



PERB Received
11/13/23 09:45 AM

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

UNFAIR PRACTICE CHARGE

DO NOT WRITE IN THIS SPACE: Case No:

Date Filed: 11/13/2023

INSTRUCTIONS: File the original and one copy of this charge form in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached to each copy. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES If so, Case No _____ NO

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION EMPLOYER PUBLIC¹

- a. Full name: Temecula Valley Educators Association, CTA/NEA
- b. Mailing Address: c/o CTA Legal, 11745 E. Telegraph Road, Santa Fe Springs, CA 90670
- c. Telephone number: (562) 478-1378
- d. Name and title of agent to contact: Jean Shin, CTA Staff Attorney E-mail Address: _____
Telephone number: _____ Fax No.: _____
- e. Bargaining Unit(s) involved: Certificated

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION EMPLOYER

- a. Full name: Temecula Valley Unified School District
- b. Mailing Address: 31350 Rancho Vista Rd Temecula, CA 92592
- c. Telephone number: (951) 676-2661
- d. Name and title of agent to contact: Kimberly Velez, Superintendent E-mail Address: kvelez@tvusd.us
Telephone number: _____ Fax No.: _____

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

- a. Full name:
- b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Gov. Code, § 18524.)

- a. Full name:
- b. Mailing Address:
- c. Agent:

5. GRIEVANCE PROCEDURE

¹An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

PERB Received
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Yes No Unknown

6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- Educational Employment Relations Act (EERA) (Gov. Code, § 3540 et seq.)
- Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
- Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Pub. Utilities Code, § 99560 et seq.)
- One of the following Public Utilities Code Transit District Acts: San Francisco Bay Area Rapid Transit District Act (SF BART Act) (Pub. Util. Code, § 28848 et seq.), Orange County Transit District Act (OCTDA) (Pub. Util. Code, § 40000 et seq.), Sacramento Regional Transit District Act (Sac RTD Act) (Pub. Util. Code, § 102398 et seq.), Santa Clara VTA, (Pub. Util. Code, § 100300 et seq.), and Santa Cruz Metro (Pub. Util. Code., § 98160 et seq.)
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)

b. The specific Government or Public Utilities Code section(s) or PERB regulation section(s) alleged to have been violated is/are:

Government Code sections 3543.1; 3543.2; 3543.5(b); 3543.5(c); and 3558.8

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (**a copy of the applicable local rule(s) MUST be attached to the charge**):

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent’s conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. (*Use and attach additional sheets of paper if necessary.*)

See attached Statement of Charges.

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief. (A Declaration will be included in the e-mail you receive from PERB once you have completed this screen. The person filing this Unfair Practice Charge is required to return a properly filled out and signed original Declaration to PERB pursuant to PERB Regulations 32140 and 32135.)

Edgar Diaz
(Type or Print Name)

/s/ Edgar Diaz
(Signature)

11/13/2023
Date



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STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD
UNFAIR PRACTICE CHARGE

DO NOT WRITE IN THIS SPACE:

Case No:

Date Filed:

INSTRUCTIONS: File this charge form via the e-PERB Portal, with proof of service. Parties exempt from using the e-PERB Portal may file the original charge in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE?	YES <input type="checkbox"/>	If so, Case No.	NO <input checked="" type="checkbox"/>
1. CHARGING PARTY:	EMPLOYEE <input type="checkbox"/>	EMPLOYEE ORGANIZATION <input checked="" type="checkbox"/>	EMPLOYER <input type="checkbox"/> PUBLIC ¹ <input type="checkbox"/>

a. Full name: Temecula Valley Educators Association, CTA/NEA

b. Mailing address: c/o CTA - Legal Department
11745 E. Telegraph Road, Santa Fe Springs, CA 90670

c. Telephone number: (562) 478-1410

d. Name and title of person filing charge: Jean Shin, CTA Staff Counsel
Telephone number: (562) 478-1378
E-mail Address: jshin@cta.org
Fax No.:

e. Bargaining unit(s) involved: Certificated employees

2. CHARGE FILED AGAINST: (mark one only)	EMPLOYEE ORGANIZATION <input type="checkbox"/>	EMPLOYER <input checked="" type="checkbox"/>
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a. Full name: Temecula Valley Unified School District

b. Mailing address: 31350 Rancho Vista Rd.
Temecula, CA 92592-6202

c. Telephone number: (951) 676-2661

d. Name and title of agent to contact: Kimberly Velez, Superintendent
Telephone number: (951) 506-7904
E-mail Address: kvelez@tvusd.us
Fax No.:

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:

b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Gov. Code, § 18524.)

a. Full name:

b. Mailing address:

c. Agent:

5. GRIEVANCE PROCEDURE

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Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes No

6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

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- Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
- Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- A Covered Public Utilities Code Transit Employer (BART (Pub. Util. Code, § 28848 et seq.), Orange County Transportation Authority (Pub. Util. Code, § 40000 et seq.), and supervisory employees of the Los Angeles County Metropolitan Transportation Authority (Pub. Util. Code, § 99560 et seq.)).
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)

b. The specific Government or Public Utilities Code section(s) or PERB regulation section(s) alleged to have been violated is/are:

Government Code sections 3543.1; 3543.2; 3543.5(b); 3543.5(c); and 3558.8

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (**a copy of the applicable local rule(s) MUST be attached to the charge**):

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. (*Use and attach additional sheets of paper if necessary.*)

See attached Statement of Charge

DECLARATION

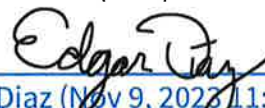
I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief and that this declaration was executed on Nov 9, 2023

(Date)

at Temecula, CA
(City and State)

Edgar Diaz

(Type or Print Name)


Edgar Diaz (Nov 9, 2023 11:27 PST)
(Signature)

Title, if any: President of Temecula Valley EA, CTA/NEA

Mailing address: c/o CTA - Murrieta RRC
25114 Jefferson Ave, Suite B, Murrieta, CA 92562

Telephone Number: (951) 461-2183 E-Mail Address: tveapresident@gmail.com

Statement of Charges

[Attachment to Unfair Practice Charge dated November 9, 2023]

Background

1. The Temecula Valley Educators Association, CTA/NEA (the “Association” or “TVEA”) is the exclusive representative of a bargaining unit of certificated public school employees of the Temecula Valley Unified School District (the “District”).
2. The Association and the District were and are parties to a collective bargaining agreement governing the bargaining unit (the “CBA”). The term of the current CBA is July 1, 2021 through June 30, 2024.

The District Repudiates Terms of the CBA

3. Section 2.6 of the CBA provides as follows:

The TVEA President shall be released from his or her regular duties to the District for the full term of this Agreement. The District will pay for up to \$100,000 of the cost of the TVEA President’s salary, health and welfare benefits and statutory costs.

A true and correct copy of Article 2, including Section 2.6, is attached hereto as Exhibit A.

4. On or about October 5, 2023, representatives from the Association and the District attended a regularly-scheduled meeting. In attendance were Association Bargaining Chair Brian Balaris (“Balaris”), District Assistant Superintendent of Human Resources Development, Francisco Arce (“Arce”), and District Human Resources Department Executive Director Joe Mueller (“Mueller”).
5. At that meeting, the Assistant Superintendent Arce and Human Resources Executive Director Mueller said that they believed that Education Code § 44987 prohibited arrangements – such as that set forth in Article 2.6 – where a union officer took release time, and the union did not fully reimburse the officer’s compensation. They said that they believed the District could unilaterally terminate the parties’ release time agreement, and that the District only had an obligation to bargain over the “impacts and effects” of a decision to eliminate unreimbursed release time.
6. Association Bargaining Chair Balaris responded that he believed that Arce and Mueller were incorrect.
7. On or about October 13, 2023, agents of the Association reviewed the agenda for the October 17 meeting of the District’s Governing Board, which was posted online. The agenda included an item to consider a “reopener proposal for contract negotiations.” The

attachment to that agenda item stated that the District would “reopen Article 2: Union Rights for the purpose of negotiating the impacts and effects of implementing Education Code section 44987.” A true and correct copy of the agenda item and attachment are attached hereto as Exhibit B.

8. The CBA – including Article 2 – is currently closed. Article 29 of the CBA provides that reopeners are available if “either the District or the Association ... notify the other in writing no sooner than January 1 and no later than April 1, annually of its desire to reopen negotiations.” A true and correct copy of Article 29 is attached hereto as Exhibit C.
9. Between January 1 and April 1, the District did not notify the Association of its desire to reopen Article 2.
10. On or about October 16, 2023, Association President Edgar Diaz sent a letter to the District, including the Board members, the Superintendent, and the Assistant Superintendent. A true and correct copy of this letter is attached hereto as Exhibit D.
11. The letter explained that the District could not reopen negotiations regarding the president’s release time, since the contract was closed. Under Article 29 of the parties’ CBA, “reopener topics must be identified in writing between January 1 and April 1.” Since the parties were outside that window period, the contract prohibited new reopeners. Diaz warned that “TVUSD has not previously notified the Association of a desire to reopen an additional section of the contract and attempting to do so outside of the window outlined by the CBA is a unilateral change to the terms and conditions of the contract that were previously bargained.”
12. Diaz further noted that the District’s position – that it would engage only in “impacts and effects” bargaining over release time, but not decisional bargaining – was unlawful. “As leave is a mandatory subject of bargaining, negotiations on this topic are subject to decisional bargaining and not limited to the impacts and effects of the District’s decision to unilaterally change any terms.”
13. The letter further explained that the District’s claim – that Education Code § 44987 prohibited release time arrangements such as that set forth in Article 2.6 – was incorrect. Diaz explained that “Education Code Section 44987(4) specifically references the ability to include additional leave beyond the minimum standard set by the section in a collective bargaining agreement. This has further been upheld in June 2014 by the California Public Employees Relations Board in Decision No. 2378, Case No. LA-CE-5606-E, *Centinela Valley Secondary Teachers Association v. Centinela Valley Union High School District*.” Diaz also cited Government Code § 3558.8(b), which states that release time shall be reimbursed by a union “unless otherwise provided by a collective bargaining agreement or memorandum of understanding.”

14. On October 17, 2023, the Governing Board of the District met and voted to approve the agenda item to “reopen Article 2: Union Rights for the purpose of negotiating the impacts and effects of implementing Education Code section 44987.”
15. On or about October 19, Assistant Superintendent Arce sent a letter to Association President Diaz, responding to the Association’s October 16, 2023 letter. A true and correct copy of this letter is attached hereto as Exhibit E.
16. Arce’s letter stated:

Article 2.6.2 [of the parties’ collective bargaining agreement, providing for presidential release time] directly conflicts with Education Code section 44987. At its meeting on October 17, 2023, the Board of Education approved implementing section 44987 and proceeding with negotiations concerning the impact and effects of implementation of section 44987.
17. On October 23, 2023, representatives of the Association and the District attended a regularly-scheduled meeting to discuss ongoing bargaining-related issues.
18. At the meeting, Assistant Superintendent Arce brought up the fact that the District’s Governing Board had approved an agenda item to “negotiat[e] the impacts and effects of implementing Education Code section 44987.” Arce stated that, pursuant to Education Code § 44987, the District would start requiring the Association to fully reimburse the president’s release time.
19. Association representative Anthony Saavedra (“Saavedra”) responded to Arce. He stated that the District was violating EERA by repudiating two provisions of the parties’ collective bargaining agreement: first, Article 2, which sets forth the terms of the Association President’s release time and the financial responsibility therefor; and second, Article 29, which sets forth the time period and conditions for CBA reopeners.
20. Saavedra further stated that the District’s interpretation of the law was incorrect, and that under Education Code § 44987, Government Code § 3558.8, and *Centinela Valley Union High School District* (2014) PERB Case No. LA 2378, release time was subject to negotiations, and the release time arrangement set forth in the parties’ collective bargaining agreement was lawful.
21. Saavedra further stated that the Association had the right to engage in full decisional bargaining over matters within scope, including presidential release time, and not merely impacts and effects bargaining. Finally, Saavedra stated that the Association did not agree to reopen Article 2 at this time, because under Article 29, the contract was closed.

22. The District's attorney, Dean Adams ("Adams"), responded to Saavedra. Adams argued that Education Code § 44987 was more specific than Government Code § 3558.8, and that because the District was implementing the specific directive of Education Code § 44987, it had no obligation to bargain its decision to change the parties' release time agreement.

Violation and Request for Remedy

23. By repudiating terms of the CBA within the scope of representation – including Article 2, which sets forth the terms for union officer release time; and Article 29, which sets forth the conditions for contract reopeners – the District violated the Association's rights under the Educational Employment Relations Act, Government Code §§ 3540, *et seq.* ("EERA"). These include the right to represent members in their relations with public school employers, pursuant to § 3543.1; and the right to notice and an opportunity to meet and confer over matters within the scope of representation, pursuant to § 3543.2. In addition, the District violated § 3543.5(b), which prohibits an employer from denying employee organizations the rights guaranteed under EERA; and § 3543.5(c), which prohibits an employer from refusing to meet and negotiate in good faith. Finally, the District violated § 3558.8, which guarantees the right to paid release time, and provides that an exclusive representative has the right to bargain over the terms of reimbursement for that release time.
24. As a remedy, the Association requests an order requiring the District to rescind its unilaterally-imposed decision to change the terms for contract reopeners, and its unilaterally-imposed decision to change the terms for the Association president's release time. The Association requests an order requiring the District to negotiate in good faith with the Association; make whole the Association, its officers, and any unit members who have suffered a financial impact as a result of the District's unfair practices; post a notice regarding the above; and any and all further remedies PERB deems appropriate.

EXHIBIT A

ARTICLE 2: UNIT RIGHTS

- 2.1** The Association and its representatives shall have the right to:
- 2.1.1** Use school mailboxes, e-mail and the District mail service to the extent authorized by law; such use shall be limited to communications by the Association with its unit members; the Association will provide the Superintendent with a copy of any such communication it feels may be of concern to the District;
 - 2.1.2** School Bulletin board space in designated areas to which bargaining unit members have access, for use by the association;
 - 2.1.3** Obtain from the District the names of all unit members and their assigned work site as soon as possible after the beginning of each school year; an updated list may be requested by the local Association chapter at the end of the first semester of each school year;
 - 2.1.4** Obtain from the District the names and addresses of all new unit members employed by the District, unless a new unit member requests in writing that the District not provide this information;
 - 2.1.5** Use District facilities at reasonable times before and after duty hours, provided that prior approval is obtained according to District 'Use of Facilities' regulations, and;
 - 2.1.6** Transact official Association business on District property during non-duty hours, so long as the transaction of such business does not interfere with the educational process or a unit member's professional duties.
- 2.2** The District shall, within forty-five (45) days of ratification of this Agreement by both the Board of Education and the Association, prepare and post on the District's website, a copy of the text of the entire collective bargaining agreement as ratified.
- 2.3** The Association shall receive a copy of all adopted policies of the District Board of Education and a copy of all District Administration Regulations.
- 2.4** The Association will receive time off from duties for the processing of grievances past Level I of the grievance procedure, Article 16 herein, for unit members who are designated as unit representatives, subject to the following conditions:
- 2.4.1** By no later than two (2) days following the signing of the Agreement, the Association will designate in writing to the Superintendent three (3) unit members who may receive the release time;
 - 2.4.2** Twenty-four (24) hours prior to release from duties for grievance processing, the designated representative informs his/her immediate supervisor in order that an adequate substitute may be obtained, if such is necessary; and
 - 2.4.3** That such time off shall be limited solely to representing a grievant in a conference with a management person beyond Level I, and in no way shall this limitation include use of such time for matters such as gathering information, interviewing witnesses, or preparing a presentation.
- 2.5** The District agrees to allow CTA workshops and conference attendance, up to thirty (30) days per year, for the Association President or designee, with costs of the substitute, if one is needed, borne by TVEA. Prior notice of intent to use these provisions shall be extended to the Superintendent, whose advance approval must be obtained.

2.6 The TVEA President shall be released from his or her regular duties to the District for the full term of this Agreement. That term shall commence on July 1, 1999.

2.6.1 The President shall be paid in the usual manner as if he or she were a regular employee of the District and shall suffer no reduction in salary, step, fringe, or other benefits. The President shall also be guaranteed the right to return to the site occupied before taking office if said position is still available in the normal course of events.

The parties will mutually agree upon a job description of the duties to be done during the release time.

2.6.2 The District will pay for up to \$100,000 of the cost of the TVEA President's salary, health and welfare benefits and statutory costs.

For costs exceeding \$100,000, TVEA will be invoiced in ten (10) monthly payments, September through June, and will pay within thirty (30) days. A charge of 1½ % per month will be assessed on late unpaid balances.

EXHIBIT B



Printed : 10/16/2023 1:51 PM PT

**Regular Meeting of the Board of Trustees of the
Temecula Valley Unified School District
10/17/2023 04:00 PM**

Temecula Valley Unified School District Conference
Center, Rooms A-C
31350 Rancho Vista Road Temecula, CA 92592
Closed Session - 4:00 PM, Open Session - 6:00 PM

ITEM : P.4. NOTICE TO CONDUCT A PUBLIC HEARING OF TEMECULA VALLEY UNIFIED SCHOOL DISTRICT'S REOPENER PROPOSAL FOR CONTRACT NEGOTIATIONS WITH THE TEMECULA VALLEY EDUCATORS ASSOCIATION CTA/NEA FOR THE 2023-2024 SCHOOL YEAR

Rationale

Government Code §3547 states that when the Board of Education is involved in negotiations, all initial proposals of exclusive representatives and of public school employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the public school employer and thereafter shall be public records.

Comments

That the Governing Board conduct a public hearing on October 17, 2023, regarding the Temecula Valley Unified School District's reopener proposal for contract negotiations with the Temecula Valley Educators Association, CTA/NEA, for the 2023-2024 school year.

Financial Impact

This will be determined upon conclusion of negotiations.

Submitted By

Francisco Arce, Assistant Superintendent, Human Resources Development

Recommended Motion

Motion to provide notice of a public hearing on October 17, 2023, regarding the Temecula Valley Unified School District's reopener proposal for contract negotiations with the Temecula Valley Educators Association, CTA/NEA, for the 2023-2024 school year.

Supporting Documents

[NOTICE Public Hearing - TVUSD to TVEA Reopener Proposal for Contract Negotiations for 2023-24 \(10.17.23\) Step 1 and 2](#)

[TVUSD to TVEA - Reopener Proposal for Contract Negotiations for 2023-24 \(10.17.23\)](#)

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11/13/23 09:45 AM



TEMECULA VALLEY
UNIFIED SCHOOL DISTRICT

INTERIM SUPERINTENDENT

Kimberly Velez, Ed.D.

BOARD OF EDUCATION

Allison Barclay

Danny Gonzalez

Dr. Joseph Komrosky

Steve Schwartz

Jennifer Wiersma

TEMECULA VALLEY UNIFIED SCHOOL DISTRICT
Presentation of Reopener Proposal for Contract Negotiations
for the 2023-2024 School Year

October 17, 2023

As required by the Educational Employment Relations Act (EERA), specifically California Government Code Section 3547, the Temecula Valley Unified School District (District) presents its initial proposal for reopener contract negotiations with the Temecula Valley Educators Association, CTA/NEA (Association) for the 2023-2024 school year.

Pursuant to Article 29 of the Collective Bargaining Agreement (CBA), the District and Association each have the ability to reopen two (2) articles for negotiations. For the 2023-2024 school, the District will reopen Article 2: Union Rights for the purpose of negotiating the impacts and effects of implementing Education Code section 44987.

EXHIBIT B

EXHIBIT C

appear before any public bodies to seek changes or improvement in any matter subject to the meet and negotiation process except by mutual agreement of the District and the Association.

ARTICLE 27: CONCERTED ACTIVITIES

- 27.1** It is agreed and understood that there will be no strike, work stoppage, slow-down, picketing of the District by the Association or by its officers or agents, during the term of the Agreement. It is further agreed that there will be no lock-out by action of the Board of Trustees, nor denial of rights guaranteed the Association and its members by law.
- 27.2** The Association recognizes the duty and obligation of its representatives to comply with the provisions of this Agreement and to make every effort toward inducing all employees represented by it to do so. In the event of a strike, work stoppage, slowdown or picketing of the District by employees represented by the Association, the Association agrees to act in concert with the District to advise and direct those employees to cease such action. It is further understood that any employee who fails to comply with such a cease and desist request may be subject to discipline or discharge by the District in accordance with procedures established by law.
- 27.3** It is understood that the District shall be entitled to withdraw any privileges or services provided for in this contract from any employee, or group of employees, who engage in concerted activities as defined in Section 26.1.

ARTICLE 28: SAVING PROVISION

- 28.1** If any provisions of this Agreement are held to be contrary to law by a court of competent jurisdiction, such provisions will not be deemed valid and subsisting except to the extent permitted by law, but all other provisions will continue in full force and effect.

ARTICLE 29: TERM

- 29.1** The new term of the Agreement will be from July 1, 2021 through June 30, 2024. For the 2022-2023 and 2023-2024 school years, the parties agree to reopeners on Article 7: Compensation and Benefits. In addition, the District and the Association shall have the ability to reopen two (2) articles for negotiations.
- 29.2** If desired, either the District or the Association may notify the other in writing no sooner than January 1 and no later than April 1, annually of its desire to reopen negotiations.

EXHIBIT D



October 16th, 2023

Via Email To: Allison Barclay - abarclay@tvusd.us
Danny Gonzalez - dgonzalez@tvusd.us
Joseph Komrosky - jkomrosky@tvusd.us
Steven Schwartz - sschwartz@tvusd.us
Jennifer Wiersma - jwiersma@tvusd.us

Board of Education
Temecula Valley Unified School District
31350 Rancho Vista Road
Temecula, CA 91710

Re: Cease and Desist - TVUSD to reopen Article 2 of the TVEA-TVUSD Collective Bargaining Agreement

Dear Board Members,

On Friday, the school board posted an online agenda for its meeting scheduled for October 17, 2023. Within that agenda was Action Item P.4, which states a desire by TVUSD to reopen Article 2 of the TVEA-TVUSD Collective Bargaining Agreement.

Please be advised that Article 29: Term of the CBA states that reopener topics must be identified in writing between January 1 and April 1. TVUSD has not previously notified the Association of a desire to reopen an additional section of the contract and attempting to do so outside of the window outlined by the CBA is a unilateral change to the terms and conditions of the contract that were previously bargained.

Further, the attached documentation on the agenda item states that it is intended to be a notification to the Association that "the District will reopen Article 2: Union Rights for the purpose of negotiating the impacts and effects of implementing Education Code section 44987." As leave is a mandatory subject of bargaining, negotiations on this topic are subject to decisional bargaining and not limited to the impacts and effects of the District's decision to unilaterally change any terms. TVEA does not consent to reopen this section, nor will our members enter into any bargaining around changes to the collective bargaining agreement related to this topic until it has been properly reopened under the terms of the agreement.

I also want to note that Education Code Section 44987(4) specifically references the ability to include additional leave beyond the minimum standard set by the section in a collective

bargaining agreement. This has further been upheld in June 2014 by the California Public Employees Relations Board in Decision No. 2378, Case No. LA-CE-5606-E, Centinela Valley Secondary Teachers Association v. Centinela Valley Union High School District. Government Code Section 3558.8(b) expands further on this by explicitly stating that “The exclusive representative or employee organization shall reimburse the public employer for all compensation paid to the employee on leave unless otherwise provided by a collective bargaining agreement or memorandum of understanding.” (emphasis added)

We believe state law is clear that any changes to this topic are within the mandatory scope of bargaining. As such, we are demanding that TVUSD cease and desist from attempting to change any provision of the CBA without properly reopening the topic in accordance with the agreement. Failure to do so may result in TVEA taking action to protect the legal rights of our members, up to and including the filing of an unfair labor practice charge with California Public Employees Relations Board.

Sincerely,

Edgar Díaz
TVEA President

cc. (by email only): Superintendent Kimberly Velez, Ed.D
Assistant Superintendent Francisco Arce
Anthony Saavedra, CTA UniServ Staff

EXHIBIT E

PERB Received
11/13/23 09:45 AM



TEMECULA VALLEY
UNIFIED SCHOOL DISTRICT

INTERIM SUPERINTENDENT

Kimberly Velez, Ed.D.

BOARD OF EDUCATION

Allison Barclay

Danny Gonzalez

Dr. Joseph Komrosky

Steve Schwartz

Jennifer Wiersma

October 19, 2023

Via Email Only: tveapresident@gmail.com

Edgar Diaz
TVEA President
29377 Rancho California Road, Suite 206
Temecula, CA 92591

Re: Article 2, Unit Rights

Dear Mr. Diaz,

I write in response to your October 16, 2023 request that the District cease and desist its efforts to reopen negotiations concerning Article 2, Unit Rights, of the collective bargaining agreement. Please accept this letter as the District's response to your request.

As you know, Education Code section 44987(a)(3) states:

Following the school district's payment of the employee for the leave of absence, the school district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of the leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the school district's certification of payment of compensation to the employee.

Article 2.6.2 of the collective bargaining agreement states:

The District will pay for up to \$100,000 of the cost of the TVEA President's salary, health and welfare benefits and statutory costs. For costs exceeding \$100,000, TVEA will be invoiced in ten (10) monthly payments, September through June, and will pay within thirty (30) days. A charge of 1½% per month will be assessed on late unpaid balances.

Article 2.6.2 directly conflicts with Education Code section 44987. At its meeting on October 17, 2023, the Board of Education approved implementing section 44987 and proceeding with negotiations concerning the impact and effects of implementation of section 44987. We would be happy to discuss this issue at our negotiation session on October 23, 2023, and other dates if we are unable to resolve this matter during that negotiation session.

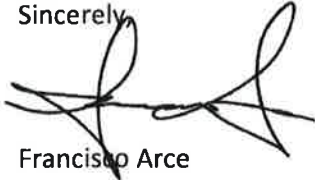
EXHIBIT E

31350 Rancho Vista Road, Temecula, CA 92592 / (951) 676-2661 / www.tvusd.k12.ca.us

Please note, the Board's October 17, 2023 action does not, in any way, impact the TVEA President's full release from his duties for the remainder of the current collective bargaining agreement. We expect that the President will continue to access full release for the remainder of the term of the agreement.

Thank you for your attention to this important matter. As always, if you have questions, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Francisco Arce', written over a horizontal line.

Francisco Arce
Assistant Superintendent
Human Resources Development

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Los Angeles,
State of California. I am over the age of 18 years. The name and address of my
Residence or business is California Teachers Association - Legal Dept.
11745 E. Telegraph Road, Santa Fe Springs, CA 90670

On Nov. 13, 2023, I served the Temecula Valley EA's
(Date) (Description of document(s))

Unfair Practice Charge in Case No. - TBD -
(Description of document(s) continued) PERB Case No., if known)

on the parties listed below by (check the applicable method(s)):

- placing a true copy thereof enclosed in a sealed envelope for collection and delivery by the United States Postal Service or private delivery service following ordinary business practices with postage or other costs prepaid;
- personal delivery;
- electronic service - I served a copy of the above-listed document(s) by transmitting via electronic mail (e-mail) or via e-PERB to the electronic service address(es) listed below on the date indicated. (May be used only if the party being served has filed and served a notice consenting to electronic service or has electronically filed a document with the Board. See PERB Regulation 32140(b).)

(Include here the name, address and/or e-mail address of the Respondent and/or any other parties served.)

Kimberly Velez, Superintendent
Temecula Valley USD
31350 Rancho Vista Rd.
Temecula, CA 92592-6202
Email: kvelez@tvusd.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on 11 / 13 / 2023,
(Date)
at Santa Fe Springs CA
(City) (State)

Frankie Medina



(Type or print name)

(Signature)

