on a "soft cap" gives recognition to the fact that the parties have, over the years agreed to lesser salaries in order to have more paid in benefits and also that they have worked together to change the benefit packages. Both of these factors mitigate against a "hard cap". This should also bring CVT to the table to work with these two parties. The Chair also

recommends that the District's contribution be credited in a restoration formula.

### Article XXXIII

#### DURATION AND RENEGOTIATION

##### DISCUSSION AND RECOMMENDATION:

As discussed above, this year 2012-13, is actually the re-opener for the second year of the current Collective Bargaining Agreement (CBA) which is from July 1, 2011 through June 30, 2014.

Following, the LA County Department of Education, letter in January of 2013, the District has consistently advocated for a new three year agreement to include 2012-13 through 2014-15, in order to be able to achieve fiscal stability and not have a "Qualified" status. The Association has continued to insist that this is only a re-opener. While this is a re-opener, without additional years in which to spread any salary and benefit changes, the Chair would have to recommend very draconian cuts, unless, as discussed above, the State Budget with LCFF and the Trailer Bills have a huge impact on this District. The District must meet the requirements of the applicable laws.

Failure to reach a negotiated, long term agreement, in the Chair's opinion, would seriously impact the parties collective bargaining relationship. Moreover, a three year agreement would provide a time of stabilization of the parties relationship and time to continue to work on the serious issues they face.

Therefore, the Panel Chair recommends an agreement which

incorporates the re-opener year from the current CBA and adds two years to make a new three year CBA. Further, that the new CBA include a re-opener in 2014-15 for Salary and two additional articles.

Further the Chair recommends that salary and work year be fully restored by June 30, 2015.

The Panel Members representing the District and Association have met in Executive Session on June 27, 2013 and by conference calls on July 2, 2013 to finalize this Report and Recommendation. Based on the above Recommendations of the Chair they concur or dissent as follows:

For the District:

  X   Concur in Part

  x   Dissent in Part

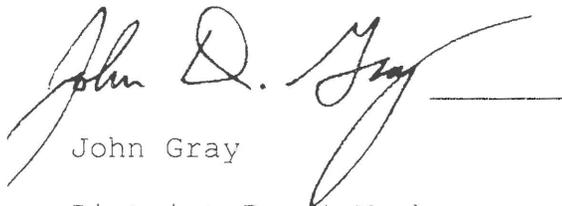
Report attached YES

For the Association:

  x   Concur in Part

  x   Dissent in Part

Report attached YES



John Gray

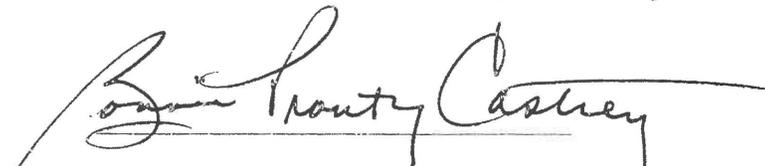
District Panel Member



Angela Su

Association Panel Member

Issued with attachment on July 4, 2013 by



Bonnie Prouty Castrey,

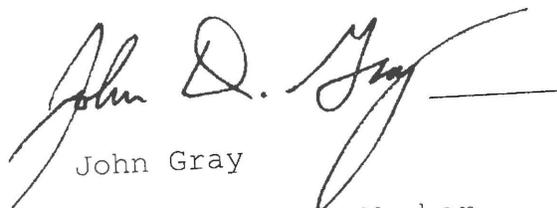
Panel Chair

I fully concur with the conclusions of the Panel regarding the fiscal realities facing the District. In particular, I strongly support the conclusion that the District has an inability to maintain its current contractual obligations given greatly diminished funding levels. Specifically, I concur with the finding that "the Chair concludes that the District meets its heavy burden of proof and does have an inability to continue personnel costs including salaries and benefits at the current levels"

With regard to the recommendations of the Panel, I concur with the recommendation that salary/furlough days and employees sharing in the cost of health benefits are recommended options to consider for achieving savings.

I concur with the Panel's recommendation that the parties consider a three-year agreement and that there be re-openers if revenue to the District significantly improves or worsens during the agreement.

I appreciate the fact that the panel suggested the need for relief to the district in terms of health benefits. The district currently has a negotiated mechanism in place that has been accepted by all other employee groups as it relates to the timing and structure for the sharing in the cost of health benefits. While I agree with the finding that employees share in the cost of benefits, I dissent on the recommendation as to the timing and mechanics recommended in the report and instead believe the district's current mechanism in place for all other employee groups be considered by the district.



John Gray  
District Panel Member

# FACT FINDING PROCEEDINGS UNDER THE EDUCATIONAL EMPLOYMENT RELATIONS ACT

In the Matter of Dispute between **Palmdale School District** and **Palmdale Elementary Teachers Association PETA/CTA/NEA**

Re: PERB No. LA-IM-3758-E

July 4, 2013

## DISSENT IN PART AND CONCUR IN PART OPINION

On behalf of the Palmdale Elementary Teachers Association/CTA/NEA, I respectfully dissent in part and concur in part with the recommendations contained in this Fact Finding Report. For the record, it is important to note that the Association has emphatically held that these negotiations were for 2012-13 reopeners only and that the impasse process and subsequent Fact Finding Report should only reflect fiscal year 2012-13.

### **Ability To Pay and Compensation Reductions**

I disagree with the chairperson's finding that the district has an inability to pay personnel costs including salaries and benefits at the current level. Although school districts in California have been suffering in a time of "great fiscal uncertainty" for a number of years, school funding is scheduled to significantly improve in 2013-14 with the implementation of the Local Control Funding Formula and the passage of Proposition 30. None of this increased funding was considered in the Fact Finding Report because the exact increase in funding for Palmdale School District was not known at the time of the report. Based on Palmdale School District's Second Interim Report Multi-Year Projections and End of Year Projection (Third Interim), the District seems to be facing about an \$11.8 million deficit in 2013-14 without PETA concessions. Computations based on the latest Department of Finance District per ADA LCFF estimates indicate that PSD should see at least an \$8 million ongoing increase in unrestricted funds in 2013-14 and an additional ongoing increase of over \$12 million in 2014-15. Couple this with the \$3.7 million in Common Core funding the District is expected to receive in 2013-14 as well as the likelihood that the District's projection for the 2012-13 unrestricted ending balance is significantly underestimated as it has been historically, and very quickly the deficit will evaporate. As the certainty of the new funding is known, it is apparent that PSD will need neither the salary cuts and furlough days or a hard cap on benefits from the certificated bargaining unit.

### **Employee Benefits**

Although I feel a cap on health benefits is unnecessary for the certificated bargaining unit in PSD as PETA has consistently demonstrated a willingness to adjust health benefits as needed to maintain District solvency, a "soft cap" as outlined in the findings is a viable and possibly preferable alternative to the current bifurcated system where new employees receive health benefits of a reduced value.

### **Duration and Renegotiation**

I concur that any cuts to bargaining unit compensation will leave the District far behind their comparison districts. In addition, I agree that the parties should get together when more concrete revenue projections are available to determine if any cuts are needed on a temporary basis and any restoration language is needed until the new funding is realized. If the parties determine that any furlough days are necessary, those days should be scheduled in the second half of the year, when possible.

I agree with the Chair that failure to reach a negotiated, long term agreement would seriously impact the parties' collective bargaining relationship and that any reductions in compensation and work year be restored at the end of the term of that agreement. I would further recommend any reductions be restored sooner than the term of the agreement by appropriate restoration language.

Respectfully submitted,

A handwritten signature in cursive script that reads "Angela Su". The signature is written in black ink and is positioned below the "Respectfully submitted," text.

Angela Su  
California Teachers Association  
Association Representative to the Fact Finding panel