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6 IN THE FACTFINDING PROCEEDINGS
7
8 PURSUANT TO THE EDUCATIONAL EMPLOYMENT RELATIONS ACT

9 OAKLAND EDUCATION ASSOCIATION,
10 Union,
11 &
12 OAKLAND UNIFIED SCHOOL DISTRICT,
13 Employer

Case No.: SF-IM-3192-E

FACTFINDING REPORT AND
RECOMMENDATIONS FOR
SETTLEMENT

14 Chairperson: Najeeb N. Khoury, Arbitrator
15 Employer Panel Member: Roy A. Combs, Fagen Friedman & Fulfroost, LLP
16 Union Panel Member: Charles King, CTA/NEA
17 Advocate For the Union: Dennis Nelson, Bargaining Chair, Oakland Education
18 Association¹
19 Advocate For the Employer: John Gray, School Services of California, Inc.²
20 Hearing Dates: January 31 & February 1, 2019
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27 ¹ While Mr. Nelson functioned as the lead advocate, the Oakland Education Association's bargaining team
participated in the presentation.

28 ² While Mr. Gray functioned as the lead advocate, several of the District's leaders participated.

1 BACKGROUND

2 The Oakland Education Association (OEA or Union) represents non-management, non-
3 supervisory certificated employees at the Oakland Unified School District (OUSD, District, or
4 Employer). There are approximately 3,000 employees in the unit. The previous collective
5 bargaining agreement ran from July 1, 2014 to June 30, 2017. The parties made their initial
6 proposals public on February 8, 2017, had their first bargaining session on December 7, 2016,
7 and held 30 bargaining sessions for a total of 200 hours of bargaining. On May 18, 2018,
8 impasse was declared pursuant to Public Employee Relations Board (PERB) Regulation
9 32792(a), and OEA filed a Request for Impasse Determination and Appointment of a Mediator
10 on May 23, 2018. Per the Request for Impasse Determination, the parties reached agreement on
11 five articles, with eleven articles remaining open.
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14 After mediation failed to produce an agreement, PERB appointed Arbitrator Najeeb N.
15 Khoury to chair a factfinding panel. The factfinding hearings occurred on January 31 and
16 February 1, 2019 in Oakland, California. Both parties presented through their designated
17 advocates and provided additional testimony and documents.
18

19 ANALYTICAL FRAMEWORK

20 Unlike interest arbitration, where a third-party neutral sets the terms of a new contract, a
21 third-party neutral in an Educational Employment Relations Act (EERA) factfinding simply
22 provides recommendations. In essence, this makes factfinding an extension of bargaining.
23 Ultimately, the parties must persuade one another of their positions, and the neutral factfinder
24 simply provides an outside perspective to help the parties along.
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1 Neutral factfinders have typically required the party seeking a change to the status quo to
2 carry the burden of persuasion, and I will follow that convention. Further and as set forth in
3 California Code Section 3548.2, EERA requires factfinders to consider the following criteria:
4

- 5 1. State and federal laws that are applicable to the Employer.
- 6 2. Stipulation of the parties.³
- 7 3. The interest and welfare of the public and the financial ability of the public schools.
- 8 4. Comparison of the wages, hours, and conditions of employment of the employees
9 involved in the factfinding proceeding with the wages, hours, and conditions of
10 employment of other employees performing similar services and with other
11 employees generally in public school employment in comparable communities.
- 12 5. The Consumer Price Index for goods and services, commonly known as the cost of
13 living.
- 14 6. The overall compensation presently received by the employees, including direct wage
15 compensation, vacations, holidays, and other excused time, insurance and pensions,
16 medical and hospitalization benefits, the continuity and stability of employment, and
17 all other benefits received.
- 18 7. Such other factors, not confined to those specified in paragraphs 1 through 6,
19 inclusive, which are normally and traditionally taken into consideration in making
20 such findings and recommendations.
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27 ³ The parties stipulated that the District is a public school employer under EERA, that OEA is a recognized
28 employee organization under EERA, that the parties have met all the procedural EERA requirements for factfinding,
that I was appropriately assigned as the factfinding chairperson, and that there are eleven outstanding articles.
FACTFINDING REPORT AND RECOMMENDATIONS FOR SETTLEMENT - 3

1 I will reference these specific criteria when discussing specific recommendations to
2 which they apply.

3 ISSUES AND RECOMMENDATIONS

4 Before getting into the specific issues, I would like to make some general comments.
5
6 First, all the parties to this factfinding proceeding have dedicated their professional lives to
7 public education in Oakland. Public education is a right and a quality public education is
8 essential to an ethical society that values the dignity and uniqueness of each child. The
9 importance of public education is magnified in communities that have historically lacked
10 resources. This makes the administrators, teachers, librarians, psychologists, nurses, counselors,
11 and certificated staff of Oakland Unified heroes of the community.
12

13 California's current educational funding system is complicated and flawed in a number of
14 ways. These flaws make finding resolutions to this contract and other teacher contracts
15 throughout the state very difficult. As a general matter, the parties should recognize these flaws
16 and work together to address these shortcomings. I will explain the shortcomings as I see them
17 to encourage the parties to see that much of their fight lies at the state capitol and not with each
18 other.
19

20 California ranks in the bottom quartile nationally on base per pupil funding. It also
21 provides funding on the basis of attendance as opposed to enrollment. This often negatively
22 impacts urban school districts where truancy rates tend to be higher. Further, state spending on
23 education plummeted with the Great Recession. The Brown administration gradually provided
24 more funding per year until pre-recession funding levels were reached during his final year in
25 office. Yet, as those funding levels increased, the state also required that school districts pay
26 dramatically higher pension contributions for their employees.
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1 On the positive side, the Brown administration radically restructured the state's funding
2 formula, with the new formula providing more resources for students who are English learners,
3 eligible for free and reduced-price meals, or foster youth. Each student who falls within at least
4 one of these categories receives a 20% supplemental grant (however, a student who falls into
5 multiple categories does not receive multiple levels of additional funding and is referred to as an
6 unduplicated pupil). When a school district has more than 55% of its population receiving
7 supplemental funding, it also receives a concentration grant of 50%. However, charter schools
8 have proliferated most in districts that receive concentration funding. Because funding is tied to
9 attendance, districts with high charter density rates are losing funding at an alarming rate even
10 when they are concentration grant districts.
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13 Put differently, as certain state policies have helped high-needs urban districts (returning
14 spending levels to pre-recession levels, providing supplemental and concentration grants), other
15 policies have undercut the financial health of those districts (tying revenue to attendance,
16 increasing pension contribution rates).
17

18 As part of its presentation, OEA presented on the impact of charter schools on Oakland
19 Unified. I have no doubt that charter advocates and indeed charter policies are driven by a desire
20 to increase options for disadvantaged children. Unfortunately, there are ways that the current
21 system creates an unlevel playing field for traditional public schools and undermines those
22 districts serving the very same disadvantaged children that charter advocates seek to aid.
23

24 Daily attendance revenue is apportioned to salaries, pensions, facilities costs, legal costs,
25 administrative costs, etc. Some of these costs can shrink with declining enrollment. Other
26 costs—namely legacy costs—do not shrink regardless of enrollment. Consequently, when
27 attendance numbers shrink due to declining enrollment, the percentage of attendance generated
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1 revenue going to legacy costs increases because there is a smaller population servicing these
2 fixed costs, meaning there is less per pupil money for instruction. Charter schools, however,
3 receive the same level of attendance-level funding but do not inherit any legacy costs. This
4 means that the funding level per child for instruction is higher at charter schools, thereby creating
5 an uneven playing field.
6

7 Further, there is data suggesting that charter schools do not enroll a proportionate number
8 of special education students. While this data is contested, OEA provided data showing that the
9 percentage of OUSD’s special education population has grown. This is important from a
10 financial perspective because special education is underfunded. The federal and state
11 governments mandate certain special education services, yet they do not provide nearly enough
12 funding to meet all the mandates. This leads to the special education budget “encroaching” on
13 the general budget. In other words, a certain percentage of general student-based revenue is
14 diverted to special education. If the percentage of special education students increases, then a
15 greater percentage of per pupil spending on general student population education must get
16 diverted into special education dollars. If indeed charters do not enroll a proportionate number
17 of special education students, then they will have more general education dollars to provide
18 instruction to their general education student body than traditional public schools. Again, this
19 creates an uneven playing field.
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22 Ultimately, the question should not be whether economically disadvantaged families
23 should have educational choices—they clearly should. The question should be whether the
24 state’s current funding system is sufficient, fair to traditional public-school children and allows
25 all schools funded with public dollars to compete on an equal playing field. The parties should
26 be able to work together to advocate for increased state spending on public education and for
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1 sensible reform that will ensure Oakland Unified can compete on an equal playing field. Such a
2 joint project can help rebuild trust that has been tested during this lengthy negotiating cycle.

3 Before tackling the specific issues raised in bargaining, I think it is important to explain
4 how OEA and OUSD generally see the shared world they inhabit. OEA's general thesis is that
5 its package of proposals, if adopted, would improve student success by addressing four key
6 areas: teacher retention, smaller class sizes, lower caseloads for support providers (nurses,
7 psychologists, counselors), and environmental justice. Oakland Unified agrees that there is a
8 teacher retention crisis and wants to dedicate as many resources as possible to improving
9 salaries.
10

11 OEA acknowledges that the state should increase K-12 funding but emphasizes that
12 OUSD actually receives higher revenues per pupil than most districts because of Oakland city
13 parcel taxes and because OUSD is a concentration grant district. OEA claims that OUSD
14 overspends on administrators and consultants, and that its economic proposals are feasible if
15 OUSD more wisely spends its resources.
16

17 While OUSD does not make an inability-to-pay argument, it points to the fact that the
18 county office of education and its state trustee must approve any deals it makes and that it is
19 constrained financially. It further argues that it has a deep structural deficit and that any
20 increases in labor costs will lead to cuts elsewhere. OEA counters that OUSD has a budget
21 credibility problem. OEA points to surpluses in OUSD's actual financials. OEA believes that
22 OUSD constantly overestimates expenses, which creates an appearance of a budget crisis only to
23 lead invariably to actual surpluses.
24

25 OUSD also argues that it is limited in how it spends money because the law requires it to
26 use supplemental and concentration grants on the students who generate the additional revenue,
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1 implying that it cannot use the funds for across-the-board labor costs. OEA counters with a June
2 10, 2015 California Department of Education letter stating the following: “For example, a district
3 may be able to document in its LCAP⁴ that its salaries result in difficulties in recruiting, hiring,
4 or retaining staff which adversely affects the quality of the district’s educational program,
5 particularly for unduplicated pupils, and that the salary increase will address these adverse
6 impacts.”
7

8 OUSD argues that, on a per student basis, it spends more on certificated non-management
9 salaries and benefits than many other comparable districts. OEA responds that certificated
10 bargaining unit salaries as a percentage of total budget spend are lower in Oakland Unified than
11 any other Alameda County school district, and that teachers’ salaries are the lowest in Alameda
12 County with the disparity in salaries only worsening with time. In other words, Oakland Unified
13 teachers with increasing tenure fall farther behind their peers in other districts. This has a
14 particularly pronounced impact on the retirement formulas for long-tenured Oakland Unified
15 teachers. The data does not look any better when comparing Oakland Unified to other urban
16 districts in California. OUSD acknowledges that its non-supervisory certificated salaries are
17 low, although it also emphasizes its generous health care package. OUSD recognizes the need to
18 improve salaries to tackle its recruitment and retention problem.
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21 OUSD’s unduplicated pupil population in 2016-17 was 77.61%. It loses approximately
22 18.7% of teachers on a yearly basis. This is well above the state average. Also, the retention
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28 ⁴ LCAP stands for Local Control Accountability Formula. Each District must implement an LCAP with participation and input from the community.

1 rate is even worse at some high-needs schools, with West Oakland Middle School retaining only
2 9.1% of its teachers over a nine-year period.

3 With this complicated picture in place, I now turn to my recommendations on the
4 outstanding issues.

5
6 Article I—Agreement

7 a. Term of the Agreement:

8 Issue: Both parties have proposed a three-year term for the contract, running from July 1,
9 2017 to June 30, 2020. The District has also suggested that it might be able to provide more
10 guaranteed salary increases if the parties close out the 2017-18 school year and have the term of
11 the agreement run from July 1, 2018 to June 30, 2021.

12
13 Recommendation: I will recommend a contract term of July 1, 2017 to June 30, 2020. I
14 do so because both parties have officially proposed a three-year term. However, I encourage the
15 parties to explore the possibility of a July 1, 2018 to June 30, 2021 term should that enable the
16 parties to reach resolution on the compensation article by allowing for more guaranteed salary
17 increases.

18
19 Article 3—Definitions

20 Issue: OEA seeks to define what work should fall under the Daily Hourly Rate. It
21 proposes adding the following language to the definition article: “This [hourly] rate shall apply
22 to additional work including but not limited to mentoring emergency credentialed teachers, extra
23 duty, extended day, prep substitution and all other activities for additional compensation
24 referenced throughout this agreement.” OEA also proposes defining the actual rate by tying it to
25 the salary schedule with the following formula: taking column 4, step 6 and dividing it by 6.
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1 Recommendation: The parties have been bargaining an adjustment to the actual daily
2 rate in Article 10—Hours of Work. I will provide my recommendation on the appropriate daily
3 rate in that section and therefore do not recommend adopting the portion of OEA’s proposed
4 definition that ties the daily rate to a step and column rate.
5

6 OEA, however, persuasively argues that administrators have applied different types of
7 rates, including per diem rates, to work that falls within its proposed definition of the type of
8 work to which the daily rate should apply. The District provided no strong counter to why the
9 work identified in the proposed definition should be paid using a different rate. I recommend
10 adopting OEA’s language regarding the type of work to which the hourly rate should apply.
11

12 Article 6—Association Rights

13 Issue: The outstanding issue⁵ is OEA’s proposal to add the following language: “Elected
14 Site Representatives duties shall be counted for three (3) hours of professional activities and
15 duties per month as per Article 10.2.8.” Article 10.2.8 provides that unit members “shall
16 participate in professional activities and perform professional duties beyond their regular work
17 day as assigned by the appropriate administrator to a maximum of five hours per calendar month
18 for the work year.” During the factfinding hearing, it became evident that there was confusion
19 over the intent of the proposal.
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21 At the hearing, OEA made clear it was not asking site representatives to be excused from
22 professional development or parent-teacher interactions. The District seemed open to the idea of
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27 ⁵ There were also issues involving OEA email access and new employee orientation. However, OUSD’s February
28 12, 2018 proposal appears to give OEA the email access it is seeking (I note that there is recent PERB caselaw on
union email access), and the parties have apparently agreed on new employee orientation language consistent with
legislation mandating such access.

1 having some site representative work count towards extra duty time. Indeed, the contract
2 currently reads: "In making additional duty assignments, the Site Administrator shall take into
3 consideration the fact that a unit member has been elected or appointed as an Association
4 Representative and will make every attempt to reduce extra duty responsibilities." Article 6.1.7.
5 The District was hesitant to have three-fifths of such extra duty time be taken up by site
6 representative duties.
7

8 **Recommendation:** Because the contract already provides that administrators should make
9 every attempt to reduce extra duty responsibilities from site representatives, I do not believe it is
10 a radical departure from the status quo to have some site representative time count as extra duty
11 time. However, I also agree with the District that having the majority of extra duty time be
12 counted is an initial step too far. Consequently, I recommend that one and half hours of monthly
13 site representative time count toward extra duty time. This should not displace professional
14 development time or parent-teacher engagement time.
15

16 Article 10—Hours of Work

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18 The parties focused their presentations on three outstanding issues⁶ in the Hours of Work
19 article: 1) the appropriate hourly rate; 2) the District proposal to remove language restricting the
20 school day to the hours of 8:00 am to 3:45 pm; and 3) the District proposal to allow the 30-
21 minute daily preparation period for elementary school teachers to happen at the beginning or end
22 of the work day.
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28 ⁶ There were other proposals in this Article but I recommend the status quo on those issues as the parties did not focus on them in their presentations.

1 a) The Appropriate Hourly Rate

2 Issue: The current contract language has varying hourly rates that apply to different
3 types of assignments—with the current rates ranging from \$15.96 to \$37.69. However, the
4 specific Extra Duty Hourly Rate is currently \$25.82. These rates have not changed since 2006.
5 OEA proposes raising the Extra Duty Hourly Rate to \$50, making it the uniform rate for extra
6 duty assignments, and ensuring future increases to the rate by linking it to the salary schedule.
7 OUSD proposes raising the Extra Duty Hourly Rate to \$35 and making it the uniform rate for
8 extra duty assignments.
9

10 Recommendation: The parties agree that the Extra Duty Hourly Rate should increase.
11 OUSD has made an offer that significantly improves the current Extra Duty Hourly Rate and that
12 eliminates the disparity in rates for different activities. However, its offer of \$35 does undercut
13 one current rate of \$37.69. It provided no compelling reason why it did so. I recommend using
14 the \$37.69 rate as the new Extra Duty Hourly Rate so that no future work is paid at a lower level
15 than the level at which it is currently paid. The \$37.69 rate also ensures that most extra duty
16 work will be paid at a significantly higher level than is currently the case. Also, I recommend
17 the adoption of language that provides the \$37.69 will be increased by the same percentage as
18 future across-the-board salary increases. This language regarding increases to the rate should
19 only apply after any across-the-board salary increases for this round of bargaining are
20 implemented. Such language will ensure that the Extra Duty Hourly Rate does not remain
21 unchanged for another thirteen years.
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25 b) The District's Proposal to Remove the 8:00 am to 3:45 pm school day parameters

26 Issue: OUSD desires to create standardized bell times and calendars that would have
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1 staggered start and end times, with start times as early as 7:45 am and end times as late as 4:30
2 pm. In adopting these standardized, staggered times, the District can reduce its needed daily bus
3 routes by twenty-five routes. OUSD contracts out its transportation services, and the reduction
4 in routes will have a cost savings of approximately \$2.5 million. For reference, a one percent
5 salary increase for OEA bargaining unit members costs approximately \$1.9 million. OUSD
6 acknowledges that by adopting uniform, staggered schedules there will be less school site control
7 over start times, and the earlier or later start times will impact families. OEA's main objection is
8 that OUSD decided on this plan without input from the community or labor. OEA
9 understandably does not want uniform schedules dictated to its membership or the community
10 but is open to having a discussion on how best to implement a plan that will generate substantial
11 savings.
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14 Recommendation: I recommend that the current language remain in place for the 2019-
15 2020 year but with a sunset provision making clear the language will not remain for 2020-2021.
16 This will enable the parties to have a full academic year to discuss how best to implement the
17 new schedules with input from the community and labor. Further, the \$2.5 million savings
18 should be reinvested into the goal of improving recruitment and retention.
19

20 c) Allowing a Daily Thirty-Minute Preparation Period for Elementary Teachers At
21 Either The Beginning or End of The Work Day

22 Issue: This issue is directly tied to the previous one. If there is greater variance in the
23 start and end time for elementary teachers, then it makes sense to have preparation time at either
24 the beginning or end of the date.
25

26 Recommendation: I recommend that the language remain status quo for the 2019-2020
27 school year with the understanding that the new language will go into effect in 2020-2021 with
28 the sunsetting of the language regarding the school day parameters.

1 Article 12—Transfers and Assignments

2 Issue: The one outstanding issue under this Article is OEA’s proposal that each school
3 with an 80% or higher population of unduplicated pupils receive an addition full-time equivalent
4 employee per 500 students. OUSD states that this proposal is too costly.
5

6 Recommendation: I recommend the status quo. The reason is that I will be
7 recommending improved caseload numbers, class size caps, and salary increases. I think
8 spending in those areas makes more sense than adopting a proposal that does not clearly tie
9 additional spending to class size reduction, caseload improvements or salary increases.
10

11 Article 13 & 25—Evaluations And Peer Assistance and Review

12 Issue: The parties have spent four years piloting the Teacher Growth and Development
13 System (TGDS) as a new evaluation system in the District. OUSD now proposes eliminating the
14 California Standards for Teaching Profession (CSTP) evaluation system from the contract and
15 replacing it with the TGDS. OEA does not object in theory to moving to the TGDS; however, as
16 part of the pilot system, TGDS came with safeguards, such as the ability to have alternate
17 evaluators. OUSD is eliminating those safeguards because the money to support those
18 safeguards came from expiring grants.
19

20 OEA wants to add language in Article 25 that limits the District’s use of intermittent peer
21 review reports to after the acceptance of the final peer review report. The District does not
22 object to this addition but wants it to be part of an agreement with Article 13.
23

24 Recommendation: There is agreement between the parties that, with the right support and
25 financial investment, a move away from the CSTP and towards TGDS or a TGDS similar model
26 makes sense. However, without a guarantee that the TGDS implementation will mirror the
27 protocols of the pilot, I will not recommend changing the status quo. With that said, I
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1 recommend that the parties continue to work on language that incorporates changes that the
2 Oakland community has embraced with regards to updating teacher evaluations. I also
3 recommend that the parties accept the proposed change on the use of intermittent peer review as
4 there does not appear to be a philosophical difference about this.
5

6 Article 15—Class Size

7 Issue: OEA has an ambitious proposal to reduce class sizes. It proposes reducing class
8 size caps at all schools by two students over a two-year period—with class sizes being reduced
9 by one each year. OEA proposes doubling the reduction at schools with a population of 80% or
10 higher of unduplicated pupils—meaning class sizes would be reduced by four over two years at
11 these schools. OEA also proposes adding language requiring OUSD to pay overages when class
12 size numbers exceed the caps. OEA points out that there is presently no monetary disincentive
13 preventing OUSD from exceeding the contractual caps. OEA asks for a \$25 daily per-pupil
14 overage for elementary classes and an \$8 per-pupil, per-period overage for secondary classes.
15 OEA has other class size proposals but focused its presentation on these issues. OUSD proposes
16 raising some special education caps, reducing PE class sizes and fine arts classes, and reducing
17 4th/5th grade class size caps in elementary schools with populations of 97% or higher of
18 unduplicated pupils.
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21 OEA argues that large class sizes along with low salaries are central reasons for the
22 retention crisis. It also argues that lowering class sizes is one of the most effective ways to
23 improve student achievement. OUSD responds that its class size averages are comparatively
24 good. It has a district wide average of 24.27, a K-3 average of 23.36, a 4-6 average of 25.85, a 7-
25 8 average of 24.27 and a 9-12 average of 24.02. This compares to a composite comparative
26 group average of 26.42, a K-3 average of 23.25, a 4-6 average of 28.33, a 7-8 average of 28.70,
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1 and a 9-12 average of 25.69. OUSD also asserts that its classroom teacher ratio of 16.66:1 is the
2 second lowest on its list of comparable districts.

3 OUSD prices OEA's class size reduction proposal at \$36.2 million, \$18.2 million for
4 added personnel and \$18 million to add enough additional space in the form of leased portable
5 classrooms.

6
7 Recommendation: I agree that lower class sizes will improve teacher retention and
8 educational outcomes. The question is what is a feasible recommendation recognizing the need
9 to enhance salaries in the District and that lowering class sizes can be an expensive proposition.
10 In looking at the actual class size caps in the contract, they are much higher than the District
11 averages: TK/K is 27; 1-3 is 30; 4-6 is 31; 7-12 is 32 for English, World Language, Mathematics,
12 Social Science & Non-Lab Science with varying class sizes for other areas. This shows that
13 averages can be deceiving and that caps are important. However, it also means that the District
14 should be able to mitigate the cost of lowering caps if it can better balance its current classes. I
15 am also cognizant of the fact that we are in February 2019 and across-the-board reductions
16 starting in July 2019 will be a challenge. Consequently, I recommend an across-the-board class
17 size reduction of one (1) to be fully implemented by July 2020, with 20% of schools having an
18 implementation date of July 2019. The intent is for implementation to happen first at the
19 highest-needs schools. I also recommend that the parties form a joint class size reduction
20 taskforce. This taskforce will be charged with looking at ways to fund further class size
21 reductions to be implemented by July 2021.

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25 On the question of overages, I agree that a financial disincentive needs to be in place.
26 However, given that this will be a new addition to the contract, I believe that smaller overages

1 should be implemented at this time. I recommend a \$9 daily per-pupil overage for elementary
2 classes and a \$2 per-pupil, per-period overage for secondary classes.

3 The District raised a good point regarding unintended consequences of class size
4 reduction. There are certain classes and programs that are highly valued with long wait lists.
5 Decreasing class sizes for these classes and programs can deny students the benefits of these
6 programs. I encourage the parties to negotiate a way to identify these classes and programs and
7 to negotiate a carve-out so that these valuable seats are not closed.
8

9 The District provided no compelling reason for me to recommend changing the status
10 quo on the special education numbers, although it did rightly point out that its special education
11 numbers are lower than at most districts. I am recommending the status quo but acknowledge
12 that raising these numbers slightly can have cost savings that can be applied elsewhere.
13

14 Article 17—Safety

15 Issue: The parties are essentially in agreement on this article. The parties affirm
16 OUSD’s status as a sanctuary district, emphasize the preference of restorative justice over
17 punitive practices, and wish to maintain a safety committee. The main issues of dispute are how
18 explicit to be about OUSD’s status as a sanctuary district and whether there should be a change
19 in the composition of the safety committee.
20

21 Recommendation: Instead of reciting the sanctuary district policy verbatim in the
22 contract, the parties should explicitly reference the policy. This will maintain OUSD’s ability to
23 change the policy if it is forced to do so by outside forces. It will also provide OEA members the
24 protection of knowing that they will not be disciplined for following the policy as long as the
25 policy is in effect.
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1 As for the safety committee composition, it is currently composed of one-half
2 management appointees and one-half union appointees. OEA proposes making the composition
3 one-third management, one-third union, and one-third community-based members. This makes
4 sense as these issues impact the whole school community. OUSD provided no good rationale for
5 rejecting this proposal. I recommend adopting OEA's proposal regarding the committee's
6 composition.
7

8 Article 21—Specialized Caseloads

9 Issue: OEA proposes reducing caseloads for counselors, nurses, psychologists, speech
10 therapists, and resource specialists. It also proposes increased support for “newcomers,” defined
11 as students who have recently arrived to the United States. OUSD proposes a modest reduction
12 in counselor caseloads.
13

14 Recommendation: The contractual counselor ratios are currently set at 1:600 and are
15 allowed to increase to 1:700 when there is a reduction in workforce. OEA proposes reducing
16 these numbers to 1:250 and 1:300. OUSD acknowledges that its staffing can support reducing
17 the contractual caseloads numbers. Consistent with this reality, I recommend reducing the
18 contractual number to 1:500 with that number being allowed to increase to 1:550 when there is a
19 reduction in workforce.
20

21 The current caseload for nurses is 1:1350. OEA proposes reducing this to 1:750.
22 However, even at the current contractual caseload numbers, there are twelve open positions. The
23 parties acknowledge that it is very difficult to recruit nurses. It makes little sense to lower the
24 caseload number if OUSD cannot hire nurses to reduce the numbers. Rather, the parties should
25 focus on reducing the current vacancies. They can do this by agreeing to recruitment and
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1 retention bonuses. I recommend that the District offer a signing/retention bonus of \$5,000, and a
2 further retention bonuses of \$2,500 to be paid after each two years of service.

3 OEA proposes reducing the psychologist caseload to 1:700. This will require hiring two
4 to three additional psychologists and will place OUSD in line with the National Association of
5 School Psychologists standards. OUSD proposes the status quo. Given the increasing
6 importance of school psychologists, especially as schools move toward community-based
7 models, this seems like a reasonable and modest investment. I recommend the following
8 language: "OUSD shall open three more psychologist positions, and the parties shall work
9 together to recruit qualified candidates. If the vacancies are filled, then the caseloads for
10 psychologists shall be 1:700."
11

12 OEA proposes creating a caseload cap of 1:40 for Speech and Language Pathologist
13 Specialists (SLPs). The Education Code dictates that there should be a 1:55 average for SLPs.
14 OEA did not provide compelling reasons why the contractual cap should be 15 less than the
15 state-mandated average. The District proposes incorporating the Education Code averages into
16 the contract; however, as demonstrated in the caseload article, averages can be deceiving and do
17 not always guarantee appropriate ratios per employee. I recommend using the state average of
18 1:55 as a cap. The District is already legally required to be staffed at this level and potential
19 additional costs can be offset by rebalancing caseloads. The District raised the concern that there
20 is a shortage of SLPs and it currently has multiple vacancies. Nevertheless, it cannot avoid the
21 state-mandated averages. I encourage the parties to discuss ways to incentivize the hiring of new
22 SLPs, whether through hiring bonuses or hiring them at higher salary schedule steps.
23

24 OEA proposes that Resource Specialists have a 1:24 caseload maximum. The Education
25 Code dictates a 1:28 ratio. OUSD is currently staffed at approximately a 1:26 ratio. I
26