In the Matter of Arbitration Between	)	
	)	
EL CAMINO REAL CHARTER HIGH SCHOOL, WOODLAND HILLS, CA	)	FACTFINDERS' FINDINGS
	)	RECOMMENDATIONS
and	)	
	)	
UNITED TEACHERS LOS ANGELES	)	
	)	
Factfinding 2024 LA-IM-4162-E	)	

Hearing Date: October 11, 2024

Hearing Site: Virtual Via Zoom

Recommendation Date: January 23, 2025

Panel Chair: JONATHAN S. MONAT, PhD
James Young, Esq.
Bruce Williams, UTLA

Appearing for El Camino Real Charter High School:

Roger Scott, Esq,
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Appearing for UTLA:

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El Camino Real Charter High School (ECRA) is an ethnically diverse charter high school in Woodland Hills, California. The school is majority students of color. Roughly one-third of the student enrollment is on free/reduced meals. An impasse was declared by the Public Employment Relations Board (PERB) on March 5, 2024. Mediation was not successful and the matter was released to factfinding on June 4, 2024. The Factfinding Panel was appointed in early July, holding it's first meeting on July 23. A hearing was scheduled for September 4 but postponed due to the Panel Chair's illness. The parties waived time limits and the hearing was held of October 11, 2024.

ISSUES

The parties arrived at factfinding with three issues:

1) Article VII Compensation and Salary Point Credit (Increase);

2) Article IX Discipline and Personnel Files - Addition or modification of language in the CBA related to "egregious misconduct" and discipline and/or termination;

3) Article XVIII Health and Welfare - Benefits for retiree dependents to include retiree children up to 26 years of age.

<u>Salary</u>

El Camino Real Charter High School offered to settle the 2024-25 CBA with a 15% on-schedule salary increase, an proposal rejected by UTLA. The increase would come from one-time monies from ECRA's reserves with the opportunity to negotiate on-schedule pay increases for the next two years. ECRA argued that other settlements were in the range of 0% to 5% among about 1200 public charter schools in California. Data to support this claim were presented in Attachment A. Four of the comparable charters were UTLA-represented while the other 13 charters were represented by CTA.. Los Angeles Unified School District (LAUSD) is not listed in these data. ECRA advocated for caution because future state funding levels are in question. It must deal with a long list of maintenance issues.

Enrollment and attendance are declining which not only lowers revenue but could deplete reserves

(Attachment C). A drop in revenue due to declining enrollments in the last two years represents a deficit in 2024-25 of over $6 million dollars. In light of this fact, UTLA is requesting a two-step increase totaling 15% with 8% due July1, 2024, and 7% January 1, 2025. ECRA offered the same increases. The parties differed in the second and third years with UTLA requesting unconditional on-schedule increases of 1.5% in July and April of 2025 through April of 2027. ECRA proposed increases of 1.5% on July 1 and January 1of 2025 through 2027 contingent an LCFF COLA of at least 2.25%and a minimum ADA of 2930. UTLA data show ERCA's net surplus down over $5 million between 2022 and 2024. The ECRA compensation proposal accounts for the uncertainly in state contributions and in attendance.

With a projected deficit of $1 million dollars for the current budget and the general funding uncertainty, ECRA's proposed increases are more reasonable. UTLA's Exhibit 1.1 does not include the 15% increase in the first year of the new CBA, when finalized. An increase of such magnitude in the first puts UTLA at parity with the other charter schools to which it compares even with the 5% at Birmingham. The Panel Chair did not consider LAUSD because it services over 409,000 students compared to charter schools which service 3000 plus students each. (ECRA Exhibit F) LAUSD employees over 25,000 certificated teachers. It is an apples and oranges comparison. In the current economic climate in California and with the declining enrollments and revenues, ECRA has a small margin of safety for its reserves. While it has the ability to pay in the first year, the prognosis for the second and third years of the CBA are less favorable for maintaining reserves and paying for much needed maintenance. As noted above, reserves have shrunk over the last 2-4 years.

At the hearing, UTLA argued there were few comparator charters. However, ECRA listed nineteen charters including ECRA but did not list LAUSD (Exhibit E). The proper comparator schools are charters. Hence, UTLA's argument that it could not find sufficient charters in the Valley does not comport with its use of Palisades Charter High School.

Prior to finalizing the Chair's recommendation, Los Angeles was hit by natural disasters of epic proportions in the combined Palisades, Eaton and other fires. The human total is heartbreaking and the economic toll is unknown. The economic losses will have impact at all levels of government. How to allocate displaced students to schools, expenses related to movement of students and teachers have introduced unknown cost factors in educational budgets and ADA. This introduces more uncertainty into the increases proposed by the Chair for the second and third years of the CBA. The Union Panelist expressed concerns that UTLA prefers to have long-term (3 year) agreements without relying on re-openers mid-term.

Recommendation-Compensation In the first year of the new CBA (2024-25), it is recommendation that salaries increase by 15% in two steps - 8% retroactive to July 1, 2024 and 7% effective January 1, 2025. An additional 1% shall be added off schedule on July 1 of the second and third years of the CBA in the event the LCFF COLA is at least 2.5% and ADA is 2930 or better. The parties may mutually agree to a limited reopener for compensation in the second and/or third years of the CBA.

Discipline and Personnel Files

According to UTLA, an explicit definition of "egregious misconduct" provides clarity, leading to more consistent arbitration decisions over dismissals. The definition of misconduct is more uniform, as well. ECRA suggested the proposed language did not remove the ambiguity of the language from the statute, which is limiting. It was agreed that it was impossible to create a finite list of what would be considered egregious conduct. The Chair indicated his concern was due process and protection of teachers' rights to a fair hearing and avoidance of arbitrary and capricious decisions. The District was not opposed but was emphatic that the matter of teacher competency and performance was a a separate matter from all other forms of discipline and dismissal that could be handled in the grievance procedure ending in arbitration by a third party neutral. After extensive discussion, the panel consensus was to have a two-track system.

Recommendation - Teacher Dismissal and Discipline

1) For issues related to dismissal for performance and competency, ECRA will use an administrative procedure with the decision to dismiss resting with the ECRA Board. If the teacher has the option to appeal that decision directly to arbitration for review by a third party neutral selected from a list provided by PERB.

2) For all other issues of teacher misconduct which could result in termination for just cause, the parties shall follow a negotiated grievance procedure ended in binding arbitration.

Recommendation: Retiree Benefits

UTLA is requesting that retiree health benefits be extended to included minor children up to the age of 26, provided the dependent was enrolled in the health plan at the time of the unit member's retirement. The data show LAUSD and Palisades Charter High School offer health care to all retirees' dependents. Since it is so large and is not a charter high school, LAUSD is not used as a comparator. Other than Palisades Charter High School, no other charter provides this health benefit and many charters do not offer any retiree health benefits. ECRA does provide retiree health benefits for a retiree and spouse only.

The total expense of this item is unknown although individual rates may be known. There is no sound estimate of how many retirees would have dependent children younger than 26. UTLA has drawn a comparison with social security retiree ages at retirement. UTLA estimated the cost would be $892.39 per retiree with only 1% of all beneficiaries would be children of retired teachers, based on social security benefit rates. Based on statewide teacher retirement age of 62.9 years and the average retirement age of 65 for Social Security beneficiaries, UTLA concluded ECRA would have similar rates of retirees with dependents. Although not a blank check, this benefit carries an unknown price tag in uncertain economic times.

Recommendation: No retiree health care benefits for dependent children 26 or younger.

The recommendations of the Panel as prepared by the panel chair are listed immediately below. UTLA and ECRA panel members have concurred or dissented in documents attached to the Chair's recommendations.

Recommendation-Compensation

In the first year of the new CBA (2024-25), it is recommenda-tion that salaries increase by 15% in two steps - 8% retroactive to July 1, 2024 and 7% effective January 1, 2025. An additional 1% shall be added off schedule on July 1 of the second and third years of the CBA in the event the LCFF COLA is at least 2.5% and ADA is 2930 or better. The parties may mutually agree to a limited reopener for compensation in the second and/or third years of the CBA.

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Recommendation: No retiree health care benefits for dependent children 26 or younger.

Factfinding Panel Chair

JANUARY 17, 2025

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VIA: ELECTRONIC MAIL
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Re: ECRA Panel Member's Concurrence to Factfinder's Findings & Recommendations
Case No. LA-IM-4162-E
El Camino Real Charter High School and United Teachers Los Angeles

Dear Dr. Monat:

Our office is in receipt of the above-referenced document, dated January 17, 2025, and as ECRA Panel Member, I strongly **concur** with each of the "Factfinder's Findings & Recommendations."

I appreciate the time and attention you, as Neutral Chair, devoted to this matter and hope the parties will adopt the Findings & Recommendations and move forward in the best interest of the ECRA students and other stakeholders.

Please attach this concurrence to your Report.

Thank you again for your service.

Sincerely,
LAW OFFICES OF YOUNG,
MINNEY & CORR, LLP

James E. Young

James E. Young
ATTORNEYS AT LAW

United Teachers Los Angeles – El Camino Real Charter High School

PERB Case Number LA-IM-4162-E, Impasse Factfinding

Dissenting Opinion of the Union Appointed Panel Member,

Bruce Williams, Area Representative, United Teachers Los Angeles

My dissent arises primarily from the report's factual inaccuracies and the Panel Chair's failure to address critical, relevant facts. Below, I elaborate on my concerns across the three main areas of contention:

1. **Salary**
2. **Defining "egregious misconduct" in the disciplinary process**
3. **Extending retiree health benefits to dependents up to age 26**

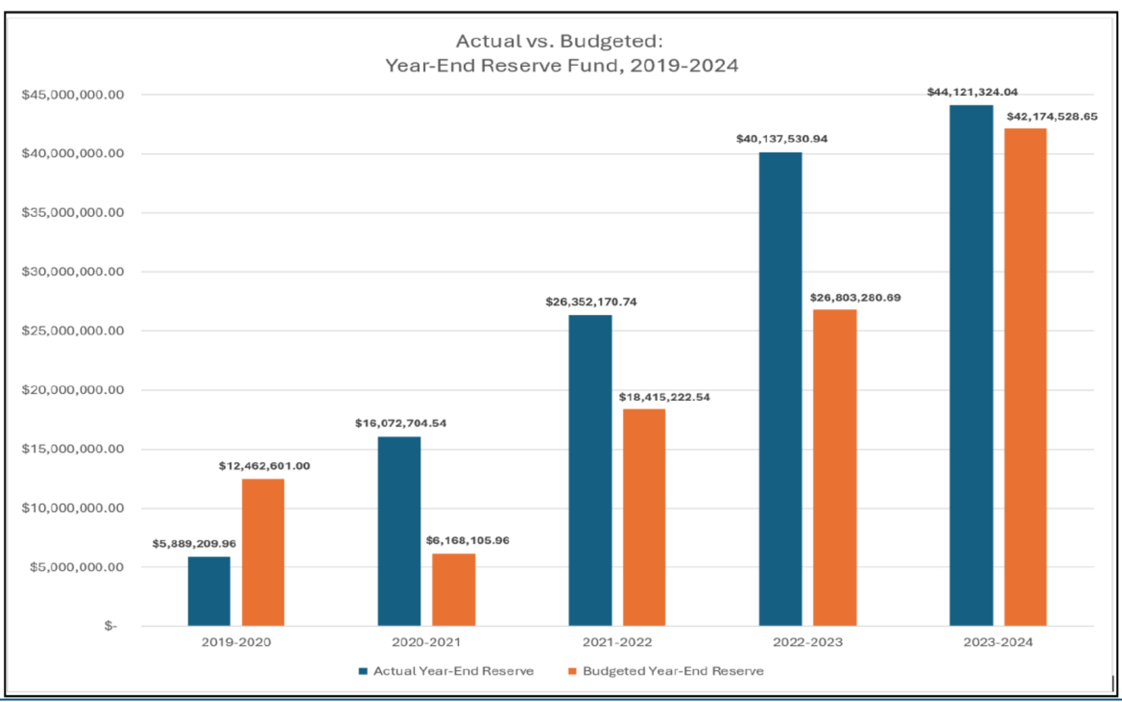
1. Salary

The factfinding report contains several key inaccuracies and omissions regarding salary.

- **Projected Deficit vs. Surplus:**
  The Panel Chair citing the Employer's claim, states that "a drop in revenue due to declining enrollments in the last two years represents a deficit in 2024-25 of over $6 million." This is factually inaccurate. According to the Employer's own 2024-2025 First Interim Report (presented at the December 19, 2024, board meeting), the Employer projects a surplus of $757,357 for fiscal year 2024-2025.

- **Growth of Reserves:**
  The Employer's reserves have significantly increased, growing from $26,352,531 in fiscal year 2021-2022 to $47,441,653 in fiscal year 2023-2024. Notably, at the end of fiscal year 2023-2024 alone, the Employer added $8,234,998 to these reserves. Furthermore, the Employer has a history of under-projecting annual surpluses, which not only inflates claims of financial constraints but also consistently contributes to the growth of its reserves:

EXHIBIT 1.3 – ACTUAL vs. BUDGETED: YEAR-END RESERVE FUND 2019-2024



Source: UTLA Factfinding Report

- **Failure to Consider Employer's Previous Proposal:**
  On December 14, 2023, the Employer proposed "a minimum 4% off-schedule pay for 2025-2026 and 2026-2027, with potential for higher on-schedule raises based on state revenue and enrollment trends" (excerpted from ECRA February 27, 2024, Package Proposal, UTLA Factfinding Report, Appendix B). While UTLA rejected this proposal at the time, it is worth noting that the proposal's real-dollar cost exceeded the Union's last, best, and final offer for those fiscal years. Specifically, when comparing the Employer's and Union's proposal costs focusing on fiscal years 2025-2026 and 2026-2027, the Union's proposal costs approximately 5% less than the Employer's December 14, 2023, proposal.

Given this context, the Panel Chair's recommendation of a 1% off-schedule salary increases for fiscal years 2025-2026 and 2026-2027 is puzzling considering that it is significantly *less* generous than one of the Employer's earlier proposals. Moreover, the Panel Chair appears to place undue weight on the Employer's *projections* of potential budget deficits, disregarding the reality of steadily increasing fiscal reserves, which have grown consistently over the past five years.

2. Discipline and Personnel Files

My dissent regarding the Panel Chair's recommendation stems from what seems to be the Panel Chair's misunderstanding of the existing process and the lack of clarity on recommended changes. The current collective bargaining agreement bifurcates employee dismissal and appeal procedures into two pathways:

1. Dismissals and appeals for reasons other than egregious misconduct follow the procedures outlined in the Education Code.
2. Dismissals for *egregious misconduct* are subject to binding arbitration (Article IX, Section 9.4 of the ECRA-UTLA agreement).

The Union proposed defining "egregious misconduct" to clarify which pathway a dismissal appeal should follow. While the current collective bargaining agreement includes a mechanism to resolve such disputes—stating that, "If the parties cannot agree whether the charges are properly before the Arbitrator, each party may submit a written argument to the Arbitrator, limited to ten (10) pages, and the Arbitrator shall issue a written ruling on the contract language and whether the matter is arbitrable"—the Union's proposal aims to reduce ambiguity and prevent reliance on Arbitrators to independently interpret the term.

Providing an agreed upon definition of the term "egregious misconduct" would assist Arbitrators in determining whether an appeal should proceed via Education Code procedures or arbitration. The Panel Chair's recommendation, however, fails to propose a meaningful change, and instead introduces unnecessary confusion or addresses matters not proposed by either party.

3. Retiree Benefits

I dissent with the Panel Chair's recommendation on retiree benefits because the cost of extending health benefits to retirees' dependents under age 26 would be minimal and financially sustainable for the Employer.

The Employer began fiscal year 2024-2025 with over $47 million in reserves, demonstrating a strong financial position. Additionally, the eligibility requirements for retiree benefits already limit the pool of employees who qualify, making it highly unlikely that many retirees would have dependents under 26 under their care at the time of retirement.

While the Panel Chair correctly notes that the exact costs of this benefit are difficult to predict, the rarity of such cases means the financial impact would be negligible. Given the Employer's robust reserves and the infrequency of retirees with dependents under 26, this benefit is both affordable and reasonable to implement.

Moreover, other employers that offer retiree health benefits, such as the Los Angeles Unified School District and Palisades Charter High Schools, extend such benefits to dependents under 26.

This dissent highlights critical inaccuracies, omissions, and misjudgments in the Panel Chair's report. Addressing these concerns is essential to ensuring fairness and clarity in the matters at hand.

Bruce Williams

January 22, 2025

Bruce Williams, United Teachers Los Angeles
Union Panel Member

Date