STATE OF FLORIDA
PUBLIC EMPLOYEE RELATIONS COMMISSION

ORANGE COUNTY CLASSROOM TEACHERS ASSOCIATION, INC.,

Case No. SM-2021-013

Employee Organization,

vs.

SCHOOL DISTRICT OF ORANGE COUNTY, FLORIDA,

Employer, /

SCHOOL DISTIRCT OF ORANGE COUNTY, FLORIDA'S NOTICE OF PARTIAL REJECTION OF RECOMMENDATIONS OF THE SPECIAL MAGISTRATE

The Employer, The School District of Orange County, Florida ("SDOC"), through counsel, files this partial rejection of the recommendations of the Special Magistrate issued November 8, 2020, pursuant to §447,403(3)(c), Fl. Stat. and states in support as follows.

1. SDOC rejects the Special Magistrate's recommendation for Years of Employment Supplement (Pages 14-15 of the Special Magistrate's Recommendation). The Years of Employment Supplement Proposal is part of the Union's $60.6 million wage proposal. (SDOC Ex. 38)

As clearly found by the Special Magistrate, SDOC received a per student funding decrease of 3.5 percent this year from the Legislature:

> "**In terms of the impact of the District's current funding reduction of approximately 3.5%**, Richard Collins, the District's former Director of Finance and Budging testified as follows:

> ‘Q. And, finally, since you were a consultant working on this budget, in these appropriations, in your opinion, is there any way that the District could afford 60 million dollars in recurring raises within these existing appropriations, as you've seen this budget?
>
> A. **The problem this year, in particular, is that the per student funding actually decreased by three and a half percent under last year's levels, which means that there really aren't any recurring dollars available for this year, other than the categorical dollar specifically appropriated for salary increases. So there's actually a decrease in per student funding this year throughout the FEFP**.’” (Special Magistrate Recommendation, Page 11)(Emphasis added)

The Special Magistrate clearly states that the District cannot fund the Union’s $60.6 million wage proposal (which includes the Years of Employment Supplement without making reductions to its budget):

> “There was no consistent and credible testimony to overcome Mr. Collins’ conclusion. Accordingly, I find Mr. Collins to have been a credible witness for the purpose of describing the District’s current financial status, as well as the District’s inability to fund the approximately $60 million dollars in recurring funds to support the Union’s wage proposal without taking drastic steps to do so such as cutting programs and/or staff.” (Special Magistrate Recommendation, pages 11-12)

The Special Magistrate also held as follows:

> “While the Union correctly noted that funds could be made available through “creative methods” such as budgetary cuts, looking for efficiencies and any other creative methods to funding recurring raises for its educators, Mr. Collins warned that use of these creative methods could have detrimental consequences. In this regard, Mr. Collins gave the following response to the following question posed by the Union:
>
> > ‘Q. Okay. So there’s not money in the actual general fund to pay for 60 million dollars in raises, correct?
> > A. Well John, I can’t say there isn’t because, you know, you have money appropriated for staff – primarily for staff and for other, you know, supplies and things like that.

> Q. I guess, the better way to ask it is, in order to do that, you would have to make some cuts to employees and cuts to supplies and cuts to your equipment in order to pay for that, right?
> A. That is correct. That is correct. There would have to be a reprioritization, where you would basically eliminate staff in order to free up recurring dollars to pay for a recurring cost.'
>
> **Heeding Mr. Collins' wise advice, this Magistrate is not prepared to recommend the salary increase sought by the Union where the funding for such would be paid for primarily through staff and program cuts**." (Special Magistrate Recommendation, pages 12-13)(Emphasis added)

Finally, if SDOC were to pay the Union's requested $60.6 million recurring wage proposal, including the Years of Experience Supplement, it would have also have to provide the Orange Education Support Professionals Association the same increase amount in recurring funds under a Letter of Understanding between the parties. (See SDOC Ex. 12, Bates Page 000267: "In the event that another bargaining unit receives a wage increase beyond categorical funds, the parties agree to provide the same wage increase to eligible classified personnel.") This would mean an additional commitment in recurring funds to OESPA in a year when SDOC received a 3.5 percent decrease in per student funding.

For the foregoing reasons, SDOC rejects the recommendation to adopt the Years of Experience Supplement.

2. SDOC rejects the recommendation to retain the status quo in health insurance. (Special Magistrate Recommendation Page 22) SDOC has seen large increases in health insurance costs over the past seven years. SDOC paid out claims in the amount of $150.4 million in 2013-2014. The cost of claims paid out in 2019-2020, the last full year where SDOC had data at the time of the impasse

hearing, was $252.1 million. (See SDOC Ex. 61, Bates Page 001545; see also SDOC Ex. 19, Bates Pages 000508-000516.) This represents an increase of $101.7 million dollars in claims paid in 6 years, or a 16.95 percent increase per year over those six years.

In 2019-2020, the District transferred $16.8 million from its general fund to shore up the plan. (Hearing Transcript: Page 252, Lines 6-14.) But for that transfer of funds, the district would have fallen short of the two months of claims in their health insurance trust stabilization reserve, as required by the Florida Department of Insurance Regulation under §112.08, Fla. Stat. If SDOC falls below two months of claims in its stabilization reserve, it will be required to commit to transfer more money in the plan or face potential closure of the health insurance plan. It had to do so from 2009-2013, when it had to pay $26.8 million to shore up the stabilization reserved. (SDOC Ex. 61, Bates Page 001545, <u>School District of Orange County v. Orange County Classroom Teachers Association</u>, SM-2013-050 (Milinski 2014): "In 2009, the plan slipped below the two month threshold and the District had to step in and promise to contribute $6.7 million per year for four years to shore up the fund." See also Hearing Transcript: Page 288, Lines 1-25)

Initially, for this insurance plan year, SDOC predicted it would need to increase the cost of the insurance plan by 13.1 percent in order to break even and maintain the amount in the stabilization reserves at two months of claims. However, SDOC was able to utilize $12.8 million from ESSER funds to pay COVID-19 related claims and received a refund from CVS of $1.9 million in overpayments on its prescription drug plan. (Hearing Transcript: Page 281, Lines 1-21) Had the District not put in those extra funds, the health insurance plan would be short of the two months of claims in its stabilization reserve. If SDOC does nothing to the plan, the actuaries currently predict the plan will lose $14 million this year and will have the stabilization reserve fall well below two months of claims.

SDOC proposed changes to the plans to require the high utilizers of services to pay higher deductibles and out-of-pocket maximum costs. Overall out of 37,000 members, 1.8% reach the maximum out-of-pocket for individuals and 0.4% reach the out-of-pocket maximum for the family. (SDOC Ex. 25, Bates Page 000555; also Hearing Transcript: Page 270, Lines 19-25)

No premium increases are made under SDOC's proposed changes. SDOC will still pay $9,288 per employee insurance premiums for all employees. Employees who choose Plan A and the new Sure Fit plan, they will pay no employee-only premiums. Employees who choose Plan B and Plan C will still continue to pay $525 per year in premiums for employee only coverage. Premiums will not change for dependent or spouse coverage. From the beginning, copayments and coinsurance will be applied without the employee having to meet the deductible.

Employees who do not want to see deductible increases and out-of-pocket maximums increase can choose the new SureFit plan, which will keep deductibles at $300 for individuals and $600 for families, the same as Plan A last year. Out-of-pocket maximums will be $5,500 for individuals, and $11,000 for families under the SureFit plan, the same as they were for Plans A, B and C last year.

The Health Insurance plan needs structural changes in order to not fall below the two months of claims required to be in the stabilization reserve. SDOC is not proposing any increases to premiums. Only 1.8 percent out of 37,000 users will be affected by the new out of pocket maximums in SDOC's proposal. Finally, SDOC is providing a new plan which keeps the same deductible as Plan A and the same out-of-pocket maximums as all Plans from last year.

Based upon the foregoing, SDOC rejects the recommendation of status quo on the health insurance plan and requests that SDOC's proposed changes to the health insurance plan be adopted.

3. SDOC rejects the recommendation of a five percent (5%) supplement for district nurses through the language proposed by the Union for Appendix F, Section J. (Special Magistrate Recommendation page 24)

Supplements are defined in the parties' Supplement Handbook as "additional salary for which an instructional employee performs extra duties and/or responsibilities before, during or after the regular workday." (Hearing Transcript: Page 207, Lines 10-15; See also Article XVI, Section B(4) of the Contract stating the Supplement Handbook will "provide information regarding the use of supplements, requirements of the supplement receiver, number of each supplements and related information." SDOC Ex. 1, Bates Page 000075)

The alleged extra duties for which the District nurses are seeking supplements, substituting for absent school nurses, training clinic staff members, attending IEP and Section 504 meetings, occurred prior to COVID and are not extra duties, but in fact are part of the job. Union witness Laketa Jimenez so admitted:

> Q. Okay. So all of the things that you are seeking a supplement for, these were not extra duties, correct, these were things you were already performing, right?
> A. No, it's not extra duties. You're correct. We're performing these duties.
> Q. And you agree that supplements go to employees who perform extra duties and responsibilities, not for performing their same job, correct?
> A. Well, according to the document you're showing me, yes." (Hearing Transcript: Page 209, Lines 10-21)

Since the supplement is sought for duties which are admittedly part of District nurse jobs, they do not fit within the Supplement Handbook between the parties, which pays supplements for extra duties.

SDOC recommends rejection of Union proposed Appendix F, Section J language.

CONCLUSION

The School Board of Orange County, Florida, sitting as the legislative body, should reject: 1. The Union's proposed Years of Experience supplement; 2. The status quo on health insurance; and 3. The Supplement for District Nurses recommended by the Magistrate.

The School Board should reject the Years of Experience supplement proposal in its entirety. The School Board should impose the District's offer on health insurance in its entirety. The School Board should reject the language proposed for Appendix F, Section J proposed by the union in its entirety.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via email to Mark Richard, Esq. mrichard@phillipsrichard.com and Lucia Piva, Esq. lpiva@phillipsrichard.com, Phillips, Richard & Rind, P.A., 9360 SW 72 Street, Suite 283, Miami, FL 33173 on this 29th day of November, 2021.

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