

Loretta van der Pol
Mediator and Factfinder
lsvanderpol@outlook.com
September 23, 2022

FINDINGS AND RECOMMENDATIONS
PURSUANT TO
GOVERNMENT CODE SECTION 3548.1, et seq. (EERA)

SAVANNA SCHOOL DISTRICT,
Employer

vs.

SAVANNA DISTRICT TEACHERS
ASSOCIATION
Employee Association

PERB CASE NO. LA-IM-4112-E

REPORT AND RECOMMENDATIONS OF
THE FACTFINDING PANEL

Neutral Factfinding Panel Chair: Loretta van der Pol
District-Appointed Panel Member: Steven Andelson
Association-Appointed Panel Member: Dave Brown

Hearing Date: September 20, 2022

APPEARANCES:

For the Employer: Briana Schnitzer, Savanna School District and Mellissa Gallegos,
Atkinson, Andelson, Loya, Ruud & Romo

For the Association: Brian Eldridge, California Teachers Association and Susan
Broscow and Carmen Garcia, Savanna District Teachers Association

BACKGROUND

The Savanna School District (District or Employer) and the Savanna District Teachers Association (Association or SDTA) are parties to a Collective Bargaining Agreement (CBA or contract).

The District is comprised of four elementary schools serving students from transitional kindergarten through the sixth grade, with an enrollment of just under 2000. Students reside in the cities of Anaheim, Cypress, Buena Park and Stanton, in Orange County.

The SDTA bargaining unit has approximately 116 members in the following classifications: Teachers (regular, special education and reading specialist), Speech and Language Specialists, District Nurses and temporary teachers who are employed for more than 50% of the number of days school is in session.

FINDINGS OF FACT

Prior to the issue in dispute, the parties met for several months in negotiations for a successor contract for the period of July 1, 2021, through June 30, 2023. Those negotiations concluded on December 2, 2021, with a Tentative Agreement (TA), which was subsequently ratified by the SDTA bargaining unit. See Exhibit A.

At the time the TA on the full contract negotiations was reached, SDTA was not aware that unit members in the classifications of Speech and Language Specialist (SLP) and Nurse had filed separate Decertification Petitions with the Public Employment Relations Board (PERB). Both petitions were withdrawn in mid-January 2022.

On or about March 2, 2022, the District asked SDTA to reopen negotiations on compensation for SLPs and Nurses. SDTA agreed and the parties met in April, reaching a TA on April 11, 2022. See Exhibit B.

On April 22, 2022, a ratification election was conducted by SDTA. The TA for the additional compensation for SLPs and Nurses was rejected by the majority. The District requested a return to negotiations but the parties were unable to agree to the scope of those negotiations. See Exhibit C.

The District declared an impasse and submitted a request to PERB for certification and a referral to mediation. Mediation did not resolve the impasse and the mediator released the parties to factfinding on August 5, 2022. The Factfinder was appointed on August 29, 2022.

The parties met in factfinding at the District's office on September 20, 2022.¹

¹ The parties agreed to waive the statutory timelines.

STATEMENT OF THE ISSUES

On August 31, 2022, the parties agreed to the following Statement of Issues: "Additional compensation for Nurses and Speech and Language Pathologists."

FACTFINDING CRITERIA

This Factfinding is governed by the provisions of EERA, which provide in Government Code Section 3548.2(b) that the factfinders shall consider, weigh, and be guided by all the following criteria (boldface type added for emphasis as the bases for this matter in factfinding):

- (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 employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in public school employment in comparable communities.**
- (5) The consumer price index for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits; the continuity and stability of employment; and all other benefits received.
- (7) **Any other facts, not confined to specified in paragraphs (1) to (6), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.**

SCOPE OF FACTFINDING

This factfinding report and recommendations address only the sole issue at impasse, which is the additional compensation for the SLPs and Nurses. Negotiations for this additional

compensation was proposed by the District and agreed to by the Association. There was no agreement during the negotiations to include any other classifications.²

Position of the Employer:

The District has difficulty recruiting fully-credentialed Speech and Language Specialists and in recent years has had to hire interns. Research has shown that students who are economically disadvantaged and who attend schools in areas of poverty are adversely impacted by shortages of credentialed teachers and specialists. The Savanna School District student population is classified as 83% economically disadvantaged. Eleven percent are homeless, .03% are in foster care and 14% are special needs students. See Exhibits D and E.

The District is experiencing a greater need to retain skilled nurses with the CDPH³ COVID-19 pandemic guidelines required for the return to in-person instruction. Managing the medical needs of students, including those with diabetes who require monitoring, has added workload for nurses in the schools. There is competition with other districts and hospitals who have increased pay for skilled nurses. See Exhibits D and E.

The District surveyed comparable elementary school districts in the surrounding area for a total of five districts, including its own. The District's SLPs were found to be ranked lowest in salary. The District's nurses were ranked third.⁴

Implement the negotiated additional compensation for SLPs and Nurses as negotiated in the TA signed on April 11, 2022.

Position of the Association:

The Association was not aware of the Decertification Petitions being filed by the SLPs and the Nurses at or shortly after the time the successor agreement negotiations were nearing a close.⁵ Had it been aware, it might have affected the successor agreement negotiations differently. See Exhibits F and G.

The Association also conducted a survey of local school districts, including one elementary school district that differed from the District's, and two high school districts.⁶

² The negotiated successor CBA for the period of July 1 through June 30, 2023, Article VII Wages, second paragraph in Section 7.1 2022-23 School Year contains contingency language for a possible wage reopener for the full bargaining unit.

³ California Department of Public Health

⁴ The District and the Association do not have an agreed-upon list of comparable school districts.

⁵ The two petitions were filed on different days and appear to have required modifications, as there are two different date stamps on each petition.

⁶ There was overlap between the SDTA and SSD comparison surveys. SDTA did not dispute the District's data, so there is not exhibit of the SDTA's comparison's included with this report.

When the TA on the additional compensation failed to ratify by the bargaining unit, SDTA was not given a sufficient amount of time to respond to the District's request to re-enter negotiations before an impasse was declared by the District.

FINDINGS AND RECOMMENDATIONS

The Chair recommends that the parties accept the District's proposal, consistent with the Tentative Agreement reached on April 11, 2022.

The unique nature of this impasse – a failed ratification on an agreement reached on a single issue – made it difficult to find any common ground to try and resolve the matter through discussions in the Factfinding hearing.

The timing issues and circumstances surrounding the successor negotiations' TA and the subsequent reopener requested by the District on additional compensation for the SLPs and Nurses are difficult for the Association's unit members to accept. This is understandable.

The reopener negotiations involved only this wage benefit and there was no agreement to proceed on a general wage reopener for the entire unit. While there was a reference made to the contingency language in the new CBA about a general wage reopener, there was no information provided by the Association that its intent had been to exercise that provision or delay the District's requested reopener and include the additional compensation for the two classifications in those negotiations. The information presented by the District in Factfinding included email correspondence that was included as an exhibit to PERB for the certification of an impasse, and there was no mention of the general wage reopener in that correspondence. See Exhibit C.

The reopener negotiation specific to additional compensation for the SLPs and Nurses resulted in a TA. When it failed to be ratified, the District offered to reopen negotiations, but there was no agreement to expand the proposed benefit to other classes. The provisions of the EERA Section 3548, et seq., were followed. There is no additional obligation on the part of the District to re-enter negotiations once all of the statutory provisions have been used and there continues to be no agreement.

CONCLUSION

The Chair is hopeful that this recommendation does not impede or impair the ability of the parties to have productive negotiations going forward.

Respectfully submitted September 23, 2022,

Loretta van der Pol
Loretta van der Pol, Chair of Factfinding Panel

Steven Andelson
Steven Andelson, Panel Member for the Employer

Concur
 Dissent (Attached)

Dave Brown
Dave Brown, Panel Member for the Association

Concur
 Dissent (Attached)

Respectfully submitted September 23, 2022,

Loretta van der Pol

Loretta van der Pol, Chair of Factfinding Panel

Steven Andelson, Panel Member for the Employer

____ Concur
____ Dissent (Attached)

Dave Brown

Dave Brown, Panel Member for the Association

____ Concur
 Dissent (Attached)

IN FACTFINDING PURSUANT TO CALIFORNIA GOVERNMENT
CODE SECTION 3548.1 et seq. (EERA)

IN THE MATTER OF:

SAVANNA SCHOOL DISTRICT
AND
SAVANNA DISTRICT TEACHERS ASSOCIATION,
SDTA/CTA/NEA

Case No. LA-IM-4112-E
Savanna School District

September 23, 2022

CONCURRENCE AND DISSENT OF
FACTFINDING PANEL MEMBER FOR
SAVANNA DISTRICT TEACHERS ASSOCIATION,
SDTA/CTA/NEA

As noted in the Factfinder's Report, an impasse under these circumstances—a failed ratification vote on an agreement reached on a single issue, specifically increased salaries for seven unit members among a group totaling approximately 116—provides little basis for compromise at hearing. I concur.

The Chair's findings are clear and well-stated. However, I must note my dissent on one issue: the recommendation that the parties accept the District's proposal.

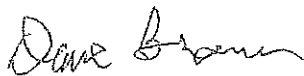
The Association has an obligation to listen to ALL of its members. The ratification vote for the negotiated Memorandum of Understanding was thirty-six (36) votes in favor and fifty-nine (59) opposed. The vote was taken after members had the opportunity to attend an online informational meeting, listen to a presentation by the Speech & Language Pathologist whom the Association had added to its bargaining team specifically for these negotiations, and ask questions. A 62% vote against a proposed MOU cannot, and should not, be ignored by either party. The reasons behind those votes must be explored and considered by both parties as they determine how to move forward.

With the conclusion of the factfinding process, the District will now have the right to unilaterally impose the rejected MOU upon the Association's membership. Although no individual employee will suffer irreparable harm, an imposition could cause significant damage to its relationship with the Association. Nothing in the evidence presented at hearing indicated the Association had acted in bad faith at any point during this process. As indicated by its tentative agreement to the MOU, the chapter's leadership and bargaining team believed it was an appropriate settlement. And, as pointed out in the hearing, it was the Association that initially proposed additional compensation for the nurses and SLPs on December 2, 2022, prior to the

close of negotiations on its successor agreement. In that instance it was the District who rejected the overture.

Democracy is a core value of this nation. Teachers work to instill that value for their students on a daily basis. For that reason, imposition--ignoring the vote of the Association's membership--would be the wrong thing to do. I would instead recommend that the parties return to negotiations and address SLP and Nurse compensation as part of the existing salary reopener for 2022-23. Doing so would allow the parties to negotiate terms for which both the District's Board of Education and the Association's membership can show majority support.

Respectfully submitted,

A handwritten signature in cursive script that reads "Dave Brown". The signature is written in black ink and is positioned above a horizontal line.

Dave Brown
Association Panel Member

EXHIBITS

EXHIBITS

EXHIBIT A

COLLECTIVE BARGAINING AGREEMENT
BETWEEN
SAVANNA SCHOOL DISTRICT
AND
SAVANNA DISTRICT TEACHERS
ASSOCIATION

JULY 1, 2021
through
JUNE 30, 2023

ARTICLE VII - WAGES

7.1 2021-22 School Year

Provide a 2% salary schedule increase to all bargaining unit members effective July 1, 2021 to all bargaining unit members employed by the District as of October 1, 2021.

Provide a 1.5% one-time off-schedule payment to all bargaining unit members employed by the District as of October 1, 2021.

2022-23 School Year

Provide a 1% salary schedule increase to all bargaining unit members effective July 1, 2022. In the event the District's LCFF (Local Control Funding Formula) Base Grant Revenue for 2022-23 exceeds the District's LCFF Base Grant Revenue in 2021-22, the parties agree to reopen negotiations for wages only.

Provide a 1.5% one-time off-schedule payment to all bargaining unit members.

- 7.2 Units for Advancement - Units for advancement to Class II, III, and IV may be taken without prior approval but must be upper division or graduate units in courses directly related to elementary teaching. Specific lower division courses may be acceptable, with prior approval, provided they are directly related to elementary education and would be acceptable toward a degree in an accredited institution*. Proof of completion of said units (verifying transcripts or report cards) must be furnished the District before classification may be changed.

Time of Payment - A unit member who qualifies for a salary increase shall be paid the increased salary not later than three (3) regular pay periods or three (3) months, whichever is longer, after the employee files proper documentation where required for the salary increase. The District shall additionally pay the employee daily interest on the amount owed to the employee calculated from the date that the employee was entitled to the salary increase if the school district does not pay the employee his or her salary increase within three (3) regular pay periods or three (3) months, whichever period is longer, after the employee files proper documentation where required for the salary increase. All amounts due the employee resulting from the salary increase and not paid to the employee at the time that the employee actually receives the salary increase shall be paid to the employee within twenty (20) business days of the date that the employee actually received the salary increase. The District shall additionally pay the employee daily interest on the amount owed to the

EXHIBIT B

MEMORANDUM OF UNDERSTANDING BETWEEN SAVANNA SCHOOL DISTRICT AND SAVANNA DISTRICT TEACHERS ASSOCIATION

The Savanna School District (District) and Savanna District Teachers Association (Association) enter into this Memorandum of Understanding (MOU) and agree as follows:

Credit for Outside Experience: Nurses

Nurses hired by the District after July 1, 2021 shall be placed at Step 2 on the Certificated Teachers Salary Schedule. Nurses employed by the District prior to July 1, 2021 shall receive a one-time salary step increase of one step. All Nurses, presently employed and future hires, shall receive credit for prior nursing experience in a hospital or public school while possessing the required credential and/or license for a maximum of five (5) years, subject to verification of employment by the Superintendent or designee.

Speech Pathologists

Effective July 1, 2021, Speech Pathologists shall be placed on the following Speech Pathologist Salary Schedule:

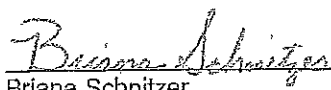
Steps/Yrs	MS/MA	BS/BA
1	79,580	76,396
2	83,161	79,834
3	86,905	83,428
4	90,814	87,181
5	94,899	91,103
6	99,170	95,203
7	99,170	95,203
8	99,170	95,203
9	99,170	95,203
10	101,848	97,774
11	101,848	97,774
12	104,157	99,990

Longevity

15 Yrs.	109,435	105,057
20 Yrs.	113,540	108,998
25 Yrs.	118,824	114,071

All other sections of Article VII-Wages shall remain in full force and effect.

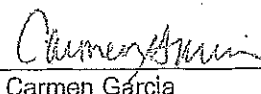
Date: April 11, 2022



Briana Schnitzer
Assistant Superintendent
Savanna School District



Susan Broscow
Savanna District Teachers
Association Co-President



Carmen García
Savanna District Teachers
Association Co-President

EXHIBIT C

PERB Received
05/04/22 11:44 AM

Steven J. Andelson

From: Steven J. Andelson
Sent: Tuesday, May 3, 2022 4:07 PM
To: 'Garcia, Carmen'
Cc: Schnitzer, Briana; Johnson, Sue; Broscow, Susan; Brian Eldridge; Linden, Kasey; Guillen, Graciela; Glynn, Lisa
Subject: RE: [External E-Mail] Re: [EXTERNAL] MOU Tentative Agreement [AALRR-Cerritos.005083.00048]
Attachments: SDTA signed SLPNurse MOU.pdf

Hi Carmen,

Based on your email, it appears we are at impasse with SDTA. The District engaged in negotiations with SDTA to address increased compensation for the Nurses and Speech Pathologists. The attached tentative agreement was reached and signed by both the District and SDTA on April 11, 2022. Now SDTA is indicating it does "not have the collective support of [its] members" and "cannot make any guarantees of progress." SDTA is also changing the manner in which it has negotiated in the past as well as the scope of the current negotiations issues.

We will be requesting approval of impasse from the Public Employment Relations Board and the appointment of a mediator from the State Conciliation and Mediation Service.

Sincerely,

Steve

Steven J. Andelson | Senior Partner
Atkinson, Andelson, Loya, Ruud & Romo
12800 Center Court Drive, Suite 300, Cerritos, CA 90703
Main: (562) 653-3200 • Direct Fax (562) 653-3723 sandelson@aalrr.com | vcard | bio | website | subscribe | blog

-----Original Message-----

From: Garcia, Carmen [<mailto:carmen.garcia@savsd.org>]
Sent: Monday, May 2, 2022 9:28 AM
To: Steven J. Andelson
Cc: Schnitzer, Briana; Johnson, Sue; Broscow, Susan; Brian Eldridge; Linden, Kasey; Guillen, Graciela; Glynn, Lisa
Subject: Re: [External E-Mail] Re: [EXTERNAL] MOU Tentative Agreement

[EXTERNAL MESSAGE]

Good Morning Steve.

SDTA is always open to further negotiations for the benefit of our members. However, for this particular matter, we do not have the collective support of our members. After meeting with members and receiving feedback, SDTA cannot make any guarantees of progress.

If the district is interested in moving forward, we would like to request that the conversation include ALL members and a potential increase for all. If that agreement can be reached with good faith negotiations in mind, we would be willing to meet at a later date.

Thanks,
Carmen

> On Apr 29, 2022, at 4:19 PM, Steven J. Andelson <Sandelson@aalrr.com> wrote:
> Hi Carmen,
>

PERB Received

05/04/22 11:44 AM

> In light of the ratification vote on the April 11, 2022 MOU not passing, the District is requesting continued negotiations in an effort to reach agreement. The District team is available on May 5 from 2 - 4 pm; May 6 from 8 -11; or May 9 from 8 - 10. Please advise which date/time works best for your team.

>
> Thanks very much,

>
> Steve Andelson

>
>> On Apr 22, 2022, at 3:08 PM, Garcia, Carmen <carmen.garcia@savsd.org> wrote:

>>
>> [EXTERNAL MESSAGE]

>>
>> The ratification votes have been collected and counted and the ratification vote DID NOT pass with members.

>>
>> -SDTA Bargaining Team

>>
>> _____
>> This email was scanned by Bitdefender

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