
IN THE MATTER OF
FACT FINDING BETWEEN

School Board of Santa Rosa County

AND

Santa Rosa
Professional Educators

SPECIAL MAGISTRATE
RECOMMENDATIONS

SM 2009 – 041

IMPASSE:

Instructional and
Educational Support Personnel

SPECIAL MAGISTRATE

Mark R. Sherman

DATES OF HEARING

October 19 & 30, 2009
Briefs: December 8, 2009

PLACE OF HEARING

Russell Center / Locklin Tech Campus
Milton, Florida 32570

DATE OF RECOMMENDATION

February 4, 2010

APPEARANCES

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ISSUES

1. Should Appendix D, Teacher Salary Schedule be amended by adding the column entitled Years of Experience (left most column)

SANTA ROSA COUNTY INSTRUCTIONAL SALARY SCHEDULE 2009-2010

<u>Years</u>								
<u>Exp.</u>	Step	INDEX	Bachelor	Masters	Spec.	Doctor		
<u>0</u>	0	1.000		32,092		34,575	35,817	37,059
<u>2</u>	1	1.025		32,891		35,374	36,616	37,858
<u>3</u>	2	1.050		33,705		36,188	37,430	38,672
<u>4</u>	3	1.076		34,534		37,017	38,259	39,501
<u>5</u>	4	1.102		35,378		37,861	39,103	40,345
<u>6</u>	5	1.129		36,238		38,721	39,963	41,205
<u>7</u>	6	1.156		37,114		39,597	40,839	42,081
<u>8</u>	7	1.184		38,006		40,489	41,731	42,973
<u>9</u>	8	1.213		38,915		41,398	42,640	43,882
<u>10</u>	9	1.241		39,842		42,325	43,567	44,809
<u>11</u>	10	1.271		40,786		43,269	44,511	45,753
<u>12</u>	11	1.301		41,748		44,231	45,473	46,715
<u>13</u>	12	1.331		42,729		45,212	46,454	47,696
<u>14</u>	13	1.363		43,729		46,212	47,454	48,696
<u>15</u>	14	1.394		44,749		47,232	48,474	49,716
<u>16</u>	15	1.427		45,788		48,271	49,513	50,755
<u>17</u>	16	1.460		46,849		49,332	50,574	51,816
<u>18</u>	17	1.494		47,930		50,413	51,655	52,897
<u>19</u>	18	1.528		49,033		51,516	52,758	54,000
<u>20</u>	19	1.563		50,158		52,641	53,883	55,125
<u>21</u>	20	1.599		51,306		53,789	55,031	56,273
<u>22</u>	21	1.635		52,477		54,960	56,202	57,444
<u>23</u>	22	1.672		53,672		56,155	57,397	58,639
<u>24</u>	23	1.710		54,891		57,374	58,616	59,858
<u>25</u>	24	1.749		56,135		58,618	59,860	61,102
<u>25+</u>	25	1.844		59,181		61,664	62,906	64,148

BASE FOR ADVANCED DEGREE = \$31,042
 MASTERS = BACHELORS + (0.08 x BASE) = 2,483
 SPECIALIST = BACHELORS + (0.12 x BASE) = 3,725
 DOCTORATE = BACHELORS + (0.16 X BASE) =4,967

The \$1776.00 stipend is included in Step 25

2. Should Appendix D, Teacher Salary Schedule be amended as follows:

"Effective July 1, 2005, the salary schedule increments shall be converted from years of experience to steps. Current teachers will be moved to the new schedule at the step that corresponds to their current years of experience on the old schedule. All personnel hired on or after July 1, 2005 will be placed on the schedule at the step that corresponds to the number of years of full-time public school teaching service earned and for which the teacher received a satisfactory performance evaluation. ~~All personnel shall progress a step on the schedule for each year of full-time service in Santa Rosa County for which the teacher received a satisfactory performance evaluation.~~ Satisfactory means any rating other than unsatisfactory. If a teacher receives an unsatisfactory evaluation the administrator shall initiate a Professional Improvement Plan as defined in the Teacher Assessment System. Effective July 1, 2009, placement on the salary schedule shall be negotiated each year. Notwithstanding any language to the contrary, each teacher shall start each year on the same step as he/she was on at the end of the prior year. New employees hired before the completion of negotiations each year shall be placed on the schedule based on their number of years of satisfactory experience minus one (1) but not less than zero (0)."

3. Should Appendix D, Teacher Salary Schedule be amended as follows:

"BASE FOR ADVANCED DEGREE = ~~\$31,042~~ \$32,092 (note: this is the current year bachelor step 0 amount).

4. Should Appendix D, Teacher Salary Schedule be amended by giving:

a 3% increase to the salary schedule that includes step, with 1100 dollars added to the top step of the salary schedule.

5. Should Appendix G, ESP Salary Schedule be amended by adding the following:

"Effective July 1, 2009, placement on the salary schedule shall be negotiated each year. Notwithstanding any language to the contrary, each ESP shall start each year on the same step as he/she was on at the end of the prior year. Also remove the words '1 STEP EACH YR & SATISFACTORY PERFORMANCE' from Appendix G."

STATUTORY AUTHORITY

FLORIDA STATUTES: Chapter 447, PART II

447.403 Resolution of Impasses.--

- (1) If, after a reasonable period of negotiation concerning the terms and conditions of employment to be incorporated in a collective bargaining agreement, a dispute exists between a public employer and a bargaining agent, an impasse shall be deemed to have occurred when one of the parties so declares in writing to the other party and to the commission. When an impasse occurs, the public employer or the bargaining agent, or both parties acting jointly, may appoint, or secure the appointment of, a mediator to assist in the resolution of the impasse. If the Governor is the public employer, no mediator shall be appointed.
- (2) (a) If no mediator is appointed, or upon the request of either party, the commission shall appoint, and submit all unresolved issues to, a special magistrate acceptable to both parties. If the parties are unable to agree on the appointment of a special magistrate, the commission shall appoint, in its discretion, a qualified special magistrate. However, if the parties agree in writing to waive the appointment of a special magistrate, the parties may proceed directly to resolution of the impasse by the legislative body pursuant to paragraph (4)(d). Nothing in this section precludes the parties from using the services of a mediator at any time during the conduct of collective bargaining.
 - (b) If the Governor is the public employer, no special magistrate shall be appointed. The parties may proceed directly to the Legislature for resolution of the impasse pursuant to paragraph (4)(d).
 - (c) If the district school board is the public employer and an impasse is declared under subsection (1) involving a dispute of a Merit Award Program plan under s. 1012.225, the dispute is subject to an expedited impasse hearing. Notwithstanding subsections (3), (4), and (5), and the rules adopted by the commission, the following procedures shall apply:
 1. a. The commission shall furnish the names of seven special magistrates within 5 days after receiving notice of impasse. If the parties are unable to agree upon a special magistrate within 5 days after the date of the letter transmitting the list of choices, the commission shall immediately appoint a special magistrate. The special magistrate shall set the hearing, which shall be held no later than 15 days after the date of appointment of the special magistrate. Within 5 days after the date of appointment of a special magistrate, each party shall serve upon the special magistrate and upon each other party a written list of issues at impasse.
 - b. At the close of the hearing, the parties shall summarize their arguments and may provide a written memorandum in support of their positions.

c. Within 10 days after the close of the hearing, the special magistrate shall transmit a recommended decision to the commission and the parties.

d. The recommended decision of the special magistrate shall be deemed accepted by the parties, except as to those recommendations that a party specifically rejects, by filing a written notice with the commission and serving a copy on the other party within 5 days after the date of the recommended decision.

2. If a party rejects any part of the recommended decision of the special magistrate, the parties shall proceed directly to resolution of the impasse by the district school board pursuant to paragraph (4) (d).

(3) The special magistrate shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute, and to render a decision on any and all unresolved contract issues. The hearings shall be held at times, dates, and places to be established by the special magistrate in accordance with rules promulgated by the commission. The special magistrate shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on his or her own behalf. Within 15 calendar days after the close of the final hearing, the special magistrate shall transmit his or her recommended decision to the commission and to the representatives of both parties by registered mail, return receipt requested. Such recommended decision shall be discussed by the parties, and each recommendation of the special magistrate shall be deemed approved by both parties unless specifically rejected by either party by written notice filed with the commission within 20 calendar days after the date the party received the special magistrate's recommended decision. The written notice shall include a statement of the cause for each rejection and shall be served upon the other party.

(4) If either the public employer or the employee organization does not accept, in whole or in part, the recommended decision of the special magistrate:

(a) The chief executive officer of the governmental entity involved shall, within 10 days after rejection of a recommendation of the special magistrate, submit to the legislative body of the governmental entity involved a copy of the findings of fact and recommended decision of the special magistrate, together with the chief executive officer's recommendations for settling the disputed impasse issues. The chief executive officer shall also transmit his or her recommendations to the employee organization;

(b) The employee organization shall submit its recommendations for settling the disputed impasse issues to such legislative body and to the chief executive officer;

(c) The legislative body or a duly authorized committee thereof shall forthwith conduct a public hearing at which the parties shall be required to explain their positions with respect to the rejected recommendations of the special magistrate;

(d) Thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the

public employees involved, to resolve all disputed impasse issues;
and

(e) Following the resolution of the disputed impasse issues by the legislative body, the parties shall reduce to writing an agreement which includes those issues agreed to by the parties and those disputed impasse issues resolved by the legislative body's action taken pursuant to paragraph (d). The agreement shall be signed by the chief executive officer and the bargaining agent and shall be submitted to the public employer and to the public employees who are members of the bargaining unit for ratification. If such agreement is not ratified by all parties, pursuant to the provisions of s. 447.309, the legislative body's action taken pursuant to the provisions of paragraph (d) shall take effect as of the date of such legislative body's action for the remainder of the first fiscal year which was the subject of negotiations; however, the legislative body's action shall not take effect with respect to those disputed impasse issues which establish the language of contractual provisions which could have no effect in the absence of a ratified agreement, including, but not limited to, preambles, recognition clauses, and duration clauses.

* * * * *

447.405 Factors to be Considered by the Special Magistrate

The special magistrate shall conduct the hearings and render recommended decisions with the objective of achieving a prompt, peaceful, and just settlement of disputes between the public employee organizations and the public employers. The factors, among others, to be given weight by the special magistrate in arriving at a recommended decision shall include:

- (1) Comparison of the annual income of employment of the public employees in question with the annual income of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved.
- (2) Comparison of the annual income of employment of the public employees in question with the annual income of employment of public employees in similar public employee governmental bodies of comparable size within the state.
- (3) The interest and welfare of the public.
- (4) Comparison of peculiarities of employment in regard to other trades or professions, specifically with respect to:
 - (a) Hazards of employment.
 - (b) Physical qualifications.
 - (c) Educational qualifications.
 - (d) Intellectual qualifications.
 - (e) Job training and skills.

- (f) Retirement plans.
 - (g) Sick leave.
 - (h) Job security.
- (5) Availability of funds.

447.407 Compensation of Mediator and Special Magistrate; Expenses.

The compensation of the mediator and special magistrate, and all stenographic and other expenses, shall be borne equally by the parties.

BACKGROUND

The Santa Rosa County Professional Educators Association (the Union) represents both Teachers and Educational Support Personnel employed by the School Board of Santa Rosa County (the Board). Santa Rosa County is located in the Florida panhandle with its county seat located in the town of Milton. It has almost 145,000 residents served by 31 schools, staffed by roughly 1600 instructional personnel. The Parties have a mature and cooperative history of bargaining, punctuated by only two other impasses in the last 35 years. In the Special Magistrate's experience, it would not be an exaggeration to say that they have an overall labor relationship that would be the envy of many school districts in the State.

The Parties' current three-year Agreement came into effect on August 10, 2007 and is set to expire on August 10, 2010. Anticipating the need to reopen bargaining annually in volatile economic times, they included language in Article XXIV of their Agreement that read "...the Parties shall meet annually to negotiate salary, insurance, supplements, and two other articles each of their own choosing." Negotiations pursuant to this reopener clause resulted in the Parties convening on June 10, 2009. At this initial set of

negotiations the Board emphasized some of the unprecedented economic hardships that it faced in the final year of the Agreement. These will be thoroughly canvassed in the Position of the Board, reproduced below. The Union, for its part, presented a list of roughly a dozen items that its leaders and members felt were necessary to keep pace with the standards and conditions of employment enjoyed by instructional personnel in comparable districts. By mid-July 2009, the Board concluded that the negotiations had reached impasse.

By letter dated August 17, 2009, the undersigned Special Magistrate was notified of his selection to hear the dispute. Efforts to schedule Hearings in September were unsuccessful, but the Parties ultimately agreed upon October 19, 2009. On that date, the Parties worked closely with the Special Magistrate to re-assess their positions on roughly ten of the issues at Impasse. Their diligent efforts involved an open exchange of ideas and a determined focus on mutual interests. Not only did their dialogue go on into the early hours of that evening, but they obviously continued over the following days. This was evidenced by the fact that when the Parties reconvened on October 30, they had reached agreement on ten of the items that were initially at Impasse, leaving only five issues for determination by the Special Magistrate.

At the conclusion of the second day of the Hearing, the Parties agreed to file post-Hearing Briefs in support of their respective positions on those five items. They set December 7, 2009 as the deadline for filing their Briefs and the Fact Finder was in possession of the Briefs a few days later. At the end of the Hearing held on October 30, the Special Magistrate committed to issuing his Recommendations in the first week of January, immediately after the Holiday break. Unfortunately, health-related issues

interfered with his plans, resulting in a four-week delay in the transmission of his Recommendations. The Special Magistrate is sincerely grateful for the patience and understanding exhibited by the Parties in the face of his unexpected and (as-of-yet) unexplained illness and hospitalization. He issues the following Recommendations in the hope that they guide the Parties toward “a prompt, peaceful, and just settlement” of the issues at Impasse.

POSITION OF THE SCHOOL BOARD

III. Argument

A. Summary of the Argument

While the Board and the Union have enjoyed a long history of successful and amicable bargaining, the Board cannot ignore current economic reality. Revenues are lower than in previous years and continue a downward trajectory. Expenses are on a converse trajectory. This problem has endured long enough that expenses have eclipsed revenues, resulting in the Board operating at a multi-million dollar deficit for the 2008-09 and 2009-10 school years. Providing a step increase to the Union would simply exacerbate this problem at an ever-accelerating pace.

The Board's economic situation is not expected to improve for years to come. The State of Florida projects huge deficits in government budgets. Meanwhile, the Board's savings are being depleted, which carries the interrelated effect of damaging the Board's credit and increasing threats of school year interruptions by contingencies which cannot be paid. The Union introduced several methods of paying for the step increase, but these methods either assume funds exist where they do not, or cut strongly against the public interest. As a corollary, the Union's proposals increase costs, which is antithetical to the Board's ability to pursue financially sound operations.

B. The Interests of the Public and Limited Availability of Funds Weigh in Favor of the School Board's Proposals

The Board and its instructional personnel have a long history of cooperative bargaining. They have not been at impasse over the terms and conditions of employment for instructional personnel since 1982. In an effort to retain the goodwill in this relationship, and to maintain a high quality of education in Santa Rosa County, the Board has given instructional personnel an average wage increase of nearly 5% since the 2003-2004 school year. (Board Notebook at p.201).

According to Doug Dillon, Assistant Superintendent of Finance, in recent years, the Board's revenues have been down substantially and costs have been up. The Board has made a suite of changes to its programs to control costs and bring them in line with revenue. One of these many changes was a request that the Union allow the Board discretion to freeze automatic step increases when the Board cannot fund them. This request led to the instant impasse. To resolve this issue, there are two notable statutory factors to help guide the Special Magistrate: the interests and welfare of the public and availability of funds. A thoughtful consideration of both these factors reveals that the evidence weighs in favor of granting the Board's proposals.

1. The Board is operating at a substantial deficit.

School Districts receive funding primarily from three sources. According to Dillon, in 1974 the Florida Legislature created a funding matrix for Districts known as the Florida Education Finance Program (or "FEFP"). The FEFP contemplates that a majority of a District's funding will be provided through state appropriations; that another large portion will be raised by the District itself, through collecting property taxes within the District's geographic jurisdiction; and that occasionally, some amount of federal funds may be received by the District.

Calculating the amount of state-appropriated funds the District will receive begins by tallying the number of full time equivalent (or "FTE") students within the District. The number of FTE students is then multiplied by state-determined program cost factors to create a "weighted FTE". This weighted FTE is then multiplied by a base student allocation and the district cost differential, both of which are determined by the State. Dillon testified that the product of this operation is the base funding provided by the State to a given School District.¹

FTE Students x Program Cost Factors = Weighted FTE
Weighted FTE x Base Student Allocation x District Cost Differential = Base Student Funding

At the hearing, Dillon testified without contradiction that the number of weighted FTE students dropped 352.87 from 2008 to 2009, and is expected to drop another 423.11 by 2010. (Board Notebook at p.12). The State lowered the District's base student allocation \$193.60 from 2008 to 2009, and it is expected to drop another \$255.52 by 2010. (Board Notebook at p.19). Finally, the district cost differential dropped from .9541 in 2007 to .9431 in 2008; it continued to drop to .9349 in 2009; and it is expected to drop again to .9337 in 2010. (Board Notebook at p.21). Thus, every one of the above factors determining state-appropriated funding has dropped and is expected to continue to drop, leaving less and less money for the Board. In this vein, "FEFP" funding dropped \$11,310,894 from the 2007-08 to the 2008-09 school year.² (Board Notebook at p.30).

¹ The State also allocates other funds to School Districts for a variety of programs. However, since the Board exercises no influence or control over the apportionment of these funds, neither party has placed them at issue in the instant impasse.

² The Exhibit on page 30 of the Board's notebook refers to a "FEFP" funding figure that does not include revenues raised through local *ad valorem* taxes.

Moreover, Dillon testified that the Board's local funding from ad valorem tax revenues dropped \$2,447,071 between the 2008-09 and 2009-10 school years, amounting to a 4.45% drop in the local portion of the Board's FEFP. (Board Notebook at p.210).

Dillon testified that, in addition to reduced State and local funding, the Board has also lost money on investments. The Board earns interest on its General School Fund to help raise revenue. However, The General School Fund earned only \$1,568,302.82 in interest during the 2007-2008 school year, which was a 32% drop from the year before. According to Dillon, during the 2008-2009 school year, the Fund's return tumbled another 79% year-over-year by earning only \$326,806.79. (Board Notebook at p.30). In a five year period, the amount of interest earned on the General School Fund in 2008-2009 was the lowest amount by almost \$500,000. Given the lack of State funding and investment income, it is not surprising that the Board is ranked 66 out of 67 counties in overall funding per student, receiving a meager \$6,476 dollars for each full time pupil. (Board Notebook at p.26).

The overall loss of revenue to the Board has been substantial. The Board's overall revenue fell \$9,668,871.76 between the 2007-08 and 2008-09 school years.³ (Board Notebook at p.30; Union Notebook at p.95). After this decrease, the Board's total revenue for 2008-2009 (excluding all fund balances, both reserved and unreserved) was approximately \$168,726,509.4 (Union Notebook at p.146A). However, the Board's actual expenditures for the same year totaled \$175,743,304. (Union Notebook at p.129). The Board therefore overspent its budget by approximately \$7,016,795 for the 2008-2009 school year. (Union Notebook at p.130).

The Board had to take desperate measures in order to pay its \$7,016,795 cost overrun. Doug Dillon testified that approximately \$3,000,000 of the overspending was covered by transferring in money from capital outlay to operating funds. This money was then used to defray the costs of property and casualty insurance and the costs of leasing school buses.⁵ Unfortunately, as of November 24, 2009, the Board received an opinion from the Attorney General that will require approximately \$1,000,000 to \$2,000,000 of these funds be transferred back to capital outlay.⁶ Dillon testified that the Board covered the remainder of overspending using undesignated, unreserved fund balance. Dillon explained that unreserved, undesignated funds are not appropriated and may be used for any purpose. (Board Notebook at p.35). The Florida Legislature requires that School Districts maintain an unreserved general fund that is sufficient to address normal contingencies. (Board Notebook at p.36). According to Dillon, in using the fund balance to cover the costs of the 2008-2009 school year, the fund balance fell \$4,779,053.85, corresponding to the remaining amount of costs after transferring in capital outlay. This drop in fund balance left the total fund at only \$9,142,505.15. (Board Notebook at p.31). The fund is expected to drop to \$7,373,267.60 by the end of the 2009-2010 school year. (Board Notebook at p.35). This

³ This figure excludes all transfers-in from capital outlay.

⁴ Id. at note 8.

⁵ Dillon testified that the Board is limited by statute to using this money only for these purposes.

⁶ The Attorney General opinion is attached hereto as Exhibit "A". To the extent that the Board will be required to transfer money back to capital outlays, the Board will have no choice but to dip further into its unreserved, undesignated fund balance.

additional drop is due to the fact that the step increase in effect for the current 2009-2010 school year had to be paid directly from savings - the fund balance. (Compare Board Notebook at p.8 with p.35). Thus, for the 2009-2010 school year, which ends June 30, 2010, the Board is already close to \$2,000,000 over budget.

In total, the Board has operated at such a steep deficit over the past two years that it has eaten up nearly half of all its available savings. Clearly, the Board is in no position to increase costs by providing a wage increase. See, e.g., Orange County Public School, SM-2009-19 at 16 (Holland, Special Magistrate) (denying a wage increase and step increase and noting that "[w]hile the District does have the reserve funds of \$70 million at the end of the 08/09 school year, the District faces much uncertainty.")

2. The step increase would be a substantial additional cost for the Board.

The Board has implemented a suite of changes in order to bring costs in alignment with revenues. Had it not been for these changes, the Board's deficit would have been much steeper over the past two years, which deficit the Board would have had to pay from the undesignated fund.

The Board tried to implement costs savings without affecting bargaining unit compensation. For example, from the 2007-08 school year through the current 2009-10 school year, the Board reduced its workforce by 12 administrators, 151 instructional personnel, and 47 educational support personnel. (Board Notebook at p.39). This reduced the Board's expenditures by approximately \$6,400,000 between May 2008 and September 2009.⁷ (Union Notebook at p. 135A). The Board restructured the classroom periods at various high schools which resulted in an overall savings of approximately \$1,743,000. (Union Notebook at p.145-146). The Board even staggered bus schedules and reduced garbage pick-ups, all in an effort to lower costs. Had it not taken these actions, the Board could have very easily depleted its entire unreserved, undesignated fund balance.

As previously noted, however, these costs savings were not enough to avoid operational deficits. The Board therefore had no choice but to try and reduce salary costs, which is a huge expenditure. In fact, Chief Negotiator Clifford Parker testified that the cost to the Board of providing a simple step increase to the instructional personnel alone is \$1,676,008. (Board Notebook at p.8). This amount represents the cost of the step increase for just the first year. Bill Emerson testified that the recurring cost to the Board of providing the step increase would grow geometrically from year to year. For example, assuming that total salary costs in year one were \$100,000,000 and a step increase was granted in years 2, 3, and 4 that added 1.8% cost each year, the total cost of the step increase over the three year period would be \$10,930,183.20 (as opposed to a linear cost of \$5,400,000 [or \$1,800,000 per year for three years]). (Board Notebook at p.38). Because the Board has no room in the budget for step increases,

⁷ Although page 135A of the Union's notebook lists the District's total savings as \$7,300,000, the parties stipulated at the hearing that the correct amount was in fact \$6,400,000.

there can be little doubt that failure to halt this cost will lead to drastic cuts in other fundamental Board operations.

3. A financial recovery for the Board is not currently projected within the next three years; instead, the financial outlook is expected to worsen.

The present economic forecast for the Board is that revenues will continue to sink. In response to funding problems faced by all Florida governments, the State's Legislative Budget Commission issued a report on the Long-Range Financial Outlook for the State. (Board Notebook at p.72-131). Dillon pointed out during his testimony that the Outlook's section addressing Florida schools projects that revenue raised by local millage rates will drop another \$173.2 million dollars statewide by 2012-2013. (Board Notebook at p.75). This has led the Florida Legislative Budget Commission to forecast that revenues will be insufficient to support anticipated spending for the 2010-11, 2011-12, and 2012-13 school years. (Board Notebook at p.78). As Doug Dillon testified, the State is expected to need \$13,000,000,000 just to pay for all the costs of operating government.

In addition to the glum outlook on future revenues, the District's credit rating is likely to suffer because of its loss of unreserved, undesignated fund balance. At the impasse hearing, the Union introduced a rating from S&P on the Board's "US\$19.24 mil certs of part ser 2006-2 due 2/01/2031" bond. (Union Notebook at p.147-150). The Union pointed out that S&P rated the bond as "A-", stable, claiming that this signified that the Board is not in any financial trouble. However, S&P uses a rating system ranging from AAA (best quality borrowers) to D (defaulted borrowers).⁸ Borrowers with A ratings are those whose "economic situations can affect finance," and a negative mark indicates that the investment vehicle has been downgraded. Apropos of such a chary rating, the S&P report is based in part on the Board's "financial performance and position [being] good, reflected by healthy reserve levels" of \$14,800,000 for the 2004-2005 school year, which was approximately 10.7% of expenditures. (Union Notebook at p.149). On cross examination, the Union admitted that the reserve levels had fallen dramatically from the amount listed in the report. Currently, the Board has an estimated \$7,373,267 in reserve funds, which is only 4.2% of estimated expenditures. (Compare Board Notebook at p.35 with Union Notebook at p.128). Because the main selling feature of the Board's already modestly-rated investment vehicles has been halved, it will not be a surprise if the Board's credit is downgraded during Standard & Poor's next review. City of Tampa at 7 (local government's credit rating is of paramount importance in the event that the city ever needs to borrow funds).

To add insult to the injury of the Board's financial firestorm, the Board will soon be facing an unavoidable new cost. Florida's class size amendment becomes effective for the 2010-2011 school year. That amendment will limit the teacher-to-student ratio in all Florida public classrooms. Compliance with the class size amendment will require that the Board hire another 90 to 100 teachers. (Board Notebook at p.39). A conservative estimate shows that it would cost the Board up to \$3,851,040 to hire these new teachers. (Board Notebook at p.38). If a step increase is

⁸ Wikipedia article at http://en.wikipedia.org/wiki/Standard_&_Poor's (last retrieved November 20, 2009).

granted, this price tag would be much higher and grow much steeper year by year. To make matters worse, no money is available at the state level to fund even the base salaries for the class size reduction during the 2010-2011 school year. (Board Notebook at p.104).

The preceding is a non-hyperbolic parade of very tangible horrors. But there is one more component lurking in this financial nightmare: the Board's receipt of federal stimulus money, which currently funds over 150 instructional personnel positions, will cease in 2011-2012. (Board Notebook at p.39). This is yet one more example of revenues and expenses continuing to accelerate in opposite directions, a problem which will only be amplified by granting salary step increases. The Board can harbor no illusion that the economy will rebound soon; instead, it owes a duty to the citizens of Santa Rosa County to be a good steward with the taxpayer dollars entrusted to its care. City of Tampa at 12. The Board simply cannot, in good conscience, expect to fund the step increase while delivering necessary services to its students. Id. at 12-13.

4. The Union's suggested methods of paying for the step increase are either infeasible or contrary to the public interest.

During the hearing, the Union suggested that the Board was overinflating its budget in order to conceal money that could be used to fund step increases. At the October 19 hearing, the Union presented an analysis comparing the Board's actual expenditures for the 2008-2009 school year and the amount it budgeted for expenditures during the 2009-2010 school year. (Union Notebook at p.109-128). The Union found several budget categories where the 2008-09 amount budgeted exceeded actual expenditures, but the Board had actually increased the amount budgeted in that category for the 2009-10 school year. However, Doug Dillon testified at the October 30 hearing that every single item that increased in the 2009-10 budget was increased by the amount of carryover - money that has been earmarked by the State or the Board for certain operational programs. Essentially, the 2009-10 budget was the exact same amount as the 2008-09 budget except with some monies carried over. It should be emphasized that the State-designated part of these monies cannot be used at the Board's discretion, and the Board-designated monies have already been devoted to operational needs. Simply put, there was no "secret" cache of money from which step increases could be funded.

The Union's other suggestion for funding step increases is also financially infeasible. The Union elicited testimony from Marshall Ogletree regarding an optional quarter mill that could be imposed by the Board on property owners within Santa Rosa County. Ogletree estimated that, with statewide compression, the quarter mill would have raised nearly \$3,300,000 for the Board, more than the estimated cost of the step increase. However, Ogletree admitted on cross-examination that it was not the Union's position that this tax should have been levied by the Board. Ogletree also admitted he was unaware of the fact that the Board had already levied a discretionary sales tax within the County to fund Board operations.⁹ Doug Dillon stated that, at the time of imposing the

⁹ Dillon testified that, by law, the half-cent sales tax levied by the Board cannot be used for operating expenses.

sales tax, there was a gentleman's agreement with the taxpayers that the optional quarter mill would not be levied so as to avoid upsetting taxpayers within the District. See Orange County at 17 (noting that although the Union suggested the Board could have levied the quarter mill, the Board has a right to make an operational decision not to levy the mill.) Furthermore, the quarter mill would only be effective for two years and then would require a County-wide referendum. Such a referendum would allow taxpayers a window of opportunity to kill the quarter mill as a source of funding just two short years after it came online.

Finally, the Union proposed a handful of smaller changes that could be used to fund step increases. The Union claimed that the Board could save money by not having contracted-out services with Sodexo and Durham School Services; but, as Bill Emerson and Clifford Parker pointed out, substituting these services for Board personnel actually saved the Board millions each year. The Union also suggested money could be saved by taking advantage of a Florida law that allows Districts to require children living within two miles of a school to walk rather than be bussed in. Considering the rural nature of the District, the hundreds of sex offenders who live within the District,¹⁰ and that Florida is the most dangerous State in the nation for pedestrians,¹¹ this option clearly is not in the best public interest.

C. The Availability of Funding Weighs Against the Union's Proposals

The Union's proposals to change the status quo by increasing the Advanced Degree Base and providing for an overall 3% step increase for teachers (and \$1,100 to the top step of the teacher salary schedule) should be denied because of the cost of the proposals. The cost of the Union's proposal to increase the Advanced Degree Base is \$16,273 per year. (Board Notebook at p.2). The Union also proposed that it be granted a salary step increase as currently provided in the Agreement, plus a 1.2% cost of living allowance, and an additional \$1100 added to Step 25. This proposal carries a total cost of \$3,151,407. (Board Notebook at p.8). However, based on the foregoing analysis, the Board has absolutely no funds available (other than savings) for either one of these proposals. To grant these proposals would be against sound economic policy, and the Board respectfully requests that the same not be recommended by the Special Magistrate.

IV. Conclusion

In sum, the Board's proposals are necessary and reasonable in light of the financial crisis that the Board is currently facing. The Board's proposals were made in good faith in an effort to control costs, and were only introduced after a number of wage-neutral changes in spending failed to yield sufficient budgetary results.

¹⁰ Predators may be located by neighborhood through the Florida Department of Law Enforcement's Sex Offender database: <http://offender.fdle.state.fl.us/offender/searchNeighborhood.do>.

¹¹ Study published at:

http://news.yahoo.com/s/nm/20091109/lf_nm_life/us_walking_cities_deaths;_ylt=AtP3ctwHouZgerP.VO8BU46s0NUE;_ylu=X3oDMTNiNWVoa2d0BGFzc2V0A25tLzIwMDkxMTA5L3VzX3d0bGtpbmdfY2I0aWVzX2RIYXRocwRjcG9zAzEwBHBvcwM3BHB0A2hvbWVfY29rZQRzZWMDeW5faGVhZGxpbnVf bGlzdARzbGSDZ (last retrieved 11/20/09).

As the budget continues to dwindle and costs continue to rise, the Board's proposals will become that much more critical to avoiding financial volatility and possible drastic action. By contrast, the Union's proposals increase costs and are not appropriate during this budgetary condition. Therefore, the Board respectfully requests that its proposals be recommended by the Special Magistrate and that the Union's proposals not be recommended.

POSITION OF THE UNION

Introduction

The Santa Rosa Professional Educators (SRPE) respectfully submits to the Special Magistrate the two remaining issues declared to be at Impasse by the School Board of Santa Rosa County with Santa Rosa Professional Educators. There were originally fifteen issues that were heard before your honor on October 19 and 30, 2009. Both sides were able to narrow the issues to the remaining five items outlined in the following paragraphs.

SRPE's two remaining issues (items 1-2) are in this brief in the same order as they were outlined in our notebook (located under tabs one and two). The first item references APPENDIX D-Teacher Salary Schedule and includes SRPE's salary proposal. The second item references APPENDIX D's advanced degree base pay.

The next three issues (items 3-5) are the board's proposals to alter current contract language. Following items 3-5 are referenced exhibits from the hearing with accompanying dialogue regarding the issues at impasse.

Item # 1 SRPE's Salary Proposal for 09-10

5. Appendix D, Teacher Salary Schedule should be amended by giving a 3% increase to the salary schedule that includes step, with 1100 dollars added to the top step of the salary schedule.

Board's Position

The district is opposed to giving any salary increases, including step increases. The district desires to freeze wages at the 08-09 level, and to stop the forward progression of personnel on the salary scale. Currently, the Master Contract language has step increases based on an employee's performance. This language was negotiated and added to the contract in 2005.

SRPE's Position

The SRPE is asking for a 3% increase in salary that includes step. The district maintains step costs 1.87%. SRPE is asking to improve the overall schedule by 1.13% and include in this summation, 1100 dollars that would be added to the top steps of the teacher and ESP salary schedule.

Statement of Evidence

In the 08-09 fiscal year, the employees in Santa Rosa County with the most experience (top of both salary scales) did not realize any increase. All employees' health insurance costs increased and they

were faced with either choosing a plan with lower monthly payments and higher deductibles, or a plan with significantly higher monthly payments with lower deductibles, meaning approximately 70% of our employees took home less money each month. When comparing other districts in the area, in 09-10, Bay County received their step increase that averaged 2% and their school board incurred \$150.00 per employee of additional health insurance costs. Okaloosa County teachers settled their 09-10 contract; they received their step that averaged 3%. (See page 273 SRPE's exhibit).

Our district maintained at the hearing on 10-30-09, that district privatized employees, did not receive any step increase. Since the close of the hearing, Durham (our privatized transportation contractor) sent a notice in the bus-drivers 10-30-09, pay-checks, indicating, a pay increase of 3% in their current hourly rate. This is typical of the difficulty SRPE has had of getting accurate information from the district. This bus driver pay increase will be retroactive to August and will be reflected in the bus drivers December 2009 paycheck. Also, in the SRPE's exhibit (page 256) there is an email from Jud Crain (supervisor of contract services) referencing the lunch-room workers receiving a 2% increase.

Argument #1

What benefit can the District incur by adopting the SRPE's Position?

Our district constantly receives accolades from the public for outstanding student performance on the FCAT. Statewide recognition is given to our district that results in the numerous "A" schools recorded in our district. Our students out perform other districts as reflected each year with high competitive FCAT scores in reading and math. SRC has consistently performed in the top 1-5% in FCAT scores. It is disheartening for our workers to hear the news that neighboring counties are recognized and appreciated by getting 2-3% increases, along with absorbing employee health insurance increases.

In March 2009, the district declared a reduction of workforce for Educational Support Personnel (ESP); those specified were solely members of SRPE's bargaining unit. In January of 2009, the district changed high school and middle school schedules which significantly decreased the number of instructional personnel for the 09-10 school year. Since there has been a significant decrease in personnel, current employees have increased overall daily workloads, there is more duty-time, less planning time, and increases in the number of daily preps, plus additional papers to grade. (See page 145 and 146 SRPE's exhibit)

Presently the county employees morale is lowered when they are presented with memos outlining the plan of how the district's privatized bus drivers are getting a 3% increase in pay, they cannot help but compare their value as opposed to the privatized workers value. Morale is a major issue in our district; the district should examine all means in order to give the same token of consideration to its employees. This would affirm and recognize the employee's valued performance by the district.

Item - 2 Should Appendix D, Teacher Salary Schedule be amended as follows?

"BASE FOR ADVANCED DEGREE = \$31,042 / \$32,092 (note: this is the current year bachelor step 0 amount).

Board's Position: The public employer contends it should not be amended.

SRPE's Position: The SRPE contends this language should be added to insure each year the advanced degrees base pay is calculated on the current year bachelor step zero.

Statement of Evidence

In our district the past practice for calculating our advanced degree pay was figured on the current bachelor base, as indicated on page "10 A" SRPE's exhibit. Page 10A references the language in the prior 3 year contract period (04-05, 05-06, and 06-07). There were two years (04-05 and 07-08) when they were set aside (see page 11 SRPE's exhibit) it was mutually agreed upon that advanced pay would not be calculated those specified years on bachelor's base. Because the amount for 07-08's base pay was included in the language, the district maintains, they should use the language that was uploaded to the website that year and the union maintain it should be included only in that single year's (07-08) contract language. The district is simply ignoring the past practice of using the beginning salary as the base pay for advanced degrees. There seems to be a disagreement on which side wanted to change the status quo.

Argument #1

What benefit can the District incur by adopting the SRPE's Position?

Our teachers are encouraged to obtain advanced degrees, Employees should be able to count on consistent recognition for pay for advanced degrees. SRPE is asking for the district to maintain the status quo of paying advanced degrees and they need to be calculated on the current year's base pay.

The state standard is for each school to have at least 25% of their staff holding advanced degrees as reported each year to the state in the "District and State Public Accountability Reports".

http://doewebprd.doe.state.fl.us/eds/nclbspar/year0809/nclb0809.cfm?dist_schl=3_91#

There are tables shown with the number and percentage of teachers at each degree level at each school, compared to state averages. Most of time the teacher is responsible for tuition payments for advanced degrees unless they are reimbursed for degrees obtained in critical teacher shortage areas. (Florida law, Section 1009.58 F.S.)

Board's Proposals

The next three following items, are additions to Appendix D and are interrelated:

SRPE will treat these items collectively in our argument since they are closely related to one another - Item 3: It is the district's intent to change the salary schedule by doing away with the step progression. The schedule also continues to show the "Base for Advanced Degree" as \$31,042. Item 4: It is the district's intent to remove the current step language, so that step has to be negotiated each year, thus removing the component regarding

satisfactory employee performance for all instructional personnel.
 Item 5: It is the district intent to add this new language for the Educational Support Personnel in our bargaining unit which coincides with Item 4.

SRPE is opposed to the changes proposed by the district in Items 3-5 and will make our argument following Item 5 of this brief.

Item 3. Should Appendix D, Teacher Salary Schedule be amended by adding the column entitled Years Exp. (left most column below).

SANTA ROSA COUNTY INSTRUCTIONAL SALARY SCHEDULE 2009-2010

<u>Years</u>							
<u>Exp.</u>	Step	INDEX	Bachelor	Masters	Spec.	Doctor	
<u>0.1</u>	0	1.000		32,092		34,575	35,817 37,059
<u>2</u>	1	1.025		32,891		35,374	36,616 37,858
<u>3</u>	2	1.050		33,705		36,188	37,430 38,672
<u>4</u>	3	1.076		34,534		37,017	38,259 39,501
<u>5</u>	4	1.102		35,378		37,861	39,103 40,345
<u>6</u>	5	1.129		36,238		38,721	39,963 41,205
<u>7</u>	6	1.156		37,114		39,597	40,839 42,081
<u>8</u>	7	1.184		38,006		40,489	41,731 42,973
<u>9</u>	8	1.213		38,915		41,398	42,640 43,882
<u>10</u>	9	1.241		39,842		42,325	43,567 44,809
<u>11</u>	10	1.271		40,786		43,269	44,511 45,753
<u>12</u>	11	1.301		41,748		44,231	45,473 46,715
<u>13</u>	12	1.331		42,729		45,212	46,454 47,696
<u>14</u>	13	1.363		43,729		46,212	47,454 48,696
<u>15</u>	14	1.394		44,749		47,232	48,474 49,716
<u>16</u>	15	1.427		45,788		48,271	49,513 50,755
<u>17</u>	16	1.460		46,849		49,332	50,574 51,816
<u>18</u>	17	1.494		47,930		50,413	51,655 52,897
<u>19</u>	18	1.528		49,033		51,516	52,758 54,000
<u>20</u>	19	1.563		50,158		52,641	53,883 55,125
<u>21</u>	20	1.599		51,306		53,789	55,031 56,273
<u>22</u>	21	1.635		52,477		54,960	56,202 57,444
<u>23</u>	22	1.672		53,672		56,155	57,397 58,639
<u>24</u>	23	1.710		54,891		57,374	58,616 59,858
<u>25</u>	24	1.749		56,135		58,618	59,860 61,102
<u>25+</u>	25	1.844		59,181		61,664	62,906 64,148

BASE FOR ADVANCED DEGREE = \$31,042
 MASTERS = BACHELORS + (0.08 x BASE) = 2,483
 SPECIALIST = BACHELORS + (0.12 x BASE) = 3,725
 DOCTORATE = BACHELORS + (0.16 X BASE) =4,967

The \$1776.00 stipend is included in Step 25

POSITIONS: The public employer contends that it should be added and the SRPE contends that it should not be added.

Item 4. Should Appendix D, Teacher Salary Schedule be amended as follows:

"Effective July 1, 2005, the salary schedule increments shall be converted from years of experience to steps. Current teachers will be moved to the new schedule at the step that corresponds to their current years of experience on the old schedule. All personnel hired on or after July 1, 2005 will be placed on the schedule at the step that corresponds to the number of years of full-time public school teaching service earned and for which the teacher received a satisfactory performance evaluation. All personnel shall progress a step on the schedule for each year of full-time service in Santa Rosa County for which the teacher received a satisfactory performance evaluation. Satisfactory means any rating other than unsatisfactory. If a teacher receives an unsatisfactory evaluation the administrator shall initiate a Professional Improvement Plan as defined in the Teacher Assessment System. Effective July 1, 2009, placement on the salary schedule shall be negotiated each year. Notwithstanding any language to the contrary, each teacher shall start each year on the same step as he/she was on at the end of the prior year. New employees hired before the completion of negotiations each year shall be placed on the schedule based on their number of years of satisfactory experience minus one (1) but not less than zero (0)."

POSITIONS: The public employer contends that it should be amended and the SRPE contends that it should not be amended.

Item 5. Should Appendix G, ESP Salary Schedule be amended by adding the following:

"Effective July 1, 2009, placement on the salary schedule shall be negotiated each year. Notwithstanding any language to the contrary, each ESP shall start each year on the same step as he/she was on at the end of the prior year.

Also remove the words '1 STEP EACH YR & SATISFACTORY PERFORMANCE ' from Appendix G."

POSITIONS: The public employer contends that it should be amended and the SRPE contends that it should not be amended

Statement of Evidence for Items 3-5

It is SRPE 's contention the district has funds to continue to honor our current step language. SRPE is asking for the 1.87% (step) in addition to 1.13% (1.87+1.13%= 3%) improvement to the salary schedule, and we are asking for the district to provide enough money (with consideration of the 1.3%) to total 1100 dollars to the top steps of both the ESP and Instructional salary scales. The district has reduced approximately 300 employees since the 07-08 school years. These 300 employees, have been retirees, annual contract personnel, and RIFed specified educational support personnel. The 119 specified educational support personnel were

all members of SRPE's bargaining unit and were RIFed in March of 2009, for the 09-10 school year. There has been a decrease in the district's total salary expenditures of over 6 million dollars (page 135A SRPE exhibit). The district has budgeted 2 million dollars for step increases (see page 9 SRPE exhibit) and this was presented to the public in their tentative budget on July 23, 2009, for fiscal year 2009- 2010. Due to this budgeted amount of 2 million dollars and the current requirement in the contract all district employees have been receiving their step since July 1, 2009. Changes in the transportation bus schedules (to three tier) and differences in the privatized contractors costs have also presented over 3.8 million of reoccurring dollars that could be utilized for SRPE's salary proposal. (See pages 252 and 253 of SRPE's exhibit).

In the presentation of the NEA financial data analysis report (pages 109 -128) by Jackie Sweat, FEA bargaining specialist, she pointed out numerous examples of how our district could more accurately project budget expenditures, especially during these lean budget times. We feel there is room for the district to examine their current practices of under projecting revenue and over projecting expenditures and ask the question - Isn't this the type year the district needs to accurately fine tune their budget? Changing these practices would enable them to honor current contract language and consider SRPE's salary proposal. If one examines on page 20 (Exhibit E-1 of the joint exhibit) under the Expenditures when comparing amounts, from June 30, 2009 of the original, final, and actual amounts budgeted , one can see a continued practice of there being a positive surplus under variance amounts. This is the year to more accurately access the entire budget and not just rely on the fund balance to pay for salary improvements.

According to Standard and Poor's assessment (SRPE Exhibit page 147) our district's financial performance and position are good, reflected by healthy reserve levels. Another example of healthy reserve levels is indicated on page 3 of the joint exhibit Annual Financial Report (General School Fund Balance) the total of the unreserved fund balances (unreserved designated and unreserved undesignated) since 1999-2000 are 50% or more of the total fund balance.

Also, on page 36 exhibit A-1 of the Joint Exhibit Financial statement for 08-09 under General Fund Budgetary Highlights it references

"Actual revenues were \$1,310,861.84 less than final budgeted amounts, whereas actual expenditures were \$13,513,972.90 less than final budgeted amounts. Positive budget variances occurred in all functions. The actual ending fund balance exceeded the estimated fund balance contained in the final amended budget by \$12,156,858.94"

The district has touted repeatedly the need to keep a healthy reserved fund balance, in case of a storm. (See page 27 of Joint exhibit Financial Statement). The department of homeland security will provide over 700K in the event of a declaration of a natural disaster. While it is good to be prepared, it is hard to explain to employees and retired teachers, why the 2009-10 school board wishes to undo the process of employees to moving forward on the salary

scale that has been in place since the teachers walked out in 1968. This information about the salary schedule and step progression has been conveyed to SRPE by retired teachers who participated in the 1968 walk-out.

The 2009 state legislature did offer means for local districts to generate or increase revenues in their districts by allowing another component to be added to the FEFP funding for their 09-10 operating budget. Marshall Ogletree, FEA lobbyist and FEFP specialist, assisted in drafting the law defining Financial Emergency Senate Bill 6A (page 280 SRPE exhibit). He testified and explained the legislative intent of SB6A and of the conforming Bill 1676 (see SRPE exhibit page 215, line 1587). Bill 1676 allowed local district school boards to increase their revenues that were available to their district by voting to levy an additional discretionary $\frac{1}{4}$ millage. This would have to be done by a super majority vote of the school board. Our district school board declined to levy this $\frac{1}{4}$ mil and by declining to institute this part of the funding of this compression formula, there will be the potential of an adverse effect or penalty for our district of about 570K, the final amount depends on the number of other districts in the state that levy the quarter mil. This $\frac{1}{4}$ mil could have generated an additional 3.6 million for our district's operating budget. We are told many times by our district how we are not funded at the state average,--they had a chance to have an increase to the FEFP formula and we would have received another 1.5 million along with the 2.1 million for the 1.4 levy for a total of 3.6 million. When reviewing the school board minutes on (page 236 SRPE exhibit) SRPE had Marshall Ogletree correct the information that was conveyed to our school board, regarding the election timeline in relationship to adopting the $\frac{1}{4}$ mil. The 3.6 million would have been reoccurring revenue for the next two years for our district; if the voters passed the levy in the next election cycle, it would have been reoccurring revenue for the next 10 years.

Closing

SRPE acknowledges the fund balance is non-reoccurring revenue, but SRPE advocates looking at the re-occurring revenue within the budget and more accurately budgeting so it matches up with what the district actually spent, thus freeing up re-occurring funds in order to reward a district of outstanding employees.

The NEA budget analysis expenditure exhibit starting on page 110 of SRPE's exhibit further proved the need for the district to scrutinize their current practice of over projecting expenditures and under projecting revenue. As stated in 08-09 of joint exhibit page 36, actual expenditures were \$13, 513, 972.90 less than final budgeted items. (Actual revenues were \$1,310,861.84 less than final budgeted amounts 08-09-showing a discrepancy reported by the district at their town-hall meetings -see page 156 of SRPE Exhibit)

Listed below is a summation of the amounts that can be utilized as reoccurring funds in order to maintain the status quo of giving step increases each year.

Changes in the privatized contracts saved the district -----2,557,065.00

Changes in the bus schedules to 3-tier saved the district -----1,277,982.00

Changes in the number of personnel - decreased expenditures ----6,400,000.00

Changes in High School schedules saved district ----- 2,400,000.00

Total of reoccurring savings or decreased expenditures-----\$12,635,047.00

In lean budget years the district should examine every aspect of the budget in order to maintain the status quo. It would seem in these lean budget years the district would utilize all options prevailed upon them by the legislature in order to generate any additional local operating revenues.

Levying a ¼ mil could have generated an additional -----2,100,000.00

By levying the ¼ mil, increase FEFP compression formula by --1,500,000.00

Potential Revenue LOSS Totaled-----3,600,000.00

(Potential adverse effect for the district choosing to not levy the discretionary ¼ mil up to 570K)

To close: There should be a consistent way to calculate advanced degree pay and the SRPE wants the district to return to the previous way of calculating advance degree pay by basing it on beginning teacher pay. SRPE thinks the district should look for other means to cut spending rather than decreasing employees pay, instead the current district's leadership has chosen a path to ignore a salary schedule that has been in place for over 30 years.

DISCUSSION AND OPINION

Rather than taking a strict, item-by-item approach to addressing the five issues at impasse in this case, the Special Magistrate will underpin his specific findings of fact and formal Recommendations with some general observations about the extraordinary financial dilemma facing the Parties. But even before undertaking this general assessment, he feels called upon to share his sincere feelings about the individuals who were involved in this set of negotiations and the ensuing impasse.

In this respect, he would be remiss if he failed to commend the Parties on the civility, professionalism and spirit of compromise that characterized their behavior throughout the entire process. Their ability to reach agreement on roughly two-thirds of the issues

originally at impasse without the need of Recommendations by the Magistrate was the hallmark of the sort of mature and sophisticated bargaining relationship that is sadly missing in many of the public sector work environments this neutral has encountered in his career. The Parties' dedication to attacking the problem (instead of attacking each other) greatly facilitated the task of the Special Magistrate in this case. Their behavior spoke volumes, not only about the value of mutual respect, but also about how the Fact Finding process can achieve real progress in the resolution of impasses despite the lack of genuine power on the part of the Special Magistrate. In short, the conduct of the Parties in this case illustrated how the process is *supposed* to work.

Having dispensed with the “warm and fuzzies,” the Magistrate must now turn his attention to the economic distress that is currently a fact of life for the Board and for most public employers throughout the State. It is worth noting that in years past, when the overall financial outlook throughout the State was very favorable, this Special Magistrate commonly encountered public employers who cynically played “the shell game” with funds that could be used for pay raises. Underestimating revenues, overestimating expenses, stashing away funds in a variety of operating, capital, discretionary and non-discretionary accounts were typical tactics of many public employers who routinely denied wage increases and repeatedly “cried wolf” about their dire financial circumstances. Yet other public employers did not even bother to argue that there were no funds available. Instead, they candidly admitted that funds were available for the pay increases sought by public employees, but they insisted that *their* priorities in governance simply did not include the expenditure of discretionary funds for such “non-essential” purposes.

In the present case, however, the position of the School Board of Santa Rosa County bore no resemblance to the duplicity of the first approach or the arrogance of the second. Indeed, the Board made clear and convincing arguments to the Special Magistrate that funding pay increases has been one of its historical priorities but that it was unable to continue addressing this priority in the unprecedented financial situation that it currently faced.

Despite the Union's ability to demonstrate that several categories of expenditure were overestimated in prior years, the Board pointed out that these funds did not represent a sinister, "secret cache" of discretionary funds but instead represented monies that were carried over to the next year and were generally used in the same specific cost categories for which they were originally earmarked. Similarly, although the Union argued that funds could be made available by using new statutory provisions to declare a "Financial Emergency" and seeking a ¼ mil levee, the Board convinced the Special Magistrate that such actions were practically implausible and would be plagued by the law of unintended consequences.

The requirement of a super-majority of Board Members to approve a long-term version of this fiscal response did not impress the Special Magistrate as a particularly realistic option. Politics is often governed by the "art of the possible" and in the wake of the prior sales tax increase on the citizens of Santa Rosa County, it did not seem feasible to ask Board members to commit "political suicide" by asking them to vote in favor of another tax increase in the current economic environment. In short, the Board convinced the Magistrate that there was no "quick and dirty" way of coming up with the revenue

that was necessary to fund the sort of pay increases and economic proposals that the Union was advocating.

Moreover, the Board identified numerous adverse financial considerations that had been “snowballing” in recent years, leaving it in a genuinely dire financial situation in 2009 - 2010. Without going into excruciating detail, these negative influences included the deteriorating position of the Board in relation to its per pupil funding under the F.E.F.P. formula, declining property values, the decreasing funding from *ad valorem* tax revenues, the dismal performance of the Board’s investments, the likelihood of an eventual downgrading of the District’s S & P credit rating, the potentially dire impact of the State’s class size amendment, the potential loss of federal stimulus money, and the impact of a recent A.G. opinion that required the Board to transfer between 1 and 2 million in funds from its operating budget back into capital outlay.

In addition, the Board also offered unrefuted accounts of how it had taken extraordinary steps to achieve savings and stability in recent times in order to avoid mid-year reductions in force for instructional personnel. To the Special Magistrate, these drastic and, in some cases, draconian measures only further served to demonstrate how the Board had exhausted most of its options in prior efforts to cut costs so that it could continue to pay its remaining instructional and educational support staff competitive salaries. Some of these measures included using retirements, non-renewal of annual contract employees and reductions in force of Educational Support Personnel to reduce its instructional workforce by several hundred positions. It also described how it had undertaken contracting out of peripheral services, reducing trash collection, reorganizing teaching schedules, staggering bus schedules and imposing multi-year salary freezes on

administrative positions in order to cut costs. In view of the number, variety, and severity of these measures, all of which had *already* been undertaken, it was difficult for the Special Magistrate to conclude that there were readily available means of freeing up funds for the sort of economic proposals sought by the Union in this set of negotiations. Indeed, in the mind of the Fact Finder, the challenge for the Union was to prove that the funding crisis faced by the Board could support maintenance of the status quo, let alone the sort of substantial advances that were being sought. Where then did this leave the Special Magistrate in his task of evaluating the competing proposals of the Parties?

In the view of the Special Magistrate, the Parties implicitly identified stability and equity as paramount goals underpinning both sets of their proposals in this case. The Board sought financial stability to avert the dislocating effects of laying off instructional staff before the end of the school year. The Union, for its part, sought stability through the continued reliance on established and equitable approaches to step increases and base salary calculation methods that had been accepted over the last three decades. Apart from the Union's contention that Instructional Staff in Bay and Okaloosa Counties received their step increases in 2009 - 2010, the Parties seemed to concede that most of the comparative criteria prescribed in Section 447.405 were of limited practical value in the assessment of the items remaining at impasse. Instead, they emphasized the statutory criteria of "availability of funds" and "interest and welfare of the public" and the as the bases for seeking operational stability and the fairest possible outcome for all concerned.

In practical terms, the dire financial circumstances faced by the Board led the Special Magistrate to rule out an across the board wage increase for instructional staff in the present school year. The (overall) 3% wage increase and \$1,100 increase for those at the

top of the scale were undermined by the patent unavailability of funds to underwrite them. Leaving aside the issue of step increases covering the current academic year, the cost of the Union's economic proposals impressed the Special Magistrate as arguable, but extraordinarily ill-timed. The Union's submissions were therefore rejected for the most part.

As a professor with over 25 years of service, the Special Magistrate had personal sympathy with those teachers at the top of the scale who were *yet again* stuck at levels of pay that did not reward their extraordinary length of service and their degree of loyalty. However, due to the cost of this proposal and the Board's dire financial circumstances, the Fact Finder reluctantly concluded that these individuals will simply have to wait until financial conditions improve to make up ground. In this regard, the Special Magistrate trusts that as soon as conditions improve, the Board will award an *enhanced* lump sum payment that recognizes not only their seniority and dedication, but also the additional period that they have had to endure the continued anomaly of stagnant salaries despite their decades of experience and loyal service.

Similarly, the Special Magistrate appreciated the plight of Instructional personnel who have dedicated time, money and effort to seek advanced degrees, only to have their pay differentials devalued by being calculated on an outdated Base Rate of pay. However, as the Board itself identified the cost of restoring the traditional method of calculating the advanced degree Base to be only \$16,273 per year for *all instructional staff* who would be in receipt of the adjusted Base Rate, this was a tempting opportunity for the Fact Finder to eliminate a conspicuous anomaly and restore some degree of consistency to the pay schedule. For decades, the Base Rate for calculating advanced degrees had been the entry

level salary of teachers with a Bachelor's degree. In view of the minimal cost of reinstating this practice as well as the continued motivating effect it will have for teachers to further enhance their academic credentials; the Special Magistrate was willing to endorse this modest Union proposal as an inexpensive concession that restored internal consistency and genuinely served the public interest.

This brings the Fact Finder to the all important issue of Step Increases. As the Special Magistrate clearly indicated at the Hearing, he views the long-standing practice of awarding step increases based upon years of service as a type of workplace "social contract" that has traditionally served to reward personal loyalty and lend predictability to personal as well as labor relations expectations. Adding the requirement of a "satisfactory evaluation" a few years back did little to undermine this workplace contract.

On the other hand, disengaging the progression of "steps increases" from "years of service" without adequate notice or justification could serve to substantially undermine the logic, validity and predictability of the practice. The Fact Finder's opinion is that a precipitous disengagement would represent a change that goes to the very heart of this sort of "social contract." However, borrowing from the *legal* principles of contract, the concepts of "notice" and justified "variation" are particularly germane to proposed changes that may be necessitated by circumstances beyond the control of the parties. In the view of the Special Magistrate, if adequate notice, justification *and consultation* precede the sort of disengagement proposed by the Board, these measures can serve to legitimize a fundamental variation in this workplace "social contract". Moreover, it is the belief of the Fact Finder that this year's round of bargaining will have encompassed all three of these components.

In the present case, the good faith conduct of the Board has meant that the Step Increases have continued to be paid in a fashion where they remained directly tied to years of service in the 2009 - 2010 school year. In the view of the Special Magistrate, this enlightened approach has occurred against the backdrop of extensive consultation and notice that this automatic connection can no longer be taken for granted. The continuation of this historical link during the 2009 – 2010 school year served to maintain the predictability of the salary schedule to Instructional staff and to a large extent, has maintained much of the continued goodwill between the Parties, referenced above. But, now the question must be answered: “Should the Board disengage Step Increases from years of service *in the middle of the current school year?*”

Indeed, implicit, if not explicit in the primary issue at impasse in this case was the Board’s reliance on the Recommendation of the Special Magistrate as to whether this practice should cease forthwith. Quite, simply, it is the opinion of the Special Magistrate that the public interest will be best served by continuing the linkage until the end of this school year. In his view, the goals of consistency, predictability, adequate notice, and adequate consultation will all be well served by such an approach.

On the other hand, it is equally clear to the Fact Finder, that there are valid grounds for the Board to doubt that there will be adequate funds to continue this linkage into the next school year, unless there are some dramatic improvements in its financial position. While recent debates in Tallahassee about watering down the statute mandating the final round of class size limitations represent a glimmer of hope in relation to *one* of the Board’s dilemmas, a host of ominous financial tidings still remain.

The Special Magistrate recognizes that he has no power to make Recommendations that extend beyond the school year in which the Impasse has arisen. He also recognizes that the Parties may view his Recommended Decision in this case as an attempt to do just that. However, in this instance he has (somewhat awkwardly) attempted to fashion his Recommendations in a manner that reflect his belief that the 2009 – 2010 school year is the *last year* when automatic linkage should be presumed. As explained above, he feels that the Board's conduct this school year has satisfied the requirements of notice, justification and consultation that he views as necessary to depart from a decade's old practice. Therefore, he encourages the Parties to accept the reasoning, intent and *substance* of his Recommendations even though their technical *form* may be somewhat clumsy and arguably subject to technical, legal challenge. If the Board and the Association can bring themselves to accept the substance of these Recommendations, then they will find themselves in the same position as countless other parties in Florida's public sector. Specifically, when the current financial crisis subsides, their first round of bargaining can focus on the economics of reinstating the linkage between years of service and step increases; and they can restore the logic and predictability that has been a hallmark of this sensible and traditional approach to public sector wage determination. Moreover, they will not be faced with the unusual and unenviable predicament of how to address the year when only "a half of a step increase" was paid.

RECOMMENDATIONS

- 1. Appendix D, of the Teacher Salary Schedule for 2009 – 2010 should not be amended by adding the column entitled Years of Experience (left most column)**

SANTA ROSA COUNTY INSTRUCTIONAL SALARY SCHEDULE 2009-2010

<u>Years</u>							
<u>Exp.</u>	Step	INDEX	Bachelor	Masters	Spec.	Doctor	
<u>0.1</u>	0	1.000		32,092		34,575	35,817 37,059
<u>2</u>	1	1.025		32,891		35,374	36,616 37,858
<u>3</u>	2	1.050		33,705		36,188	37,430 38,672
<u>4</u>	3	1.076		34,534		37,017	38,259 39,501
<u>5</u>	4	1.102		35,378		37,861	39,103 40,345
<u>6</u>	5	1.129		36,238		38,721	39,963 41,205
<u>7</u>	6	1.156		37,114		39,597	40,839 42,081
<u>8</u>	7	1.184		38,006		40,489	41,731 42,973
<u>9</u>	8	1.213		38,915		41,398	42,640 43,882
<u>10</u>	9	1.241		39,842		42,325	43,567 44,809
<u>11</u>	10	1.271		40,786		43,269	44,511 45,753
<u>12</u>	11	1.301		41,748		44,231	45,473 46,715
<u>13</u>	12	1.331		42,729		45,212	46,454 47,696
<u>14</u>	13	1.363		43,729		46,212	47,454 48,696
<u>15</u>	14	1.394		44,749		47,232	48,474 49,716
<u>16</u>	15	1.427		45,788		48,271	49,513 50,755
<u>17</u>	16	1.460		46,849		49,332	50,574 51,816
<u>18</u>	17	1.494		47,930		50,413	51,655 52,897
<u>19</u>	18	1.528		49,033		51,516	52,758 54,000
<u>20</u>	19	1.563		50,158		52,641	53,883 55,125
<u>21</u>	20	1.599		51,306		53,789	55,031 56,273
<u>22</u>	21	1.635		52,477		54,960	56,202 57,444
<u>23</u>	22	1.672		53,672		56,155	57,397 58,639
<u>24</u>	23	1.710		54,891		57,374	58,616 59,858
<u>25</u>	24	1.749		56,135		58,618	59,860 61,102
<u>25+</u>	25	1.844		59,181		61,664	62,906 64,148

BASE FOR ADVANCED DEGREE = \$31,042
 MASTERS = BACHELORS + (0.08 x BASE) = 2,483
 SPECIALIST = BACHELORS + (0.12 x BASE) = 3,725
 DOCTORATE = BACHELORS + (0.16 X BASE) =4,967

The \$1776.00 stipend is included in Step 25

2. Appendix D, Teacher Salary Schedule should be amended as follows:

"Effective July 1, 2005, the salary schedule increments shall be converted from years of experience to steps. Current teachers will be moved to the new schedule at the step that corresponds to their current years of experience on the old schedule. All personnel hired on or after July 1, 2005 will be placed on the schedule at the step that corresponds to the number of years of full-time public school teaching service earned and for which the teacher received a satisfactory performance evaluation. For the remainder of the 2009 - 2010 school year, all personnel shall continue to receive pay reflecting a step on the schedule for each year of full-time service in Santa Rosa County for which the teacher received a satisfactory performance evaluation. Satisfactory means any rating other than unsatisfactory. If a teacher receives an unsatisfactory evaluation the administrator shall initiate a Professional Improvement Plan as defined in the Teacher Assessment System. Beginning on the last day of the 2009 - 2010 school year, placement on the salary schedule shall be negotiated each year. Notwithstanding any language to the contrary, each teacher shall start each year on the same step as he/she was on at the end of the prior year. New employees hired before the completion of negotiations each year shall be placed on the schedule based on their number of years of satisfactory experience minus one (1) but not less than zero (0)."

3. Appendix D, Teacher Salary Schedule should be amended as follows:

"BASE FOR ADVANCED DEGREE = \$32,092

4. Appendix D, Teacher Salary Schedule should not be amended by giving:

a 3% increase to the salary schedule that includes an automatic step, with 1100 dollars added to the top step of the salary schedule.

5. Appendix G, ESP Salary Schedule should be amended by adding the following:

"Beginning on the last day of the 2009 - 2010 school year, placement on the salary schedule shall be negotiated each year. Notwithstanding any language to the contrary, each ESP shall start each year on the same step as he/she was on at the end of the prior year.

Also remove the words '1 STEP EACH YR & SATISFACTORY PERFORMANCE' from Appendix G."

February 4, 2010



DATE

MARK R. SHERMAN
SPECIAL MAGISTRATE