

FACT FINDING DISCUSSION AND RECOMMENDATIONS

In the Matter of the Impasse Between

MARYSVILLE JOINT UNIFIED
SCHOOL DISTRICT

Employer

-and-

MARYSVILLE UNIFIED TEACHERS
ASSOCIATION

Exclusive Representative

PERB CASE NO: SA-IM-3530-E

Report Issued
March 31, 2021

Hearing Held Virtually on February 25 and 26, 2021

Members of the Fact Finding Panel

Impartial Chairperson:

Donald Raczka, Fact Finder

Employer Panel Member:

Suzanne Speck, School Services of California

Union Panel Member:

Tamara Conry, California Teachers Association

Making Presentations to the Fact Finding Panel:

For the Association:

Angela Stegall, Marysville Unified Teachers Association

For the Employer:

Paul Gant, Kingsley-Bogard Law Firm

DISTRICT DESCRIPTION

The Marysville Joint Unified School District (MJUSD) runs 75 miles north to south serving more than 10,350 students in pre-school through grade 12. The student population is extremely diverse, representing more than 10 ethnic groups and more than 7 languages and dialects. Currently, the MJUSD includes over 2,300 employees. Nearly 500 teachers are in the classroom at the district's various educational facilities, which include 14 traditional elementary schools, 3 intermediate schools, 2 comprehensive high schools, 1 dependent charter school, and 2 atypical/alternative schools. The MJUSD is proud to serve a wide-ranging population of students. Measures include leadership in areas such as technology, curriculum, neighborhood, and specialty schools, career-technical education, and food services.

The Marysville Unified Teachers Association is the exclusive representative of the teachers and other certificated personnel since 1976 with a unit size of 480.

FACTFINDING CRITERIA

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

1. State and federal laws that are applicable to the Employer.
2. Stipulations of the parties.
3. The interests and welfare of the public and the financial ability of the public schools.
4. Comparison of the wages, hours, and conditions of employment of the employees involved in the fact-finding proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in public school employment in comparable communities.
5. The Consumer Price Index for goods and services, commonly known as the cost of living.
6. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions,

medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

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

PURPOSE OF FACTFINDING UNDER THE EERA

(A short, non-legal description for any public readers that attempts to describe the purpose and process of factfinding in lay terms.)

The Educational Employment Relations Act (EERA) governs labor-employment relations in California's public schools. The Public Employment Relations Board (PERB) administers and enforces that Act. If, after using the collective bargaining process (negotiations), the parties are unable to reach agreement from those negotiations, one or both parties can ask PERB to determine an impasse. Once PERB does determine the parties are indeed at impasse, a mediator from the State Mediation and Conciliation Service is assigned to assist the parties in reaching a mutual agreement. If, after several meetings and negotiations sessions, the mediator is unsuccessful in ending the impasse, he or she refers the parties to the next step of the impasse process called factfinding.

Fact finding consists of a three-member panel that hears arguments and then makes non-binding recommendations for settling the dispute. The three-member fact finding panel consists of a neutral (the Chair) and one representative from each party. The fact finding panel conducts a hearing and collects, by oral presentations or written documents from each of the parties, arguments and back up materials supporting those arguments. Usually, as was the case in this impasse, the Chair and the panel attempt to further mediate to help the parties reach an agreement during the hearing and prior to issuing a written report.

If unsuccessful in mediating to an agreement, the Factfinding Chair composes a report with recommendations for settling the dispute. The respective Panel members either concur or dissent

with the opinion, providing written remarks for any dissent. The panel's opinion and recommendations are based on the parties' respective proposals, including analysis of the employer's "ability to pay" and comparisons with other districts or county offices. While the written fact finding report is not binding, the parties are obliged to consider whether its recommendation could be a basis for settlement.

In short, the factfinding process is another tool, under the law, for parties to use and consider the expertise of a neutral expert and their chosen representatives to reach mutual agreement.

HISTORY OF NEGOTIATIONS

The Covid 19 pandemic created an extraordinary space for California School Districts and their respective Exclusive Representatives. The Chair recognizes the challenges faced by both parties during this event. Since March, 2020, the parties in this dispute were successful in reaching separate Agreements on the Impacts and Effects of Distance Learning and Health and Safety.

The parties began negotiating on the impacts and effects of the District's Phase 2 (Blended Learning) in June, 2020. In December, 2020, PERB determined the parties were at impasse and a mediator from the State Mediation and Conciliation Service was appointed.

In January, 2021, after two sessions, the mediator certified the parties to the next step of the impasse procedure, Factfinding.

ISSUES BEFORE THE PANEL

From its “Last, Best and Final” proposal submitted to the Panel, the District identified 21 issues for the Panel to consider:

- Blended Learning-Instructional Models
- Adjustment to More Restrictive
- Visitors to Classrooms
- Distance Learning Instructional Minutes
- Full Distance Learning-Virtual Only Classrooms
- Teacher Preparation Time
- Design of Virtual Instruction
- Instructional Minutes
- Video Recording During Instruction
- Student Attendance, Absenteeism and Grading Policy
- Leaves
- Distance Learning Assignments and Accommodations
- Transitioning Between Models
- Work Location/In-person Service on Mondays
- Non-classroom Members
- Evaluation, Observation, Discipline
- Use of Substitutes
- Distribution of PPE Equipment
- Scope of Agreement (Term)
- Interactive Process/Accommodations/Return

From the material submitted by the Association to the Panel, the Association identified 20 issues for the Panel to consider:

- Preamble/Recitals
- Blended Learning
- Office Hours/Intervention and Enrichment Time
- In-Person Visitors to Classrooms
- Daily Instructional Minutes (aka “Bell Schedules”)
- Determining Daily Live Instruction
- Teachers’ Video/Recordings/Classes/Lessons/ Instructional
- Attendance, Assessment, and Grading
- Substitutes
- Transfers/Assignment/Return vs Interactive Process/Accommodations/Return
- Transitioning Between Models
- Work Location
- Unit Members not Assigned a Class Roster
- Evaluations/Observations and Discipline
- Access Limitations and Association Rights
- Agreement and Term
- Leaves

MEDIATION DURING THE FEBRUARY HEARING

The Chair and the Panel members spent a substantial amount of time on the Hearing dates mediating the dispute between the parties. Both sides worked hard and some of the issues before the Panel (listed above) were set aside in good faith to reach agreement. The collective efforts successfully concluded in a Tentative Agreement, signed by both parties on February 26, 2021 (Attachment A to this report). This Agreement represented a mutual understanding and acceptance of the issues to be included in the final Memorandum of Understanding.

The Chair wishes to note the last paragraph of this Tentative Agreement:

“The parties agree to meet and finalize the Memorandum of Understanding items agreed to prior to Impasse, regarding Impacts and Effects of Phase 2 (Blended Learning) of the MJUSD Pandemic School Reopening Plan (2020-21). This tentative agreement resolves the matters appropriately before the factfinding panel. Additionally, it resolves the Unfair Labor Practice Charge and all grievance with prejudice pending delivery of the revised TK-K revised (sic) schedules indicating an 8:30 start time, the elementary bell schedules indicating duty-free 10 minutes breaks, and the notice of in-person instruction for secondary schools.”

MEDIATION AFTER THE FEBRUARY HEARING

On March 22, the Chair was surprised and disappointed to hear that the parties were having difficulty finalizing the language of the Memorandum of Understanding. The backbone of this MOU, the Tentative Agreement, was already signed and agreed upon. An additional mediation session, led by the Chair, took place on March 25, 2021. The parties met in good faith and reached agreement on the text of the drafted Memorandum of Understanding except for the final section. A copy of that work is attached to this report as Attachment B).

The Chair wishes to note that section of the MOU still outstanding:

8. Agreement and Term

- a. All matters appropriately before the Factfinding Panel convened on February 25-26, 2021 are resolved.
- b. This MOU resolves all currently known impacts and effects regarding Phase 2(Blended Learning).

- c. **The Unfair Labor Practice Charge (SA-CE-3027-E) and all grievances currently pending by MUTA are to be dismissed with prejudice pursuant to the terms of the Tentative Agreement signed by the Parties on February 26, 2021.**
- d. **Any components of the Distance Learning Memorandum of Understanding and the Health and Safety Memorandum of Understanding, previously signed the Parties in August and October 2020, are incorporated by reference herein to the extent they remain effective under these terms and are not inconsistent with this MOU.**
- e. **This MOU shall expire on June 30, 2021, unless mutually extended by both parties.**

The Chair found the disagreement over this section puzzling. Both sides agreed on the termination date of the MOU, June 30, 2021. But the mediation ended with the parties unable to resolve their differences regarding the District's delivery of the revised TK-K revised (sic) schedules indicating an 8:30 start time, the elementary bell schedules indicating duty-free 10 minutes breaks, and the notice for in-person instruction for secondary schools. The Association insists that have not yet received the complete information and the District insists that it has made it available. The Chair believes that this information should have been beyond question in the almost 4 weeks since the signing of the Tentative Agreement and March 25, 2021. A report, complete and with the same format for each school, should have been prepared and delivered to the Association. "Delivered" is far different from "made available". The communication between the parties is extremely wanting.

An additional complication was the District's decision to change the anticipated opening date of secondary schools from the Tuesday following Spring Break (April 13, 2021) to Wednesday (March 31, 2021). While the District insists this decision was based on revised re-opening guidance from the state, the Association insists this violates a verbal agreement made by the District administration and they are angry about not being notified in a timely manner. The District insists it did communicate this clearly and in a timely manner. Again, the communication was poor.

The Chair is not an arbitrator and will not enter into the argument of deciding who is right and who is wrong. However, it is clear how the level of mistrust and poor communication between the parties has played in extending this impasse. The Chair believes both parties bear responsibility for that.

FINDINGS AND RECOMMENDATIONS OF THE CHAIR

The Chair first would like to once again remind the parties of the term of this Agreement. **It would be in effect for no more than 8 weeks!** It is a collective failure of both parties not to reach an agreement for such a short period of time. It does not bode well for future negotiations that would be ongoing with results that would be permanent. The Chair notes that the previous Memorandums of Understanding on the Impacts and Effects of Distance Learning and Health and Safety are in force and not effected by this report.

The Chair used common sense when considering his recommendations. In the Chair's opinion, it is counter intuitive to return to issues that were initially submitted to the Panel, but dropped by mutual agreement to reach the Tentative Agreement. Both sides made concessions (and each side will no doubt insist they conceded more than the other to reach that Tentative Agreement) but the majority of the text of the draft Memorandum of Understanding (Attachment B) has consensus approval.

These recommendations should once again be weighed by the parties in order to reach a settlement and the Chair strongly urges them to do so.

Recommendation 1

That the entirety of text of the draft Memorandum of Understanding (Attachment B) be adopted, except the portion given as number "8" under the heading "General" cited above (Exhibit B, page 8).

Recommendation 2

#8 a of the draft Memorandum of Understanding (Attachment B) accepted as written:

"All matters appropriately before the Factfinding Panel convened on February 25-26, 2021 are resolved."

Recommendation 3

#8 b of the draft Memorandum of Understanding (Attachment B) accepted as written:

“This MOU resolves all currently known impacts and effects regarding Phase 2(Blended Learning)”

Recommendation 4

#8 e of the draft Memorandum of Understanding (Attachment B) accepted as written:

“This MOU shall expire on June 30, 2021, unless mutually extended by both parties.”

Recommendation 5

#8 d of the draft MOU be dropped:

~~“Any components of the Distance Learning Memorandum of Understanding and the Health and Safety Memorandum of Understanding, previously signed the Parties in August and October 2020, are incorporated by reference herein to the extent they remain effective under these terms and are not inconsistent with this MOU.”~~

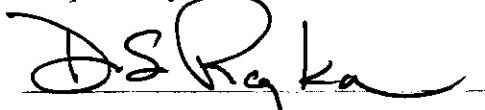
Recommendation 6

#8 c of the draft MOU be dropped:

~~“The Unfair Labor Practice Charge (SA-CE-3027-E) and all grievances currently pending by MUTA are to be dismissed with prejudice pursuant to the terms of the Tentative Agreement signed by the Parties on February 26, 2021.”~~

The Chair would like to again state that Factfinding is not arbitration and will not render an opinion on the viability of the alleged contract violations (grievances). The parties could not agree that the conditions for dropping the Unfair Labor Practice and grievances had been met. The Chair, once again, would encourage the Association to consider the term of this agreement. The resolution of the grievances could not happen before June 30, 2021. It is hard to imagine a resolution that would be timely. The Chair hopes the Association would consider, for the sole purpose of reaching agreement, dropping those grievances. And he strongly urges the District to set aside its insistence that the Association withdraw the Unfair Labor Practice Charge. That UPC is more about process than resolution and, in any case, is clearly outside the Chair’s authority. PERB is the appropriate authority for dealing with Unfair Labor Practice Charges. Let the process work independently of this agreement.

Respectfully submitted,



Donald S. Raczka, Chair

For the District:

For the Association:

For the District:

For the Association :

Concur

Concur

Concur in part

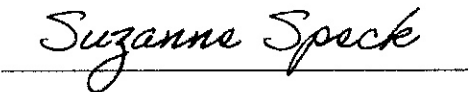
Concur in part

Dissent

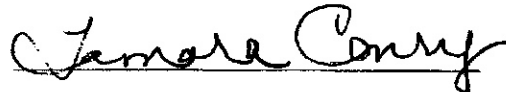
Dissent

Dissent in part

Dissent in part



Suzanne Speck, District Panel Member



Tamara Conry, Association Panel Member

While I agree with the recommendations of the Panel, I would further stipulate that the clear lack of communication and mistrust fall more heavily on the District than this report implies. If the District continues to rely on a third party to interfere in their negotiations and communications with the Association, I do not see an improvement in their future relations.

Tamara Conry, Association Panel Member 

I concur, in part, on the recommendations of the panel Chair in so much as they represent the agreement between the parties on the content of the March 25, 2021, Memorandum of Understanding (Attachment B) and except the portion given as number "8" found in Exhibit B, page 8. Specifically, I fully concur with recommendations 1 through 5. I concur that the MOU resolves all matters appropriately before the Factfinding Panel, that the MOU resolves all currently known impacts and effects regarding Phase 2 (Blended Learning), that the MOU shall expire on June 30, 2021, and that reference to the Distance Learning and Health and Safety MOUs should be dropped.

With regard to recommendation 6, I concur that rendering decisions on the alleged contract violations and Unfair Labor Practice Charge is outside of the Chair's authority and should be dropped. However, in so doing, I do not agree that the District violated the terms of the February 26, 2021 Tentative Agreement and did, in fact, in good faith communicate and deliver the revised TK-K revised schedules, the elementary bell schedules, and the notice of in-person instruction for secondary schools.

Suzanne Speck, District Panel Member 

**MJUSD and MUTA
TENTATIVE AGREEMENT
Impacts and Effects of Phase 2 (Blended Learning) of the MJUSD Pandemic School
Reopening Plan (2020-21)
February 26, 2021**

The provisions below are tentatively agreed to during a Fact Finding Hearing on February 25 and 26, 2021, and settles all known impacts and effects to the date of this tentative agreement.

Labor Management Committee

The parties agree to establish a non-bargaining Joint Labor Management Committee for the purpose of meeting and discussing the topics of in-person cohorts and stable groups, as well as a future potential establishment of a virtual academy in the 2021-2022 school year. The structure of this Committee shall be as follows:

- Three District Administrators, and the Assistant Superintendent of Personnel Services, and no other members of the District's collective bargaining team.
- Three MUTA appointees, and the President of the unit and no other members of the current bargaining team.
- The Committee will be facilitated by a mutually agreed-upon neutral.
- The Committee shall meet every other week for a maximum of three hours each time prior to June 30, 2021. The schedule and location will be determined by the Facilitator after consultation with the parties.
- The meetings shall be held by videoconference unless otherwise mutually agreed upon and approved by the parties and the Facilitator.
- Assistant Superintendent of Personnel and the MUTA President may meet as needed to solve any immediate issues.

Term

The MOU will expire June 30, 2021, unless mutually amended or extended by the parties.

Determining Daily Live Interaction

Status Quo with current practice

Office Hours/Intervention/Enrichment Time and Teacher Prep

Teacher office hours/intervention/enrichment time shall be:

- 60 minutes on Mondays
- 40 minutes on Tuesday through Friday from 1:00 – 1:40

Teacher preparation time shall include:

- 60 minutes on Mondays
- 80 minutes on each day Tuesday through Friday (1:40 – 3:00pm)
- The District will endeavor to protect prep time

“Distance Learning” written on schedules shall be changed to read: Office Hours/ Intervention/ Enrichment Time

Teacher Video Recordings

Recordings of classes cannot be used within the evaluation process unless mutually agreed upon by the unit member and the site administrator.

Attendance

Teachers shall complete daily attendance and weekly engagement logs and shall not be required to follow up on pupil absences after recording them as absent in AERIES.

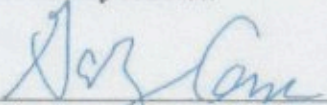
Work Location


Unit members can choose to work from home or school on Mondays. In extenuating circumstances, if the administrator requests a unit member’s presence on site, the member will comply. Non-classroom unit members may similarly be required to provide in-person services that cannot be performed virtually on Tuesday through Friday based on student needs and under the direction of the supervisor.

Leave

Unit members who have a documented and verified COVID-19 case shall be provided with five (5) COVID-19 leave days. This leave will be used prior to the employee’s sick leave and run concurrently with any state or federal fully paid leave for the same purpose.

The parties agree to meet and finalize the Memorandum of Understanding items agreed to prior to Impasse, regarding Impacts and Effects of Phase 2 (Blended Learning) of the MJUSD Pandemic School Reopening Plan (2020-21). This tentative agreement resolves the matters appropriately before the factfinding panel. Additionally, it resolves the Unfair Labor Practice Charge and all grievances with prejudice pending delivery of the revised TK-K revised schedules indicating an 8:30 start time, the elementary bell schedules indicating duty-free 10 minute breaks, and the notice of in-person instruction for secondary schools.

 2-26-21
Gary Cena, MJUSD Superintendent Date

 2-26-2021
Angela Stegall, MUA President Date

DRAFT ONLY

MEMORANDUM of UNDERSTANDING

By and Between

MARYSVILLE TEACHER ASSOCIATION (MUTA)

And

MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT (DISTRICT)

Impacts and Effects of Phase 2 (Blended Learning) of the MJUSD Pandemic School Reopening Plan (2020-21)

Preamble/Recitals

This Memorandum of Understanding (“MOU”) is agreed upon between Marysville Joint Unified School District (“District”) and the Marysville Unified Teachers Association (MUTA) regarding impacts and effects of Phase 2 (Blended Learning) the District’s Pandemic Reopening Plan to be implemented by the District for the 2020/2021 school year.

Blended Learning

1. In this plan, the on-campus student population will be approximately 50% of a school’s population on any given day and allows for half of the students assigned to a teacher of record’s class roster to attend in-person learning two (2) days per week as part of Cohort A and for the other half of the students assigned to the roster to attend in-person learning two other days per week as part of Cohort B. Daily maximums of students on campus and in individual classrooms shall not exceed CDPH guidelines in relation to six (6) feet social distancing in classrooms and on campus.
 - a. Cohort A shall attend in-person learning on Tuesday and Wednesday of each week.
 - b. Cohort B shall attend in-person learning on Thursday and Friday of each week.
2. Monday will be designated for all students to receive asynchronous distance learning to allow for:
 - a. An hour minimum of teacher preparation time;
 - b. A maximum of 90 minutes collaboration time; and
 - c. A minimum of 60 minutes of office hours/intervention and enrichment time.
3. Class size maximums shall remain the same as the CBA; however, they also shall not exceed double (or twice) the maximum classroom capacity. Cohort rosters will

Exhibit B

not exceed the maximum classroom capacity as determined by the CDPH guidelines regarding social/physical distancing. The District acknowledges that some classrooms may require smaller cohorts due to maximum room capacity based on such CDPH guidelines.

4. Each classroom/learning environment/school site will be thoroughly cleaned, disinfected, prepared, and transitioned after each school day and between Cohorts.
5. School staff shall limit the number of in-person visits to classroom cohorts in order to maintain stability and to minimize the spread of illness. Staff not assigned as the primary cohort teacher shall use telephonic, internet, and/or virtual methods or means of interacting with a classroom/student cohort whenever possible.
6. In the hybrid/blended learning model, weekly teacher preparation time shall be:
 - 60 minutes on Mondays
 - 80 minutes on Tuesday through Friday (1:40 – 3:00 p.m. For TK-K this time may be earlier)

The District will endeavor to protect prep time.

7. School site administrators, in consultation with unit members, shall create plans and schedules that provide break times for unit members.
8. “Distance Learning” written on schedules shall be changed to read: Office Hours/ Intervention/ Enrichment Time
9. The bargaining unit member workday shall remain as described in the CBA
10. Teacher Office Hours/Intervention/Enrichment Time shall be:
 - 60 minutes on Mondays
 - 40 minutes on Tuesday through Friday (1:00 – 1:40 p.m. For TK-K this time may be earlier)

Distance Learning

1. Instructional Planning, Delivery, and Materials
 - a. All teachers will use the Google Classroom and AERIES platforms daily. All other unit members will utilize the Google Classroom and AERIES platforms to the extent practicable. The District will provide ongoing professional development/professional learning on Google Classroom and AERIES to all unit members.
 - b. The lesson design and type of instruction provided shall include District adopted or approved curriculum, resources, and programs, but may be

supplemented, not supplanted, by the unit member according to their professional judgment.

- c. All content shall be aligned to grade level-standards and provide a level of quality and intellectual challenge substantially equivalent to in-person instruction.
- d. All students will receive daily live interaction with certificated employees and peers for purposes of instruction, progress monitoring, and maintaining school connectedness. This interaction may take the form of internet or telephonic communication, or by other means permissible by state law, under public health orders and consistent with this MOU.
 - i. This daily live interaction shall be designed by each unit member to meet the needs of students.
 - ii. If daily live interaction is not feasible as part of regular instruction, the District has or shall develop an alternative plan in consultation with and based on meaningful input from the Association.
- e. The District shall provide all bargaining unit members the necessary technology, equipment, and supplies in order to provide distance learning. Items necessary shall be determined by the District in consultation between the unit member and site administration.
- f. Unit members shall post lessons, student assignments, and/or instructional materials to Google Classroom.
- g. When providing distance learning, academic content, classwork, independent work, assignments, projects, synchronous instruction, asynchronous instruction, and live interaction shall all be combined to meet the minimum daily instructional minutes per grade level. Daily lesson plans, assessments, and instructional methodologies used shall be at the discretion of the classroom teacher.
- h. The bargaining unit member workday shall remain as described in the CBA.
- i. Monday academic intervention, support, and/or enrichment time shall be structured at the discretion of the teacher. The inclusion of intervention/support/enrichment time shall not be construed as precedent setting in any way.
- j. See Instructional (“Bell”) Schedules (See District Pandemic Plan for 2020-2021)

2. Video/Recordings

- a. Technology, training, and classroom enhancements will be provided to allow unit members to meet with students in person and online at the same time.
- b. Recordings of classes may be posted for students at the unit member's discretion.
 - i. The District will notify students and families that they cannot make audio, video, and digital recording of lessons without the consent of the educator and the principal.
 - ii. The District has or will develop and adopt a student and family code of conduct that protects privacy, prohibits sharing of district/educator recordings, and promotes responsible digital citizenship.
 - iii. Any recorded lessons/classes cannot be used within the evaluation process unless mutually agreed upon by the unit member and site administrator.

3. Attendance, Assessment, and Grading

- a. Bargaining Unit members will document daily participation for each student on each school day, in whole or in part, for which distance learning is provided. Daily participation may include, but is not limited to, evidence of participation in online activities, completion of regular assignments, completion of assessments, and contacts between employees of the District and students or parents/guardians. A student who does not participate in distance learning on a school day shall be documented as absent in AERIES for that school day.
- b. Teachers shall not be required to follow up on pupil absences after recording them as absent in AERIES.

General

1. Work Location

- a. Unit members can choose to work from home or school on Mondays. In extenuating circumstances, if the administrator requests a unit member's presence on site, the member will comply. Non-classroom unit members may similarly be required to provide in-person services that cannot be performed virtually on Tuesday through Friday based on student needs and under the direction of the supervisor.

- b. When providing distance learning, unit members may work remotely or on site at their discretion.
 - i. A unit member who is not performing well in a work from home environment (as determined by their supervisor) will be required to perform distance learning from their assigned site unless he/she has an accommodation providing otherwise or unless he/she is in the accommodations process. Before a unit member is required to perform distance learning from their assigned school site, the following shall occur:
 - ii. The Supervisor shall notify the unit member of the specific concerns and provide the unit member with an opportunity (which may include professional development/professional learning/coaching) to make adjustments that address those concerns.
 - iii. If the concerns persist, the unit member shall be given two (2) days' notice before being required to return to the work site.
- c. When a unit member reports to a district worksite, he/she shall be responsible for following all safety and health requirements.
- d. Unit members working from home shall notify their site administrator of such (by e-mail, text, or telephone) by the start of the instructional day.
- e. Unit members who opt to work from home:
 - i. Must have adequate internet access to conduct distance learning as well as a professional environment in which to work. The District shall not reimburse unit members for internet access or any other item needed for the ability to work from home.
 - ii. Shall be allowed to bring home needed portable devices such as desktop/laptop computers, video cameras, and headphones in order to conduct distance learning. Any devices taken home need to be pre-approved by site administration and remain District property. Devices taken home must be returned to the District when Unit Member returns to the worksite to ensure District property is available to use in the classroom.

2. Monitoring of Student Restroom Use

Unit members will not be responsible for monitoring student restroom use. Unit members will not be responsible for cleaning/disinfecting restrooms.

3. Evaluation/Observation and Discipline

- a. Evaluations for unit members will allow adjustments in unit member goals as they pertain to the new modes of teaching this year. Administrator formal observations will not include information pertaining to recording distractions or disruptions related to any online or distance learning modes.
- b. Unit members shall not be disciplined and/or evaluated based on inadvertent/unintentional disruptions or distractions during distance learning/online lessons of instruction during the COVID-19 pandemic.

4. Leaves

- a. The leave provisions of the CBA will be in full effect for the 2020-2021 school year. Additionally, all unit members who qualify are entitled to the leave benefits to the extent provided by the Families First Coronavirus Response Act (“FFCRA”) for COVID-related leaves.
- b. For the duration of this MOU, the District will also allow unit members to utilize current and accumulated sick leave (not differential leave) to care for family members (as defined by the CBA) for COVID-related illnesses.
- c. Unit members who have a documented, verified COVID-19 case shall be provided with five (5) COVID-19 leave days. This leave will be used prior to the employee’s sick leave and run concurrently with any state or federal fully paid leave for the same purpose.
- d. The District and the Association agree to reopen the Catastrophic Leave Bank for unit members to contribute days. The intent is not to solicit additional days from current participants, but, rather, to solicit unit members who are not currently participating. First-year unit members are eligible to participate if they contribute two (2) sick days this year.
- e. Should a school/classroom/cohort be quarantined and unit members are able to work remotely, if feasible and practical unit members will provide distance learning for the duration of the quarantine and not utilize any leave. If a unit member is not able to provide learning due to illness a substitute will be provided.
- f. In instances where a unit member is quarantined and unable to provide learning/instruction but their students are still attending school, the District will provide a substitute. In instances where a unit member is quarantined and able to provide learning/instruction via videoconferencing/live-streaming, if feasible and practical, the District may provide a proctor for student supervision in the classroom wherein the member would not utilize any leave.

5. Grievance

All provisions of this MOU are subject to the negotiated grievance procedure in the CBA.

6. Access Limitations and Association Rights

- a. The District will implement the provisions of the Pandemic Reopening Plan to minimize/limit access to school sites/classrooms and limit non-essential visitors, facility use permits, and volunteers.
- b. Representatives from the Association, including local Association leaders and the California Teachers Association shall be granted access to District worksites.
- c. Upon specific request, the District shall provide Association leadership and all unit members at a site with the names, cell phone numbers, and work email addresses of those individuals designated as the point of contact at each school site and/or District work location.
- d. Due to the evolving nature of the pandemic, the Association reserves the right to identify and demand to negotiate impacts and effects related to the COVID-19 pandemic as needed.

7. Labor-Management Committee

The parties agree to establish a non-bargaining Joint Labor Management Committee for the purpose of meeting and discussing the topics of in-person cohorts and stable groups, as well as a future potential establishment of a virtual academy in the 2021-2022 school year. The structure of this Committee shall be as follows:

- a. Three District Administrators, and the Assistant Superintendent of Personnel Services, and no other members of the District's collective bargaining team.
- b. Three MUTA appointees, and the President of the unit and no other members of the current bargaining team.
- c. The Committee will be facilitated by a mutually agreed-upon neutral.
- d. The Committee shall meet every other week for a maximum of three hours each time prior to June 30, 2021. The schedule and location ~~to~~ will be determined by the Facilitator after consultation with the parties.

- e. The meetings shall be held by videoconference unless otherwise mutually agreed upon and approved by the parties and the Facilitator.
- f. The Assistant Superintendent of Personnel and the MUTA President may meet as needed to solve any immediate issues.

8. Agreement and Term

- a. All matters appropriately before the Factfinding Panel convened on February 25-26, 2021 are resolved.
- b. This MOU resolves all currently known impacts and effects regarding Phase 2(Blended and Full Distance Learning).
- c. The Unfair Labor Practice Charge (SA-CE-3027-E) and all grievances currently pending by MUTA are to be dismissed with prejudice pursuant to the terms of the Tentative Agreement signed by the Parties on February 26, 2021.
- d. Any components of the Distance Learning Memorandum of Understanding and the Health and Safety Memorandum of Understanding, previously signed the Parties in August and October 2020, are incorporated by reference herein to the extent they remain effective under these terms and are not inconsistent with this MOU.
- e. This MOU shall expire on June 30, 2021, unless mutually extended by both parties.

Dated: _____

Dated: _____

For MJUSD
Ramiro Carreon, Asst. Superintendent

For the Association
Angela Stegall, MUTA President

NOTE: The specific items herein represent agreements related to Phase II Reopening Hybrid/Blended and Distance Learning implementation only and should not be interpreted to limit additional proposals by either party as a part of a broader comprehensive impacts and effects MOU for implementing instruction during the COVID-19 Pandemic Emergency in the 2020-2021 school year.