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6 IN THE FACTFINDING PROCEEDINGS

7 PURSUANT TO HIGHER EDUCATION EMPLOYMENT RELATIONS ACT

8 AMERICAN FEDERATION OF STATE,  
9 COUNTY AND MUNICIPAL EMPLOYEES,  
10 LOCAL 3299,

11 Union,

12 vs.

13 UNIVERSITY OF CALIFORNIA, HASTINGS  
14 COLLEGE OF LAW,

15 Employer.

Case No.: PERB Case No. SF-IM-3214-H

FACTFINDING REPORT AND  
RECOMMENDATION FOR SETTLEMENT  
AFTER HEARING

16 Chairperson: Andrea L. Dooley, Arbitrator

17 Employer Panel Member: David Seward, UC Hastings

18 Union Panel Member: Elizabeth Hinckle, AFSCME Local 3299

19 For the Union: Owen Li, AFSCME Local 3299

20 For the Employer: Arthur A. Hartinger, Renne Public Law Group

21 Hearing Date: July 19, 2019

1

2

**BACKGROUND**

3 The University of California Hastings College of Law (UC Hastings or Employer) and  
4 the American Federation of State, County and Municipal Employees, Local 3299 (AFSCME or  
5 Union) are parties to a Collective Bargaining Agreement (Agreement or CBA) for the College  
6 Services Unit. The term of the Agreement was July 1, 2013, to June 30, 2017. Employer Exhibit  
7 1, Union Exhibit H.<sup>1</sup> Hastings provided the Union with its initial proposals on or about May 3,  
8 2017. UX L. The Union timely provided its initial proposals on or about May 17, 2017. Id. The  
9 parties met for the first time in bargaining for this unit on May 5, 2017. Id.

11 The parties met 26 times between May 2017 and November 2018, bargaining about  
12 approximately forty-five (45) economic and non-economic issues. UX B. The parties reached  
13 tentative agreements on twenty-five (25) articles but nineteen (19) issues remain in dispute. Id.  
14 Hastings presented its last, best and final offer on November 5, 2018, and AFSCME rejected that  
15 offer on November 20, 2018. UX L.

17 Hastings filed a Request for Impasse Determination/Appointment of a Mediator on  
18 November 26, 2018. UX L. Mediation was conducted by Jun Payoyo, the State Mediation and  
19 Conciliation appointed mediator, but the parties were not able to reach a settlement.

21 The appointed mediator informed PERB that mediation was unsuccessful on January 10,  
22 2019. UX L. At the request of the parties, PERB appointed Arbitrator Andrea L. Dooley to chair  
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26 <sup>1</sup> Employer Exhibit will be abbreviated EX in this report. Union Exhibit will be abbreviated UX.

1 a factfinding panel concerning the dispute. JX 4. The parties properly selected their panel  
2 members. The panel convened a factfinding hearing on July 19, 2019, in San Francisco,  
3 California. Both parties presented facts through their presenters (listed above) and additional  
4 documents and testimony. After the submission to the panel and consideration of the arguments,  
5 the Chair makes the following recommendations.  
6

### 7 **FACTFINDING CRITERIA**

8 The parties have stipulated the Factfinding Criteria to be considered in this matter are the  
9 criteria set forth in California Government Code Section 3548.2.<sup>2</sup> The panel has considered and  
10 been guided by the following statutory criteria.  
11

- 12 1. State and federal laws that are applicable to the Employer.
- 13 2. Stipulations of the parties.
- 14 3. The interests and welfare of the public and the financial ability of the public schools.
- 15 4. Comparison of the wages, hours and conditions of employment of the employees  
16 involved in the factfinding proceeding with the wages, hours, and conditions of  
17 employment of other employees performing similar services and with other  
18 employees generally in public school employment in comparable communities.
- 19 5. The Consumer Price Index for goods and services, commonly known as the cost of  
20 living.  
21

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25 <sup>2</sup> The Higher Education Employer-Employee Relations Act (“HEERA”) is silent on the specific  
26 factfinding criteria a panel is bound to consider so the parties agreed to use the criteria set forth in the Educational  
Employment Relations Act (“EERA”).

1           6. The overall compensation presently received by the employees, including direct wage  
2           compensation, vacations, holidays, and other excused time, insurance and pensions,  
3           medical and hospitalization benefits, the continuity and stability of employment, and  
4           all other benefits received.

5  
6           7. Such other factors, not confined to those specified in paragraphs 1 through 6,  
7           inclusive, which are normally and traditionally taken into consideration in making  
8           such findings and recommendations.

9           State and Federal Laws Applicable to the Employer

10           The hearing was conducted in compliance with Government Code Secs. 3560 et seq.  
11           (HEERA) and the time limits were met or waived by the parties.

12           Stipulations of the Parties

13           The parties did not formally stipulate to any evidence. However, a number of documents,  
14           including the Agreement, were submitted by both parties. The parties agree that AFSCME  
15           represents approximately 84 workers (65 FTEs) at UC Hastings in positions that include  
16           administrative analysts, administrative specialists, accountants, program coordinators, parking  
17           attendants, administrative assistants, library assistants, computer support specialists, web  
18           developers, and student services coordinators.

19           The parties also stipulated that the following core issues would be the focus of the  
20           factfinding process:

- 21  
22  
23           1. Wages (across the board and step increases)  
24           2. Healthcare  
25           3. Pension  
26

1           4. Contracting Out

2           The Interests and Welfare of the Public and the Financial Ability of the Employer

3           UC Hastings did not make an “inability to pay” argument or present evidence about any  
4 financial inability to pay employees under any proposal by either party. Both parties presented  
5 evidence on the practice of “tuition discounting,” a financial tool that UC Hastings used to attract  
6 students in the competitive law school market that emerged during the Great Recession.  
7

8           The Union contends that tuition discounting, which peaked at a 47% tuition discount in  
9 fiscal year 2018, was a risky strategy that drove a budget deficit that UC Hastings now uses to  
10 justify lower salary proposals. UC Hastings contends that tuition discount, which will return to a  
11 market average of 30% in the current year, was a necessary tool for attracting and retaining high  
12 quality students. The Union argues that the reduction in tuition discounting will result in a stable  
13 budget and a near-future surplus that can be used to improve wages.  
14

15           Comparability

16           Both parties provided extensive evidence about comparability. UC Hastings submitted a  
17 market assessment report commissioned from Sibson Consulting (“Sibson”). EX 16. Sibson  
18 reviewed market surveys conducted by four different sources in general industry and higher  
19 education, concluding that UC Hastings salaries are market competitive. The data relied upon by  
20 the market surveyors that Sibson cites is confidential, making it difficult to determine if the  
21 positions selected for comparison are in fact comparable to the bargaining unit positions. Sibson  
22 has applied a geographical factor and “aged” the data by 2.7% to account for cost of living  
23 increases. However, UC Hastings isn’t offering 2.7%, so the aging factor increases the salaries  
24 more than the Employer proposes to increase them. The geographic factor (that is, increasing the  
25  
26

1 amount because the geographical area is more expensive) does not seem to track with the  
2 specific cost of living (or the CPI-U) for the San Francisco Bay Area. In general, UC Hasting's  
3 data is too general to draw conclusions applicable to their wage proposals.

4  
5 The Union, on the other hand, offered a huge volume of data concerning comparable job  
6 titles at other law schools in the Bay Area. The Union also analyzed the job requirements for  
7 comparable titles to determine whether those jobs perform the same or similar work and have the  
8 same or similar job qualifications. AFSCME concluded from its own research that job titles at  
9 UC Hastings have higher job requirements (for example, require college degrees) than the same  
10 job titles at other law schools, while on average earn less than those job titles, even at schools  
11 that are not within the higher cost geographic area.

12  
13 Consumer Price Index

14 UC Hastings presented evidence about the Consumer Price Index for Urban Wage  
15 Earners and Clerical Workers (CPI-U) compared to historical wage increases. EX 11.

16

Calendar Year	CPI-U	Local 3299 Wage Increases
2015	2.61%	3% + 1.5%
2016	3.01%	2.5%
2017	3.22%	2.5%
2018	3.87%	TBD <sup>3</sup>
Total	12.71%	9.5%

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26 <sup>3</sup> UC Hastings had proposed a 2.5% increase for 2018. However, at hearing, there was no evidence  
about whether that increase would be implemented retroactively. If it were, the total amount of increase would be  
12%

1 The Union’s evidence cited the CPI-U for the San Francisco Bay Area in the form of a  
2 chart that illustrates that the local cost of living (SF: CPI-U) exceeds the state CPI, and that, over  
3 a four-year period, AFSCME wages will fall 28% below inflation if UC Hastings’ proposed  
4 wage increases are implemented. UX B.

### 6 Overall Compensation

7 Neither party presented evidence about the cost of the total compensation package they  
8 proposed. Therefore, the panel reviewed the wages and benefits proposals in concert with one  
9 another but do not make recommendations based on an overall compensation model.

### 10 Other Factors

11 The panel considered all the facts and arguments presented at the hearing by both parties.  
12  
13 The biggest external factor affecting, and even preventing, settlement is bargaining that is  
14 underway between the University of California system (“UC”) and AFSCME. The College  
15 Services Unit agreement depends on the UC Retirement System and Healthcare System for the  
16 provision of pension and healthcare benefits. UC Hastings’s proposals on Articles 26 and 27  
17 mirror proposals that UC has made and which AFSCME has rejected for that bargaining unit.  
18  
19 Until the UC/AFSCME contract negotiations are complete, it’s very difficult for the parties in  
20 this case to agree to changes in their own agreement.

## 21 **ISSUES AND RECOMMENDATIONS**

22  
23 After a review of the facts and arguments presented by both parties, the Chair  
24 recommends the following terms for settlement of the Agreement. These recommendations have  
25 been crafted to achieve parity with other law schools and comparative job classifications in the  
26 area.

1 Article 20 – Wages

2 The parties have stated their wage proposals as follows:

3

Year	UC Hastings Increase	AFSCME Increase
4 Year 1	2.5%	5%
5 Year 2	1.5%	4% (+3% step increases)
6 Year 3	1.5%	4% (+3% step increases)
7 Year 4	1.5%	
Year 5	1.5%	
	No retroactive pay	Retroactive pay

8 These two proposals suggest a number of differences exist between the parties beyond  
9 the proposed wage rates. UC Hastings wants a five-year agreement, while the Union wants a  
10 three-year agreement. The Union wants the pay increase to be retroactive to July 1, 2017, while  
11 the Employer intends to implement an increase after ratification of a successor agreement. The  
12 Union wants to add step increases and increase movement within pay bands for its members,  
13 whereas the Employer prefers to pay across-the-board increases.

14  
15 The Chair will address these issues in reverse order.

16 With respect to the question of step increases and equity adjustments, it is clear that the  
17 stagnant nature of the wage scale prevents the Employer from hiring new employees at a rate  
18 commensurate with their experience. It also affects retention of long-time employees who are not  
19 able to move into higher classifications. The record on this issue is voluminous and it is difficult  
20 to figure out how to best achieve the goals of both parties. **The Chair recommends that the**  
21 **parties do a step adjustment based on years of service for current employees, combined**  
22 **with permitting the Employer to consider job applicants' years of experience when**  
23 **determining salary levels for new hires. The first step increase might be, for example, 1%**  
24 **for employees with 2-4 years of experience, 2% for employees with 5-7 years of experience,**  
25  
26



1 **3% increase for employees with 8-12 years of experience and 4% for employees with 13+**  
2 **years of experience. Employees who have worked for more than 20 years might also be**  
3 **eligible for a one-time longevity bonus of \$3000. After the initial step increase, employees**  
4 **would receive a 1% increase when they reach milestone years, such as on their 2<sup>nd</sup>, 5<sup>th</sup>, 8<sup>th</sup>,**  
5 **12<sup>th</sup> and 15<sup>th</sup> hiring date anniversaries.**

7         With respect to the question of providing wage increases by classification, it is difficult to  
8 draw conclusions from the vastly different analyses provided by the parties. On their face, the  
9 job descriptions for the classifications are not, in fact, comparable to other law schools. For  
10 example, UC Hastings requires degrees where other organizations do not. Neither party can be  
11 certain what job duties are encompassed by job descriptions outside of UC Hastings. What's  
12 clear is that comparing on job titles alone, UC Hastings does pay less than other law schools in  
13 the Bay Area. This Panel did not receive the authority or the evidence with which to make  
14 specific recommendations for specific job titles and making specific recommendations would  
15 undermine the development of a collectively bargained approach to resolving these department  
16 level inequities. Review of job classifications should be conducted by a joint labor-management  
17 committee not a third party neutral (at least until a grievance process can be conducted).

18         The issue of retroactive pay is a difficult one but should not prevent the parties from  
19 reaching an agreement. **The Chair recommends that the party select a retroactive date that**  
20 **falls closer to the ratification of the agreement than to its expiration, such as January 1,**  
21 **2019, ensuring that employees get a larger overall increase and a smaller one-time lump sum of**  
22 **back pay. In some cases, the parties might cloak this as a ratification pay amount to ensure**  
23 **agreement from the union membership, but the parties need to do that in the present case. If the**

1 parties adopt the one-time step increase proposed above, then there will be even less need for a  
2 long retroactive pay period.

3           Given the size of this bargaining unit, the proposed wage rates are not as far apart as they  
4 appear. The Employer calculates that a 1% increase (including benefits) is \$52,892.73. This is  
5 just slightly higher than the undiscounted tuition for non-resident students at UC Hastings  
6 (\$50,326). Therefore, the Employer's proposals of 2.5% (in the first year) and 1.5% (in the  
7 following four years) seems too low, particularly relative to the cost of living in the Bay Area.  
8 Add that to the long duration that the Union would be tied into for such a low increase (1.5% per  
9 year for five years compared to an average annual CPI of 2.5% and the Bay Area CPI-U of  
10 3.7%) would leave employees further behind at the end of the Agreement than they are now.

13           At the same time, the law school market is volatile, and the margins are narrow. Neither  
14 party (nor the Chair) can predict the future health of UC Hastings. As a hedge against that  
15 volatility, the Employer has already reduced tuition discounting and foresees a strong budget in  
16 the coming years. **The Chair recommends a contract duration of three years, and wage  
17 increases of 3% in each of the three years, commencing January 1, 2019.**

19 Article 26 – Healthcare

20           Currently, unit members, like all other employees, contribute to the cost of their medical  
21 coverage. The amount they contribute is based on two factors: the rates in the Agreement  
22 (currently the 2014 rates) and their pay band. EX 12. 63% of bargaining unit members fall under  
23 Pay Bands I and II. UX B. Local 3299 has only one member in Pay Band 4. Id.

25           Healthcare coverage for this bargaining unit is largely subsidized by UC Hastings, but  
26 employees do make a monthly healthcare contribution based on their pay band. For example, an

1 AFSCME member who has Blue & Gold coverage only for herself pays \$29.48 per month, with  
2 UC Hastings paying the remainder of the premium. An unrepresented employee, whose  
3 contribution rate has not been frozen since 2014, pays \$40.88 per month for the same coverage in  
4 the same pay band. EX 12.

5  
6 UC Hastings does not propose to dismantle the current system of subsidizing employee  
7 health coverage by pay band. The health coverage is administered by the University of  
8 California, and along with the University system, UC Hastings wants to use updated rates and  
9 increase cost-sharing in this unit to be commensurate with other employees in the same pay  
10 band. In the view of the Chair, given the overall high costs of health coverage, the heavy  
11 subsidies in place and the fact that employees already contribute to their coverage, this is not an  
12 unreasonable proposal.

13  
14 As with the retirement proposal, the parties are waiting to learn the results of bargaining  
15 between the University of California and its bargaining units, who are also facing the issue of  
16 increased healthcare contributions for unionized employees. Neither party is interested in settling  
17 for terms that are worse than their counterparts at the University. That makes an independent  
18 settlement of this issue very difficult.

19  
20 **The Chair recommends that the parties adopt the terms agreed to by the University**  
21 **of California system and AFSCME bargaining units employed by UC. If an agreement has**  
22 **not been reached by the time the parties meet again, the Chair proposes a “me too” clause**  
23 **that references the UC/AFSCME bargaining, updating the contribution rates to the 2017**  
24 **rates, and “re-freezing” them until an agreement is reached in the statewide UC/AFSCME**  
25 **unit.**  
26

1 Article 27 – Pension

2 UC Hastings proposes that the University of California Retirement System (“UCRS”)  
3 benefits should be determined by the AFSCME contract with UC. AFSCME wants to eliminate  
4 language that links retiree benefits to “as determined by the University of California,” and  
5 eliminate the 401(k) plan choice. These dry proposals mask a larger argument about the type of  
6 retirement plans that will be available to new employees. UC Hastings proposes to adopt the  
7 UC’s proposal on retirement, which would include a new 401(k)-type plan which new employees  
8 could opt into.  
9

10 The Union objects for a number of reasons. First, AFSCME already agreed to a pension  
11 structure in 2013 in order to preserve pension benefits, paying 9% instead of 7% in employee  
12 contributions in order to preserve certain benefits. The UC’s proposals (and thus UC Hastings’  
13 proposals) amount to another attempt to cut pension benefits for unionized employees who have  
14 made it clear that this is a priority to maintain. The DC Choice model benefits higher paid  
15 employees and short-term employees. AFSCME argues that the DC Plan is costlier, shifts the  
16 risk to employees, jeopardizes the defined benefit plan and was already rejected by the state  
17 legislature.  
18

19 AFSCME, at UC Hastings and UC, has made sacrifices in previous contracts to preserve  
20 the pension benefit, and for good reason: it benefits their members, UC Hastings’s long-term  
21 employees. The UC and UC Hastings are concerned with relatively short-term employees, but  
22 the Union is the bargaining representative for its members. What AFSCME has heard from its  
23 members is that they want benefits that favor longevity, retention and long-term employees.  
24  
25  
26

1           **As with healthcare, much of what happens on the pension issue will be governed by**  
2 **the settlement of the agreement between UC and AFSCME. Given the value of the existing**  
3 **defined benefit plan to the bargaining unit, measured against the risks and uncertainties**  
4 **associated with a potentially short term change to the defined contribution plan, the Chair**  
5 **recommends the status quo on the pension benefits with a “me too” clause that adopts the**  
6 **final settlement of the UC/AFSCME contract.**

8 Article 19 – Subcontracting

9           The current agreement prohibits UC Hastings from subcontracting out work that is  
10 currently performed by AFSCME bargaining unit titles and provides that UC Hastings will give  
11 notice of other contracts and meet to discuss the proposed contract with AFSCME. The Union  
12 seeks to eliminate UC Hastings’s right to perform any subcontracting, while the Employer seeks  
13 to increase “flexibility” to contract out services which are already contracted out (including at  
14 new locations) and to contract out in student housing that may be built.

15           Both parties seek to change the status quo because UC Hastings is planning to build a  
16 significant number of new buildings, both academic and residential, in the surrounding area. The  
17 Union is concerned that work that would otherwise be done by their bargaining unit titles will be  
18 subcontracted to third parties. Hastings believes that the Union is trying to claim work already  
19 performed by SEIU Local 1877 (janitorial) and Stationary Engineers Local 39 (engineering), and  
20 disputes that academic work performed in new buildings will be outsourced.

21           **Rather than changing the language of Article 19, the Chair recommends changing**  
22 **the language of Article 3 – Recognition by adding the underlined language below:**  
23

- 1           1. **Certified Bargaining Unit AFSCME 3299** is recognized as the certified exclusive  
2           bargaining representative for the bargaining unit outlined in PERB Case No.  
3           **SF-RR-932-H, excluding faculty, managers, supervisors, confidential employees,**  
4           **Attorneys, Librarians, and Public Safety Officers, and employees in other**  
5           **bargaining units represented by Stationary Engineers Local 39 and Service**  
6           **Employees International Union 1877.** This unit shall hereafter be called the  
7           **College Services Unit.**
- 8           2. **(No change)**
- 9           3. **Work Preservation** Work currently performed by bargaining unit employees  
10           and any new work appropriate to the bargaining unit will be performed by  
11           bargaining unit employees **at all UC Hastings facilities.** In the event there is no  
12           qualified bargaining unit employee available to perform said work, a qualified  
13           non-represented employee may perform said work on a short term, temporary  
14           basis not to exceed thirty (30) days. . .

15           Other Issues

16           The parties have a number of other issues which were not addressed at the factfinding  
17           hearing. On several of those issues, one or both parties have provided position statements but  
18           none of the issues seems to be the basis for impasse. The only issue that applies to the  
19           recommendations herein is Article 5 – Duration. **The Chair recommends the following:**

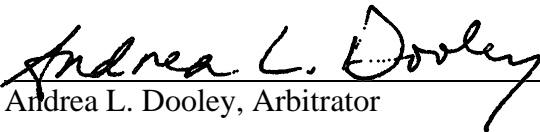
20           **The terms and conditions of this Agreement shall be in full force effective January**  
21           **1, 2019 through June 30, 2022, unless the University and AFSCME mutually agree in**  
22           **writing to extend any or all of the terms and conditions of this Agreement.**

1 All matters not addressed herein should remain status quo, unless the parties mutually  
2 agree to other terms.

3 **CONCLUSION**

4 It is the hope of the Chair that these recommendations will be used by the parties to  
5 negotiate a settlement to the current impasse. The Panel Members' Position Statements are  
6 attached to this Report.  
7

8  
9 Dated: October 24, 2019

10  
11   
12 Andrea L. Dooley, Arbitrator

13  
14 \_\_\_\_\_  
15 David Seward  
16 UC Hastings Panel Member

15 \_\_\_\_\_  
16 Elizabeth Hinckle  
17 AFSCME Panel Member

17 \_\_\_ Concur  X  Concur in Part

17 \_\_\_ Concur \_\_\_ Concur in Part

18 \_\_\_ Dissent  X  Dissent in Part

18  X  Dissent \_\_\_ Dissent in Part

19 The Panel Members' respective positions are attached to this report after the Appendices.  
20  
21  
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1 Position of the UC Hastings Panel Member David Seward:

2  
3 Writing as the UC Hastings Panel Member responding to the recommendations made  
4 by the you, the Chair, in your report:

5 Article 20 - Wages

6  
7 Partial concur and partial dissent.

8 The Panel Chair has recommended enhanced annual increases based on years of  
9 experience as a method for addressing the union's request for a step system. The  
10 College would consider such a recommendation in an overall negotiated agreement.  
11 However, given the College's preference for a longer contract, the College suggests  
12 incorporating two instances of the 'enhanced' increases at the beginning and end of the  
13 contract, based on years of service at the time, as opposed to the more complicated  
14 system of basing the enhanced increases on an individual's attainment of a milestone  
15 years of service.  
16

17 We concur with the Panel Chair's recommendation to permit consideration of job  
18 applicants' years of service relative to current employees when determining salary  
19 levels for new hires.

20 The Panel Chair recommends a limited retroactivity date of January 1, 2019. The  
21 College would be willing to consider this as part of an overall wage package.

22  
23 The Panel Chair recommends a contract duration of 3 years, and general salary  
24 increases of 3% in each of the three years commencing on July 1, 2019. The College  
25 would propose a longer duration in order to provide greater stability for the unit and  
26 respects the Panel Chair's opinion that if a lengthier contract is agreed to, the College's



1 wage proposal with regard to general salary increases would need to be enhanced. The  
2 College has traditionally used 2.5% as our general salary increase (allowing an  
3 additional .5% to cover the corresponding benefit cost increase), and it is the College's  
4 intent to maintain this standard in the future.

#### 5 Article 26 - Healthcare

6 Concur

7  
8 The Panel Chair recommends updating the employee contribution rates to 2017 levels  
9 and freezing them until such time as the greater University of California and AFSCME  
10 have reached an agreement on healthcare contribution rates, at which time the Panel  
11 Chair recommends a "me too" clause. The College would be willing to consider this as  
12 part of an overall agreement.

#### 13 Article 27 - Pension

14 Concur

15  
16 The Panel Chair recommends status quo until such time as the greater University of  
17 California and AFSCME have reached an agreement on pension in light of College's  
18 passive role with regard to oversight and administration of the UC Retirement System  
19 and its programs. The Panel Chair recommends a "me too" clause. The College would  
20 be willing to consider this as part of an overall agreement.

#### 21 Article 3 - Recognition

22 Partial concur and partial dissent.

23  
24 The Panel Chair recommends language to indicate that employees in other bargaining  
25 units represented by Local 39 and SEIU 1877 be excluded from the Certified Bargaining  
26 Unit AFSCME 3299. The College agrees with the sentiment of this additional language;

1 for clarity, however the College would change the wording to indicate that employees,  
2 contractors, and other workers in these other bargaining units be excluded from the unit,  
3 which we believe reflects the intent of the Panel Chair.

4 Article 5 - Duration

5 Dissent

6  
7 As indicated above, the College would recommend a duration of 5 years to provide  
8 stability for this bargaining unit.

9 Conclusion

10 We would like to extend our appreciation of your role as an independent party tasked  
11 with objectively arriving at conclusions based on the fact sets presented.

1 AFSCME Local 3299/UC Hastings Fact Finding  
2 **AFSCME RESPONSE TO FACTFINDING REPORT**

3  
4 The factfinding panel chair's recommendations endorse a contract settlement  
5 consistent with AFSCME proposals to: maintain existing pension benefits and contribution rates;  
6 ensure that new work appropriate to the AFSCME bargaining unit at all current and future UC  
7 Hastings facilities be performed by AFSCME unit members; reject the introduction of a new  
8 probationary period for promotions and transfers; reject the College's proposal to eliminate  
9 seniority rights for qualified internal applicants in the transfer and promotion process; and move  
10 in the direction of a compensation structure that recognizes and rewards the experience and  
11 commitment of long-term employees.

12 Recommendations fall notably short, however, on a few major fronts. The instant  
13 report fails to support: annual across-the-board wage increases sufficient to address the high cost  
14 of living in the Bay Area; annual experience-based step increases necessary to reward longevity  
15 and bring UC Hastings in line with comparable employers; and maintenance of existing health  
16 care premium rates.

17 Though not capturing the entirety of AFSCME's dissent on the report's  
18 recommendations or omissions, AFSCME dissents on particular recommendations as follows.

19 CONTRACTING OUT

20 While the panel chair recommends against the College's proposal to exempt  
21 certain new facilities from protections against contracting out, AFSCME dissents on the panel  
22 chair's recommendation to alter the scope of the bargaining unit definition to exempt certain  
23 employees from the bargaining unit definition. AFSCME further dissents on the failure to  
24 include a specific recommendation to insource any currently outsourced work that is of the type  
25 performed by the bargaining unit.

26 HEALTH CARE

AFSCME dissents on the absence of a recommendation to control employees'  
substantial health care costs by maintaining freezes on employee premiums for Kaiser and

1 Health Net Blue & Gold for pay bands I and II. And while the panel chair recommends that the  
2 parties adopt “me-too” language to take effect once an agreement is reached between the  
3 University of California and the AFSCME Service Unit (SX), AFSCME dissents on the absence  
4 of a recommendation maintain current premium rates pending such an agreement.

5 WAGES

6 The factual record upon which the panel chair’s recommendations rest includes  
7 compelling evidence that the UC Hastings compensation structure lags far behind that of  
8 comparable employers, and that UC Hastings’ proposed wage increases will not keep pace with  
9 projected increases to the cost of living in the Bay Area. First, as the panel chair acknowledges,  
10 UC Hastings simultaneously requires higher-level qualifications *and* pays less than other law  
11 schools in the Bay Area when comparing similar job titles. Second, incumbent employees have  
12 stagnated in the lower quartiles of the existing pay bands. Finally, the cost of living in the Bay  
13 Area is projected to increase by an average of 3.7% in each of the next four years. While the  
14 panel chair has recommended a one-time wage adjustment based on years of experience, along  
15 with additional 1% increases at certain “milestone” anniversaries, AFSCME dissents on the  
16 absence of a specific recommendation for annual across-the-board increases and guaranteed  
17 annual step increases sufficient to close the gap between UC Hastings and peer institutions and  
18 provide Hastings employees with a living wage that will enable them to support themselves and  
19 their families. AFSCME also dissents on the short retroactivity period recommended by the  
20 chair, given that UC Hastings did not even propose a multiyear wage increase proposal until late  
21 2018. While each AFSCME witness testified about the strong personal commitment they share  
22 to the work they do supporting UC Hastings students, each also testified of the struggles they  
23 face making ends meet under the current compensation structure.

24 Dated: October 23, 2019

25 Elizabeth Hinckle  
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AFSCME Panel Member

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