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6 **IN THE FACTFINDING PROCEEDINGS**

7 **EDUCATIONAL EMPLOYMENT RELATIONS ACT**

8 **WILMAR TEACHERS ASSOCIATION, CTA,** Case No.: PERB Case No. SF-IM-3248-E

9 Union,

10 vs.

11 **WILMAR UNION SCHOOL DISTRICT,**

12 Employer.

**FACTFINDING REPORT AND
RECOMMENDATION FOR SETTLEMENT
AFTER HEARING**

13
14 Chairperson: Andrea L. Dooley, Arbitrator

15 Employer Panel Member: Paul Nicholas Boylan, Esq.

16 Union Panel Member: Mark Mitchell, California Teachers Association

17 Hearing Date: September 18, 2019

18 For the Union: Eric Olson Fernandez, Wilmar Teachers Association

19 For the Employer: Matt Phillips, School Services of California

20
21 **BACKGROUND**

22 The Wilmar Union School District (“Wilmar” or “District”) and the Wilmar Teachers
23 Association (“WTA” or “Association”) are parties to a Collective Bargaining Agreement
24 (Agreement or CBA). The District and the WTA reached an agreement on July 1, 2017 that
25
26

1 expires on June 30, 2020. The Agreement includes annual re-openers on salary, benefits and two
2 other issues of the parties' choosing.

3 Pursuant to their Agreement, the parties began bargaining on re-openers for the 2019-
4 2020 school year on February 19, 2019. Between February and May 14, 2019, the parties met
5 three (3) times but did not reach agreement.
6

7 On May 24, 2019, the parties requested an Impasse Determination/Appointment of
8 Mediator from PERB. The parties met with Kenneth Glenn of State Mediation and Conciliation
9 Service in formal mediation on June 26, 2019, and July 25, 2019. The parties were unable to
10 reach any agreements in mediation and Mr. Glenn certified the parties to fact-finding. The parties
11 properly selected their panel members and PERB appointed Neutral Panel Member Andrea
12 Dooley on July 12, 2019.
13

14 The factfinding panel convened a hearing on September 18, 2019. Both parties presented
15 facts through their presenters (listed above) and the parties attempted mediation following the
16 close of presentations. The parties were not able to reach an agreement, so the Chair makes
17 recommendations for settlement below.
18

19 **Fact Finding Criteria**

20 Pursuant to California Government Code Section 3548.2, the panel has considered and
21 been guided by the following statutory criteria:
22

- 23 1. State and federal laws that are applicable to the Employer.
- 24 2. Stipulations of the parties.
- 25 3. The interests and welfare of the public and the financial ability of the public schools.
26

- 1 4. Comparison of the wages, hours and conditions of employment of the employees
2 involved in the factfinding proceeding with the wages, hours, and conditions of
3 employment of other employees performing similar services and with other
4 employees generally in public school employment in comparable communities.
- 5 5. The Consumer Price Index for goods and services, commonly known as the cost of
6 living.
- 7 6. The overall compensation presently received by the employees, including direct wage
8 compensation, vacations, holidays, and other excused time, insurance and pensions,
9 medical and hospitalization benefits, the continuity and stability of employment, and
10 all other benefits received.
- 11 7. Such other factors, not confined to those specified in paragraphs 1 through 6,
12 inclusive, which are normally and traditionally taken into consideration in making
13 such findings and recommendations.

14
15
16 State and Federal Laws Applicable to the Employer

17
18 The District is governed by a wide array of state laws concerning funding.¹ Because less
19 than 30% of the District’s enrollment is made up of “unduplicated pupils” for whom additional
20 state funding would be available if they were enrolled at a higher rate, the District receives only
21

22
23
24 ¹ The District’s finance system is funded by California’s Local Control Funding Formula (LCFF) which
25 “creates base, supplemental, and concentration grants in place of most previously existing K-12 funding streams.”¹
26 In order to maintain funding provided by the LCFF, the District was required to develop and adopt a Local Control
 and Accountability Plan (LCAP) that must be updated annually, based on a template adopted by the State Board of
 Education. The District’s LCAP must include an explanation of how expenditures of the funding meet their goals for
 their “unduplicated pupils,” which includes pupils eligible for free or reduced-price meals, foster youth and English
 learners.

1 base and supplemental funding and does not receive concentration grant funds. Supplemental
2 funds must be directed toward unduplicated pupils. At the same time, the District is not a “basic
3 aid” school district which has local funding to support its budget.

4 The factors outlined by Government Code Section 3548.2 are detailed above. All the
5 steps and timelines set for in the Educational Employment Relations Act have been met or
6 waived.

7
8 Both parties have tailored their proposals in recognition of the application of these laws
9 to the District.

10 Stipulations of the Parties

11
12 The parties did not submit stipulated facts. However, the District proposed the following
13 stipulations, which were uncontested by the Association, and which the Panel adopts as
14 uncontested.

- 15 1. The Wilmar Union School District is a public school employer within the meaning of
16 Section 3540.1(k) of the Educational Employment Relations Act.
- 17
18 2. The Wilmar Teachers Association CTA/NEA is a recognized employee organization
19 within the meaning of Section 3540.1(l) of the Educational Employment Relations Act
20 and has been duly recognized as the representative of the certificated non-management
21 bargaining unit of the Wilmar Union School District.
- 22
23 3. The parties to this factfinding have complied with the public notice requirements of
24 Government Code Section 3547 (EERA “Sunshining” requirement).
- 25
26 4. The parties have complied with the EERA with regard to the selection of the factfinding
 panel and are timely and properly before the panel.

1 5. The contract issues which are appropriately before the factfinding panel are as follows,
2 and all other matters were agreed upon by the parties during the course of negotiations:

- 3 • Article XII – Salary – Compensation, Section 12.1
- 4 • Article XII – Salary – Additional Compensation, Section 12.21
- 5 • Article XIV Benefits – District Cap, Section 14.1
- 6 • Article XIV Benefits – Vision Coverage, Section 14.7

7
8 6. The declaration of impasse in bargaining was submitted to the Public Employment
9 Relations Board on or about May 24, 2019. A state mediator, Kenneth Glenn, was
10 appointed and the parties initially met with the mediator on June 26, 2019, and met for
11 one additional session on July 25, 2019, in an effort to reach agreement. When the parties
12 failed to reach agreement, the mediator certified the matter to factfinding.
13

14 7. The factfinding chairperson, Andrea Dooley, was notified of her assignment on July 12,
15 2019.
16

17 The Interests and Welfare of the General Public and Financial Ability of the District

18 The Association argues that low teacher pay is a significant factor in creating a high-
19 stress workplace, which impacts teachers’ abilities to provide high quality education for their
20 students. It is in the interest and welfare of the general public to recruit and retain the best
21 educators and fair compensation is necessary to support that effort.
22

23 WTA notes that the District does not make an “inability to pay” argument, and in fact,
24 has a healthy surplus each year which dramatically exceeds their annual budget projections. In
25 support of this argument, the Union demonstrated that the District uses less of its unrestricted
26 General than the average school district to pay its employees (78% versus 85%) and that while

1 the cost of 1% increase (salary only) is \$8,212², the District has amassed an Unrestricted Ending
2 balance of \$974,723 in the 2018-19 Budget. The statewide average reserves levels for an
3 elementary school district are approximately 20%, while the state only requires a reserve of the
4 greater of 5% or \$66,000. The District carries a 39% reserve level, far in excess of the average,
5 state law requirements and their own consultant’s published recommendations.
6

7 The District does not make an “inability to pay” argument but does argue that the
8 comparable school districts (discussed below) demonstrate that there is a consensus about
9 compensation levels that are in the interest and welfare of the general public. The District notes
10 that the current cost of 1% for the Association is \$9,410, and the cost for all employees,
11 reflecting “me-too” past practices, is \$16,227.³
12

13 The District disputes the Association’s calculations of their Unrestricted General Fund.
14 The District identifies their Unrestricted General Fund balance as \$651,013, with a state-required
15 reserve of \$142,655.
16

17 Comparability

18 The parties did not reach a consensus on which school districts provided the best
19 comparability for assessing their proposals. WTA offers statewide, regional and county data to
20 demonstrate that Wilmar is below average in its teacher pay. Statewide average teacher pay is
21 \$80,680, while Wilmar’s average teacher pay is \$64,568. WTA notes that this is a 25%
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24
25 ² This figure was calculated on the 2017-18 J-90 data and is not the most current available
calculation. The District provided figure (\$9,410) is the current calculation of the cost of 1%.

26 ³ Notably, there is no other bargaining unit or written agreement or policy requiring this “me-too”
increase. Since the Association does not represent classified or management employees, they are not obligated to
consider this factor in their proposal.

1 difference, to the detriment of Wilmar’s teachers. The average teacher pay in Sonoma County,
 2 where Wilmar is located, is \$68,998. In Marin County, it’s \$85,981 and in Napa County, it’s
 3 \$82,465.
 4

5 The District has identified specific comparable school districts in the geographic region
 6 (rather than averages identified by the Association). These are Sonoma County school districts
 7 which have an average daily attendance (ADA) of less than 1000 students. The District argues
 8 that these small elementary districts are similar in size and funding and are among those which
 9 Wilmar teachers might be interested in seeking employment.
 10

Alexander Valley Union Elementary	Kenwood Elementary
Bennett Valley Union Elementary	Liberty Elementary
Cinnabar Elementary	Monte Rio Union Elementary
Dunham Elementary	Montgomery Elementary
Forestville Union Elementary	Oak Grove Union Elementary
Fort Ross Elementary	Piner-Olivet Elementary
Geyserville Elementary	Sebastopol Union Elementary
Guerneville Elementary	Twin Hills Union Elementary
Harmony Union Elementary	Two Rock Union Elementary
Horicon Elementary	Waugh Elementary
Kashia Elementary	West Side Union Elementary

District ⁴	BA+30, Step 1 (salary)	BA+60, Step 10 (salary)	Max Scheduled	Health & Welfare	Total Comp (BA+60)
Gravenstein	\$51,474	\$67,490	\$90,711	\$7,289	\$74,779
Piner-Olivet	\$50,233	\$70,091	\$98,825	\$10,740	\$80,831
Waugh	\$47,412	\$69,229	\$87,401	\$7,360	\$76,589
Cinnabar	\$46,107	\$61,297	\$81,910	\$7,015	\$68,312
Dunham	\$43,860	\$58,985	\$77,123	\$15,413	\$74,398
Kashia	\$39,037	\$48,645	\$54,472	\$0	\$48,564
Wilmar	\$47,975	\$65,145	\$84,436	\$8,774	\$74,779

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 4 Districts were selected from the top, bottom and median of District’s comparable districts at BA+30 (step 1) Salary.

1 Wilmar is average for teacher pay among comparative districts. However, Wilmar's
2 ADA revenue is much lower than the comparative districts because of its funding structure.

3 Consumer Price Index

4
5 The parties set forth different arguments about which CPI should be used and how the
6 CPI should be interpreted. The District argues that it's proposed increase track the state CPI.
7 WTA's wage increase proposal exceeds the state CPI and the SF-Bay Area CPI. This proposal
8 was tailored to address the extreme housing and medical costs borne by teachers in the Bay Area,
9 some of whom pay nearly 50% of their pay for housing. Since the Association's proposal
10 includes future year wage increases, the two proposals are not comparable. At the same time, in
11 comparison to both CPI, the parties are within a reasonable range of one another, which should
12 contribute to settlement.
13

14 The table below is a compilation of the data presented by both parties. The District notes
15 that wage increases in prior years have met or exceeded the state CPI and that the cumulative
16 salary increases over time (since 2014) exceed state CPI by a substantial amount.
17

18 Year	State CPI	Bay Area CPI	District Proposal	Association Proposal
19 2018-2019	3.62%		3% ⁵	3%
20 2019-2020	3.33%	4.5%	3.5%	5%
21 2020-2021	3.14%			5%
22 2021-2022	3.02%			5%
23 Total	13.11%		6.5%	18%

24
25
26

⁵ There was a 3% increase in 2018-19 school year.

1 The Association argues that the Bay Area CPI is a more relevant calculation because of
2 the cost pressures of the Bay Area (particularly around housing and healthcare) are shared by
3 Wilmar teachers and families.

4 Overall Compensation

6 WTA argues that their members' overall compensation lags comparable districts because
7 Wilmar's healthcare contribution, on average approximately \$9,324, lags the statewide average
8 contribution for healthcare benefits among elementary school districts (\$13,276). Because the
9 District makes a flat contribution regardless of each employee's elected coverage, teachers
10 whose healthcare coverage includes another individual or a family pay significantly more in out
11 of pocket costs, with many teachers opting for catastrophic coverage to reduce their overall costs.

13 The Association proposes to create a tiered structure, including an increase for the employee
14 only level. At the employee-only level, both parties propose an increase to \$850. WTA would
15 add a \$950 tier for employee plus one and \$1050 tier for employee plus family.

17 The District calculates that the cost of the Association's benefit proposal is an additional
18 2.52% in compensation (total cost to the District is \$23,712). In the District's view, this means
19 that the overall compensation increase sought by the Association is 7.52% in each of three years,
20 far in excess of what the District can afford.

21 Other Factors

23 According to the District, their small class sizes and other educational benefits attract a
24 large number of students from outside the District. In 2019-20, 64% of the District's enrollment
25 were inter-district transfers (154 of approximately 240 students). Without inter-district transfers,
26

1 the District would not be able to sustain itself. The Association argues that the teachers are a
2 significant factor in attracting those families to the District.

3 This matter arose from re-opener bargaining for the 2019-20 school year. The District's
4 proposals reflect the short term nature of the re-opener. The agreement between the parties
5 expires in June 30, 2020, and presumably, bargaining for a new agreement is imminent.
6

7 Reflecting that, the Association's proposals reflect a longer duration on a salary agreement.

8 While the parties would be free to reach settlement for a full agreement for a new three-year
9 term, the Panel's recommendations are limited to the scope of the reopener bargaining.
10

1 **RECOMMENDATIONS**

2 Article XII – Salary, 12.1 Compensation

3 The District proposes that the salary schedule will be increased by 3.5% for the 2019-
4 2020 school year. The Association proposes increases of 5% for each of the following school
5 years: 2019-20, 2020-21, and 2021-22.
6

7 The Association identifies a number of economic factors that impact their members,
8 which no doubt impact everyone in the Wilmar community and its surrounding towns. WTA also
9 notes that the District has a strong economic foundation for success, likely due to the fiscal
10 constraint demonstrated by District leadership. A three-year agreement on wages would provide
11 certainty to both parties for the economic health of the District and its teachers. However, this
12 bargaining was open for the 2019-2020 school year only. Barring a settlement agreement by the
13 parties, the Chair is unwilling to suggest a 3-year settlement that addresses only wages, which
14 might make a larger settlement on a new agreement difficult.
15

16 For these reasons, as well as concerns the District raises about future state funding and a
17 potential economic downturn, **the Chair therefore recommends a one-year increase of 5%⁶.**

18 The teachers face real economic needs and are squarely in the middle of the pack when
19 compared to nearby schools with an ADA of less than 1,000 students. Placing the larger increase
20 in wages (as opposed to creating a new tiered health care cap) gives teachers the flexibility to use
21 their wage increase in the best way they each see fit. As the parties enter bargaining for a new
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26 ⁶ The uncertain economic picture is informed by the District’s uncertainty about future state
funding and recessionary forecasts provided by their consultants. At the same time, the teachers themselves face
increased housing and medical costs which have not been offset by salary increases over time.

1 agreement, they may have a better sense of what to expect from the state legislature from a
2 funding perspective.

3 The District notes that they are constrained in how they can use one-time funds. While
4 this is true, a less aggressive approach to building future reserves should free up resources that
5 would be best spent on the frontline educators in the district. Limiting this recommendation to
6 the single year increase (as opposed to the three years of increases proposed by the Association)
7 should also help with budget forecasting.⁷

8
9 Article XII – Salary, 12.21 Additional Compensation

10 In their opening statements, the parties said that they had agreement on the language to be
11 added at Article XII, Section 12.21. However, the parties’ proposals differ.

- 12 • The District’s proposal states: “Teachers with a class size of more than 24
13 students will receive either one half hour of release time or compensation at the
14 rate of \$22.50 per half hour **for every two student** over 24 for parent
15 conferences.”
- 16 • The Association’s proposal reads: “Teachers with a class size of more than 24
17 students will receive either one half hour of release time or compensation at the
18 rate of \$22.50 per half hour **for every student** over 24 for parent conferences.”
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25 ⁷ The Association notes that factfinders in other proceedings have recommended multi-year salary
26 settlements despite bargaining that was limited to a single year re-opener. The Chair declines to make that
recommendation in the present case. The purpose of factfinding is to make recommendations that are likely to result
in settlement of the current dispute, and it is the opinion of the Chair that a recommendation for a multi-year
settlement will not result in settlement at the present time.

1 The language of the proposals is different. Therefore, it's unclear what the parties believe
2 they've agreed to. In addition, statements made at the hearing suggest that the parties do not have
3 a meeting of the minds about the application of the language. Janice Garrigan, WTA President,
4 asked who had the discretion to select whether release time or pay would be provided, and
5 disagreed with the Employer's assertion that it was the Employer's choice. This suggests that
6 there is not agreement on the proposed article. Because there was no evidence provided at the
7 factfinding about this particular issue, and because the parties will resume bargaining for a new
8 three-year agreement very soon, **the Chair recommends the status quo until the parties can**
9 **reach agreement in future negotiations.**

10 Article XIV – Benefits 14.1, District Cap

13 Both parties propose to increase the District contribution to the health insurance programs
14 but differ on the amount of the cap increase. The District proposes to increase the monthly
15 contribution from \$750 to \$850 per month per FTE. The Association proposes to increase the cap
16 from \$750 to \$850 for single employees and create two new tiers for other employees, including
17 a \$950 contribution level for employee plus one and a \$1050 contribution level for family
18 coverage.
19

20 It was clear from the Union's presentation that healthcare costs are a significant financial
21 burden for employees and that a tiered system might alleviate that burden for some employees.
22 However, given the size of the bargaining unit and the anecdotal nature of the information
23 provided (rather than enumeration of specific healthcare expenses), it's difficult to determine the
24 degree to which a new tiered system is warranted, and whether a tiered system is the best way to
25 control employees' personal healthcare costs. Since this issue arose during re-opener bargaining
26

1 and applies only to 2019-2020, and the change to a new system warrants a more in-depth
2 discussion at the bargaining table, **the Chair recommends an increase to \$850 per month for**
3 **all employees** and encourages the parties to take a closer look at the healthcare provisions in the
4 Agreement at bargaining.

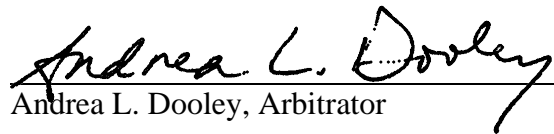
5
6 Article XIV – Benefits 14.7, Vision Coverage

7 The parties agree on the language proposed for Article XIV Benefits, Section 14.7 and
8 therefore **the Chair recommends the adoption of the language as part of a settlement of this**
9 **matter.**

10
11 **CONCLUSION**

12 It is the hope of the Chair that these recommendations will be used by the parties to
13 negotiate a settlement to the current impasse.

14 Dated: October 7, 2019

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16 
17 Andrea L. Dooley, Arbitrator

18
19 Concur: X (see attached)
20 Concur in part _____
21 Dissent in part _____
22 Dissent _____

18
19 Concur _____
20 Concur in part _____
21 Dissent in part _____
22 Dissent _____

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27 Paul Boylan, Employer Panel Member

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27 Mark Mitchell, Union Panel Member

1 Article XIV – Benefits 14.7, Vision Coverage

2 The parties agree on the language proposed for Article XIV Benefits, Section 14.7 and
3 therefore **the Chair recommends the adoption of the language as part of a settlement of this**
4 **matter.**

6 **CONCLUSION**

7 It is the hope of the Chair that these recommendations will be used by the parties to
8 negotiate a settlement to the current impasse.

9 Dated: October 7, 2019

12 _____
Andrea L. Dooley, Arbitrator

14 Concur (I concur [see attachment]) _____
15 Concur in part _____
16 Dissent in part _____
17 Dissent _____

14 Concur _____
15 Concur in part X _____
16 Dissent in part X _____
17 Dissent _____

17 

18 Paul Nicholas Boylan,
Employer Panel Member

17 

18 Mark Mitchell, Union Panel Member

**Paul Nicholas Boylan's Concurrence with the Wilmar Union School District
Factfinding Report in PERB Case No. SF-IM-3248-E**

In the spirit of fostering a settlement to the dispute between the parties – which is the core purpose of the factfinding process – I concur with the final draft of the Factfinding Report that the panel chairperson presented to the panel members.

Although it will not be easy, and may require difficult choices, based on the information the District provided at the factfinding hearing I believe the District can implement the Report's recommendations and I, therefore, concur with those recommendations.

Paul Nicholas Boylan

A handwritten signature in black ink, appearing to read "Paul N. Boylan". The signature is written in a cursive, flowing style with a large initial "P" and a stylized "B".



CALIFORNIA TEACHERS ASSOCIATION

October 7, 2019

Andrea L. Dooley, Arbitrator
953 W. MacArthur Blvd., #8
Oakland, CA 94608

RE: PERB Case #SF-IM-3248-E

Dear Ms. Dooley:

Please accept this communication as my concurrence in part and dissent in part regarding your final report as Chair in this case.

I concur in the Chair's recommendation of maintaining the status quo with regard to Additional Compensation Article XII – Salary, section 12.21.

I concur in the Chair's recommendation of incorporating the parties' agreed upon language regarding Vision Coverage in Article XIV- Benefits, section 14.7.

I dissent regarding the Chair's recommendation of only one year of salary increases. Wilmar teachers have been bargaining for almost one year, and that entire time they have consistently proposed a 3-year pay arrangement. In fact, the District is actually required by state law to budget and forecast three years into the future, so a 3-year arrangement is actually in line with what is already required of the District. The Chair's recommendation will only encourage further irresponsible and reprehensible behavior by a District which consistently shirks its obligation to spend today's dollars on today's students and their teachers. One purpose of the fact finding process is to bring the parties closer to settlement. The irony here is that the Chair's recommendation of only a single year's salary increase makes a strike more, not less, likely.

I dissent regarding the Chair's recommendation of the District's miserly proposal of \$100 per month increase to teachers' health care costs. There was ample evidence given at the hearing about the extraordinarily burdensome cost of healthcare, especially for a Wilmar educator with a family. In the context of a district sitting with \$1 million dollars in unrestricted reserves, which it could use for its ten lowly paid teachers' healthcare costs, the Chair's recommendation of a scant \$12,000 per year (10 teachers x \$100 more per month x 12 months) increase to Wilmar teachers' healthcare seems unfair, and thoroughly unsupported by the evidence presented at the hearing.

Please attach this concurrence in part and dissent in part to the final decision to be filed with PERB.

Thank you for your service to the parties.

Sincerely,

Mark Erwin Mitchell
Regional UniServ Staff
California Teachers Association