

**CHULA VISTA ELEMENTARY SCHOOL DISTRICT
BARGAINING UPDATE
DISTRICT NEGOTIATIONS WITH CHULA VISTA EDUCATORS**

No. 2

August 18, 2016

CVE NEGOTIATIONS UPDATE

The District's negotiation team and CVE's negotiation team met on August 18, 2016.

- A Tentative Agreement was signed on Article 11 Summer School/Intersession/Extended School Year/Extended Day.
- CVE presented counter proposals to the District's proposals on the following articles:
 - Article 15 Sick Leave
 - Article 22 Family Care
 - Article 33 Transfer
 - Article 54 Catastrophic Leave(See District's prior proposals attached.)
- The District presented a Tentative Agreement Proposal to maintain current contract language on all articles where no changes were proposed by either party.

Our next negotiation sessions are scheduled for:

August 26 at CVE
October 6 at District Office
October 19 at CVE
November 3 at District Office
November 16 at CVE

Please note that all negotiation updates are available on the District website at: <http://www.cvesd.org/DISTRICT/Pages/Negotiations.aspx> (On the District webpage, click on District and then click on Negotiations.)

Bargaining Team Members in Attendance

CVE BARGAINING TEAM

Mary Ellen Berumen Carla Kriss
Chris Fite Manuel Yvellez
Michelle Harms
Elizabeth Hutson

DISTRICT BARGAINING TEAM

Gloria Ciriza Debra McLaren
Carmen Emery Jorge Mora
Oscar Esquivel Matthew Tessier
Peter Fagen Jeff Thiel

Prepared by Human Resources Services & Support

August 18, 2016

ARTICLE 15. SICK LEAVE

- 15.1 Employees shall earn one (1) day of sick leave for each calendar month of service up to a maximum of ten (10), during each fiscal year for use if absent from duty because of illness or injury to the employee or his or her family member defined as follows: the employee's parent, child, spouse, domestic partner, grandparent, grandchild, and sibling. The unused portion of sick leave days shall accumulate from year to year. A part-time employee on a regular basis shall be entitled to a prorated amount of such sick leave.
- 15.2 During each school year, when a unit member has exhausted all available sick leave, including all accumulated sick leave, and continues to be absent from his or her duties as a result of illness or accident to the unit member or his or her family member for an additional period of five school months or less, he or she shall receive 50 percent of his or her regular salary during the period of such absence. The sick leave, including accumulated sick leave and the five-month period, shall run ~~concurrently~~ consecutively. For purposes of Article 15.2, family member shall be defined as the employee's parent, child, spouse, and domestic partner.

For purposes of calculating the five school month period referenced above, the month of June shall not be considered part of that five-month calculation, but all other eleven months will be part of the calculation for all bargaining unit members except those on a modernization calendar. For example, a bargaining unit member whose sick leave, including accumulated sick leave, expired on February 5, would continue to receive 50 percent sick leave pay until, and including, August 5 (five school months not counting June.) For bargaining unit members serving at schools on modernization calendars, June and July shall not be considered part of the five-month calculation, but the remaining ten months will be part of the calculation.

After the exhaustion of accumulated and current year sick leave, a unit member if eligible may be entitled to catastrophic leave which if granted shall be coordinated with the ~~five-month~~ five school month leave to allow for no more than full pay. The actual amount a unit member receives may also include the group salary protection as set out in 51.4 of this agreement which provides for 75% pay for a period of one year from the date 100% pay stops.

A unit member is entitled to only one ~~five-month~~ five school month period for an illness or accident, but may use the entire ~~five-month~~ five school month period, even if it bridges fiscal years. **No unit member may access more than one five school month period in any school year not including the remaining portion of a five school month period bridged from the prior school year.**

After the exhaustion of all available leaves, provided that the unit member is still medically unable to return, the unit member will be placed on a 24-month reemployment list if probationary or a 39-month reemployment list if permanent.

- 15.3 An employee reporting illness as the reason for absence may be notified that a doctor's certificate may be required for any future absences where the District suspects there is an abuse of this provision.
- 15.4 **Any employee may access and review** ~~A listing of their~~ unused earned full-salary sick leave **and personal necessity leave shall be through an online database.** ~~sent to each employee once during each school year.~~ An employee may also request a written report of the information described in this paragraph.
- 15.5 Any employee who is employed for a full school year and maintains perfect attendance without use of any sick leave of absence as specified in this Agreement shall earn and receive one (1) additional sick leave day following the last day in each school year in which eligibility is established.

Donation to the Catastrophic Leave Bank will not be counted against perfect attendance qualifications.

- 15.6 The District shall require that the employee provide written verification by a physician of either the employee's incapacity and ability to return to work or the employee's family member's incapacity and need for care if the employee has been on sick leave for ten (10) or more consecutive days. The District shall require different written verification for an employee who has objections to the use of medical doctors.

CVESD Counter Proposal
May 16, 2016

ARTICLE 22. FAMILY CARE LEAVE

- 22.1 It is the intent of this provision to be consistent with the Federal Family Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.) and, the California Family Rights Act of 1991, as amended October 5, 1993 (Government Code Section 12945.2) and California Education Code Section 44977.5. It shall be interpreted so that there are no violations of State or Federal Law.
- 22.2 ~~A total of up to fourteen workweeks of unpaid Family Care Leave, with District paid health benefits for up to three (3) months will be available.~~ Eligibility for leave and compensation shall be consistent with the requirements stated in the respective laws above.
- 22.3 Upon termination of such ~~unpaid~~ leave, the unit member shall be returned to the position he/she held prior to the leave.

CVESD Proposal
June 2, 2016

ARTICLE 33. TRANSFER

33.1 **Definition.** A **transfer** is defined as a change of school or administrative location.

33.2 **Employee Initiated Transfers—Requests for Transfer for the Coming School Year.** (Nurse assignment procedures are in Appendix E)

33.2.1 **Posting List of Possible Vacancies.** No later than April 15 each year, the District shall ~~post on the staff bulletin board of each school site~~ **publish on the District website**, a list of known possible vacancies which may occur the coming school year.

33.2.2 **Once employees who need to be placed due to staff reductions, returning from leaves of absence, and administrative transfers are assigned to positions on the list of possible vacancies noted in 33.2.1, the remaining and future vacancies will be posted on the District website.** ~~No later than May 1, employees may file requests for transfer to positions listed on the posted list of vacancies. All transfer requests received after May 1 will also be considered subject to available vacancies.~~ **Employees who desire a transfer for a specific posting and are not currently on an E-1 Recommendation for Improvement, may complete a transfer application and narrative and submit via instructions outlined on the posting.** Approval by the Superintendent or designee shall be based upon the following criteria:

- a. The transfer of an employee will result in the best educational program;
- b. The employee holds a required California credential;
- c. The employee meets the qualifications of the adopted job description;
- d. The employee meets the specifications indicated for a particular vacancy **and is recommended by the interview panel to the site administrator who makes the final decision. The panel will consist of, at minimum, site administrator, teacher representatives, a parent and a classified employee.**

33.2.3 When more than one employee applies for the same position, the employee with the longest span of service within the school District will be transferred provided only that the employee meets the qualifications

and specifications stated in the posting. criteria described in 33.2.2, a – d above. Team or left employees may submit recommendations regarding District drafted qualifications and specifications.

~~33.2.4~~ Transfer requests to vacancies shall be given first consideration prior to assignments on a nontransfer basis.

~~33.2.5~~ Employees who wish to be considered for vacancies which occur in the summer must notify the Human Resources Office in writing no later than June 15 and must keep the Human Resources Office informed of a current summer address where they may be reached.

~~33.2.6~~ After June 1, a request to withdraw a previously approved transfer shall be granted only if, in the judgment of the District, such approval of withdrawal will not disrupt the normal functioning of the District.

33.2.7 If a voluntary transfer request is denied **employee is not selected for the posted position for which they applied**, the employee shall, upon written request by the employee, be provided the reasons for denial in writing within two weeks following the employee's request.

33.2.8 All bargaining unit vacancies intended to be filled by the District, will be posted on one specific, fixed day of a week to be identified by Human Resources at the beginning of the school year. **the District website as vacancies occur.**

~~33.2.9~~ **Notification of Transfers**

~~a.~~ When a transfer is approved, the employee and immediate supervisor(s) concerned will be notified in writing of the new assignment. In addition, when a position is filled, all applicants interviewed shall be notified in writing within ten (10) days as to who has been chosen.

~~b.~~ Employees who are to be transferred will be notified by June 1, except when unforeseen circumstances prevent such timely notification.

33.3 **Requests for Transfer During the School Year**

33.3.1 Copies of all notices of vacancies shall be posted on staff bulletin boards as soon as possible following the publication date of such notice. Such posting will allow compliance with section 33.3.2 below. After reassignments are made within a school facility, all remaining positions

~~shall be posted.~~ **As vacancies occur during the school year, they will be posted on the District website.**

- 33.3.2 ~~Application for transfer to vacancies posted during the school year shall be made within four (4) working days of the date of the posting of the vacancy.~~ **Employees who desire a transfer for a specific posting may complete a transfer application and narrative and submit via instructions outlined on the posting.**
- 33.3.3 Nothing in this Article shall prevent an employee from requesting a transfer.
- 33.3.4 Approval by the Superintendent or designee shall be based upon the following criteria:
- a. The transfer of an employee will result in the best educational program;
 - b. The employee holds a required California credential;
 - c. The employee meets the qualifications of the adopted job description;
 - d. The employee meets the specifications indicated for a particular vacancy **and is recommended by the interview panel to the site administrator who makes the final decision. The panel will consist of, at minimum, site administrator, teacher representatives, a parent and a classified employee;**
 - e. ~~Approval of the transfer does not restrict the District in complying with State and/or Federal mandates regarding affirmative action.~~
- 33.3.5 When more than one employee applies for the same position, the employee with the longest span of service within the school District will be transferred provided only that the employee meets the qualifications and specifications stated in the posting **criteria described in 33.3.4, a – d above.** Team or left employees may submit recommendations regarding District drafted qualifications and specifications.
- 33.3.6 ~~Transfer requests to vacancies shall be given first consideration prior to assignments on a nontransfer basis.~~
- 33.3.7 If a voluntary transfer request is denied **employee is not selected for the posted position for which they applied,** the employee shall, upon written request, be provided the reasons for the denial.

33.4 District Initiated Transfers

33.4.1 Transfers for the Coming School Year

- a. The immediate supervisor may file a written request by April ~~30~~ 10 for the transfer of an employee when he or she believes that the best interest of the students, the District, and then the employee will be served by the change in assignments for that particular employee. Any change from the April ~~30~~ 10 deadline must be approved by the Superintendent. In cases of Federal and/or State mandates necessitating transfers, the District may consult with the Association to attempt to work out a solution satisfactory to the parties.
- b. Before any requests for administrative transfer are acted upon, the employee must be advised through a personal interview of the reason(s) why an administrative transfer is being recommended. Prior to such interview, the employee shall be informed of the forthcoming interview.
- c. An employee has the right to representation.
- d. A list of open positions in the District will be made available to all employees being transferred under these conditions. When a choice of positions is possible, employees may indicate an order of preference for consideration.
- e. Administrative transfers shall not replace proper evaluation procedures; however, the District and the Association recognize the Administrative transfer as an alternative that can have a positive effect on the educational program.
- f. An employee transferred under section 33.4.1 shall, upon written request, be provided the reasons for such transfer in writing.
- g. When a transfer is approved, the employee and immediate supervisor(s) concerned will be notified in writing of the new assignment.
- h. Employees who are to be transferred will be notified by June 1, except when unforeseen circumstances prevent such timely notification.

33.4.2 Transfers During the School Year

- a. Employees may need to be transferred due to staff reductions which occur as a result of, but not limited to, reduction in enrollment, the change in capacity or closing of a facility, to comply with the District's affirmative action plan, or the needs and efficient operation of the District. In cases of Federal and/or State mandates necessitating transfers, the District may consult with the Association to attempt to work out a solution satisfactory to the parties.
- b. District criteria for selecting the employee to be transferred shall be based upon the following:
 - (1) Credential limitations and qualifications;
 - (2) Affirmative action program;
 - (3) Qualifications of the adopted job description and posted specifications.
- c. When two or more employees qualify with respect to the above-stated conditions, the employee with the shortest span of service within the District will be transferred. **However, the principal shall ask if any staff member is interested in volunteering to be transferred in place of the employee with the shortest span of service.**
- d. No employee may be transferred involuntarily more than once every two years unless justified by necessity.
- e. Advance notification will be given to the employee being transferred. Such notification will be given not less than five (5) school days immediately preceding the employee's day of detachment. The reasons for transfer shall be explained to the employee prior to the formal announcement of the transfer. The explanation shall be given in a personal conference by the employee's immediate supervisor.
- f. A minimum instruction-free duty time of at least one day for closing out and one additional day for preparation and orientation in the receiving school shall be allowed unless extenuating circumstances prevent such provision.
- g. The District will provide transportation and the labor to move the employee's materials to the new assignment.
- h. Physical facilities provided at the time of transfer are to be adequate to enable the employee to carry out his or her responsibilities.

- 33.5 Notwithstanding any other provision in this article, should a determination be made by the Superintendent that an involuntary administrative transfer is reasonably necessary, such transfer may be made by the Superintendent following a conference with the employee.
- 33.6 For purposes of Agreement, a reassignment is the change of an employee's grade level or general subject matter teaching responsibility within a school site. The District shall agree that when employees are reassigned it shall not be for arbitrary or capricious reasons and no employee shall be involuntarily reassigned twice in two (2) successive school years except for necessity. Necessity means that there is no other employee on the site who can be reassigned to accommodate District needs.

**CVESD COUNTER PROPOSAL
AUGUST 4, 2016**

ARTICLE 54. CATASTROPHIC LEAVE BANK

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54.1 Creation of Catastrophic Leave Bank

- 54.1.1 The District shall establish a Catastrophic Leave Bank effective July 1, 2000. The Catastrophic Leave Bank shall be funded in accordance with the terms of Article 54.2 below.
- 54.1.2 For the purposes of this section a "day" shall be any regular contract day a unit member is expected to be on duty as determined by the terms of this Agreement.
- 54.1.3 Days in the Catastrophic Leave Bank shall accumulate from year to year.
- 54.1.4 Days shall be contributed to the Bank and withdrawn from the Bank without regard to the daily rate of pay of the Catastrophic Leave Bank participant.

54.2 Eligibility and Contributions

- 54.2.1 All unit members on active duty with the district are eligible to contribute to the Catastrophic Leave Bank provided that the unit member has accrued no less than one (1) year's annual accrual of sick leave days after making the required annual contribution to the Bank. The amount shall be based on the unit member's current assignment at the time that the contribution is required.
- 54.2.2 Participation is voluntary, but requires contribution to the Bank as defined in 54.2.4. Only contributors will be permitted to withdraw from the Bank.
- 54.2.3 Contributions shall be made during the enrollment period between July 1 and the last duty day in October of each school year. Unit members returning from extended leave which included the enrollment period and new hires will be permitted to contribute within 30 calendar days of beginning work.
- 54.2.4 The annual rate of contribution by each participating unit member for each school year shall be one (1) day of sick leave which shall be deemed to equate to the legal minimum required by Education code Section 44043.5, up to a maximum of one-half (1/2) of the unit member's annual accrual. Unit members serving in part-time assignments shall also make a minimum annual contribution of a

least one (1) full day, which is the equivalent of seven (7) hours.

54.2.5 A unit member's eligibility for the Bank terminates automatically if she/he fails to make the required annual contribution.

54.2.6 The Association and the District shall meet prior to June 30 of each school year to consider the appropriateness of a waiver of the annual donation requirement for current members of the Bank, based on the total number of days accrued in the Bank and the expected utilization of those days.

54.3 **Withdrawal from the Bank**

54.3.1 Catastrophic Leave Bank participants whose accrued sick leave is exhausted may request a withdrawal from the Bank for catastrophic illness or injury. Catastrophic illness or injury shall be defined as any illness or injury that incapacitates a unit member for an extended period of time, **or that incapacitates a member of the employee's family, which incapacity requires the employee to take time off from work for an extended period of time to care for that family member,** as defined, in Education Code 44043.5(1). This definition does not include workers compensation related injuries or illnesses. **A "family member" shall be defined as the employee's parent, child, spouse and domestic partner.**

54.3.2 Unit members must use all accrued sick leave available to them as defined in Article 15.1, but not differential leave as defined in Article 15.2, before eligible for a withdrawal from the Bank. **Additionally, personal necessity leave need not be exhausted before making a request to withdrawal from the Catastrophic Leave Bank.**

54.3.3 If a unit member is incapacitated; applications may be submitted by the participant's agent or member of the unit member's family.

54.3.4 Withdrawals from the Catastrophic Leave Bank shall be granted in units of no more than twenty duty days. Unit members may submit a request for an extension of a withdrawal for one (1) additional twenty-duty day allotment for each catastrophic illness or injury. **Catastrophic leave days not used by the unit member shall be returned to the catastrophic leave bank.**

54.3.5 If a reoccurrence of the same illness or injury incapacitates a unit member, a request for withdrawal may be made if the unit member has returned to work for at least ninety consecutive duty days.

54.3.6 Participants in the Bank shall make requests for withdrawal of days

~~to the Human Resources Services and Support Division~~ **to CVE** and will be required to submit a doctor's statement indicating the nature of the illness or injury and the probable length of absence from work. **If the request for withdrawal is based on the illness or injury of a family member, the doctor's statement shall also indicate the need of the family member to receive care.** The request shall be considered by an administrative designee of the ~~Human Resources Services and Support Division~~ and a decision rendered within ten (10) working days of receipt of the request. **Participants shall submit the Request for Withdrawal form and doctor's statement to the Human Resources Services and Support Division or Payroll Division. The Human Resources Services and Support Division or Payroll Division will verify that the unit member has contributed to the Catastrophic Leave Bank such that he or she is potentially eligible for withdrawal. The Human Resources Services and Support Division or Payroll Division will also determine if the unit member has made a previous withdrawal. Then the request will be sent to the CVE President or his or her designee for approval or disapproval. The request shall be considered and a decision rendered within ten (10) working days of receipt of the request.**

- 54.3.7 In the event that the request is approved, the unit member making the request and the President of the Association **the Human Resources Services and Support Division** shall be notified in writing of the approval, including the number of days to be withdrawn.
- 54.3.8 In the event that the request is denied, the unit member making the request, and the President of the Association, **and the Human Resources Services and Support Division** shall be notified in writing of the denial. The unit member may appeal the denial to a review committee consisting of one (1) District representative and two (2) Association representatives. The ~~Human Resources Services and Support Division~~ and the designated review committee must come to a majority decision and shall keep information regarding the nature of the illness or injury confidential. The decision of the review committee shall be reported in writing to the unit member within ten (10) duty days of receipt. This decision shall be final and not subject to the grievance process of the Agreement.
- 54.3.9 If the Catastrophic Leave Bank does not have sufficient days to fund a withdrawal request, the District is under no obligation to provide days. In such event, the District and the Association shall meet to consider a request of voluntary donations, as defined in 54.2.4, from the current participants for the purpose of

replenishing the Bank. If a request is denied because of insufficient days to fund the request, the request may be reconsidered by Human Resources Services and Support Division at such time as sufficient donated days are available.

54.3.10 Approved withdrawals shall become effective immediately upon the exhaustion of the unit member's accrued sick leave.

54.3.11 The Association agrees to reimburse all District legal fees and costs incurred in defending the District, members of the Board, and/or agents of the Board, against any court action and/or administrative action challenging the legality of the catastrophic leave program and any decisions made related to a unit member's request for catastrophic leave pursuant to the procedures described above.

54.4 Administration of the Bank

54.4.1 The Human Resources Services and Support Division shall have the responsibility of maintaining the records of the Catastrophic Leave Bank.

54.4.2 The Human Resources Services and Support Division shall provide application forms for contributions to unit members annually.

54.4.3 Representatives of the District shall meet with representatives of the Association no later than November 30 of each school year to provide the following information:

54.4.3.1 The total number of accumulated days contributed by unit member for the current year.

54.4.3.2 The names of participation unit members.

54.4.4 If the Catastrophic Leave Bank is terminated for any reason, the days remaining in the Catastrophic Leave Bank shall be returned to the then current members of the Bank proportionately