2020-21 Math Dtistrict Common Assessm f 575.76 609.12 0.481 0.48 re f 36 584.64 0.48 24.48 re f 17

Performance

Average of 2021 DCA Math Interim 1

Results by English Proficiency

Results Summary

Overall Average PARTICIPATION RATE:	51%	Overall Average PERCENT CORRECT:	48%
Percentage point increase (decrease) in participation rate from prior period:	+1 percentage point	Percentage point increase (decrease) in percent correct from prior period:	-4 percentage points
Student Groups exceeding average participation rate:	English Learner English Only	Student Groups exceeding average percent correct:	English Only Initially Fluent English Proficient
Student Groups with highest participation rates:	English Learner – 52% English Only – 53%	Student Groups with highest percent correct:	English Only – 50% Initially Fluent English Proficient – 59%

Performance

Average of 2021 DCA Math Interim 1 Percent Correct Max	2021 DCA Math Interim 1 Percent Correct	Prior Percent Correct Unfinished Learning Interims	Change in Percent Correct
English Proficiency			
English Learner	40%	42%	-2
English Only	50%	54%	-4
Initially Fluent English Proficient (IFEP)	59%	59%	1
Redesignated Fluent English Proficient	46%	51%	-6
To Be Determined	42%	53%	-11

Results by Special Education Services Received

Results Summary

Overall Average PARTICIPATION RATE	51%	Overall Average PERCENT CORRECT	48%
Percentage point increase (decrease) in participation rate from prior period:	+1 percentage point	Percentage point increase (decrease) in percent correct from prior period:	-4 percentage points
Student Groups exceeding average participation rate:	Not Receiving Special Ed		

Results by Socioeconomic Status

Results Summary

Overall Average PARTICIPATION RATE	51%	Overall Average PERCENT CORRECT	48%
Percentage point increase (decrease) in participation rate from prior period:	+1 percentage point	Percentage point increase (decrease) in percent correct from prior period:	-4 percentage points
Student Groups exceeding average participation rate:	Not Socioeconomically Disadvantaged		

Results by School Site

	Total Student Count	Tested on Math Interim 1	Tested on Math Unfinished Learning (Fall)	Average of 2021 DCA Math Interim 1 Percent Correct Max	Prior Percent Correct

Leonardo da Vinci K - 8 School	810	44%	46%		51	65
Luther Burbank HS	1297	0%	0%			
Mark Twain Elementary	260	81%	89%		42	51
Martin Luther King Jr Elementary	349	45%	28%		37	40
Matsuyama Elementary	522	89%	87%		61	68
New Joseph Bonnheim Charter	296	81%	68%		42	47
New Tech High	137	18%	0%		38	
Nicholas Elementary	574	60%	38%		36	41
O W Erlewine Elementary	274	82%	81%		56	56
Oak Ridge Elementary	494	48%	64%		34	41
Pacific Elementary	690	10%	0%		41	53
Parkway Elementary School	513	79%	66%		43	44
Peter Burnett Elementary	422	82%	37%		46	44

2020-21	6HSWHPEHU	2FWREHU	1RYHPEHU	HFHPEHU	-DQXDU\	)HEUXDU\	0DUFK	$SULO	0D\	-XQH	NOTES:
Kinder	**Sept 10 - Oct 9** 3KRQRORJLFDO$ZDUHQHVV 6NLOOV 6FUHHQHU 3$66 6HFWLRQV &RUH 3KRQLFV 6XUYH\ &25(6HFWLRQV $ %										
					3KRQRORJLFDO$ZDUHQHVV 6NLOOV 6FUHHQHU 3$66 6HFWLRQV QRW PDVWHUHG &RUH 3KRQLFV 6XUYH\ &25(6HFWLRQV). XQOHVV LQGLFDWHG WR DVVHVV RWKHU VHFWLRQV +LJK)UHTXHQF\ :RUGV						

Oct 12 - Dec 18

0DWK LQWHUP ,QVSHFW ,QWHUP $VVHVVPHQW ZLWK PRGLILFDWLRQV WR PDWFK WKH VV.0913T 0 FW (DVVHVV DQG RU UHDVVHVV) Tj ET 0 0 0 rg BT 0 Tr /Font3 13.0 Tf 1.0 0 0 -1.0 1375.0 135.88623 Tm 0 0 Td (Z K H Q Q H H G H G) Tj ET 0 0 (

~~Jan 11 - Feb 26~~

2020-21	6HSWHPEHU	2FWREHU	1RYHPEHU	HFHPEHU	-DQXDU\	)HEUXDU\	0DUFK	$SULO	0D\	-XQH	NOTES:
7th - 12th	IURP SUHYLRXV JUDGH OHYHO	**Oct 12 - Dec 18** 0DWK LQWHULP ,QVSHFW ,QWHULP $V			**Jan 4 - Mar 26** 0DWK LQWHULP ,QVSHFW ,QWH ZLWK PRGLILFDWLRQV WR PD					**June 1-17** ,0 0DWK DQG &RP (2&(IRU ,0 3ODFHPHQ YLD ,OOXI 7FKU VFR RSHQ WDV	HQWHUHG LQWR EHIRUH WKH FOI ZLQGRZ
						8th and 9th grade 36$7 7HVWLQJ :LQGRZ $SULO					
						10th grade 36$7 7HVWLQJ :LQGRZ $SULO					
							11th grade 6$7 $SULO DQG $SULO				

CALIFORNIA DEPARTMENT OF EDUCATION
Investigation Report
Case S-0297-20/21

Public Agency

3. The educational rights holder provided the District with the signed June 1, 2020, assessment plan on June 26, 2020. Evidence for this finding is based on the June 1, 2020, assessment plan, signed in consent on June 26, 2020.

4. From May 29

Evidence of required corrective actions or questions regarding corrective actions shall be directed to:

Donna DeMartini , Education Administrator I
Focused Monitoring and Technical Assistance Unit Two
California Department of Education
1430 N Street, Suite 2401
Sacramento, CA 95814
916-445-4632 Phone
916-327-0326 Fax

Table 1 -Grade levels Currently Assessed

Assessment	Grade Level Assessed							
	EK/K	1	2	3	4	5	6	7

ELPAC Results

ELA Results by Grade Span

Results Summary

Overall Average

Performance

Average of 2021 ELA Interim 2 Percent Correct Max	Grade Level	2021 DCA ELA Interim 2 Percent Correct	Prior Percent Correct - Unfinished Learning Interims	Change in Percent Correct
Grade Span				

Results by Reported Race

Results Summary

Overall Average PARTICIPATION RATE	49%	Overall Average PERCENT CORRECT	54%
Percentage point increase (decrease) in participation rate from prior period:	-3 percentage points	Percentage point increase (decrease) in percent correct from prior period:	+2 percentage points
Student Groups exceeding average participation rate:	Asian Two or More White	Student Groups exceeding average percent correct:	Asian Two or More White
Student Groups with highest participation rates:	Asian – 56% Two or More – 50% White – 52%	Student Groups with highest percent correct:	Asian – 56% Two or More – 60% White – 65%
Student Groups making greatest improvements in participation rates from prior period:	None of the groups showed a positive increase in their participation rate.	Student Groups making greatest improvements in percent correct from prior period:	White – +4 percentage points

Participation

ELA Participation Rates, Interim 2 2020-21	Tested on ELA Interim 2		Not Tested on ELA Interim 2		Total Student Count	Prior Participation Rate- Unfinished Learning Interims	Change in Participation Rate
Reported Race	%	Student Count	%	Student Count			
American Indian or Alaska Native	42%	66	58%	90	156	46%	-3
Asian	56%	3053	44%	2393	5446	59%	-3
Black or African American	41%	1538	59%	2243	3781	44%	-4
Hispanic	47%	5659	53%	6442	12101	50%	-4
Native Hawaiian or							

Performance

Average of 2021 DCA ELA Interim 2 Percent Correct Max	2021 DCA ELA Interim 2 Percent Correct	Prior Percent CorrectUnfinished Learning Interims	Change in Percent Correct

Results by English Proficiency

Results Summary

Overall Average PARTICIPATION RATE	49%	Overall Average PERCENT CORRECT	54%
Percentage point increase (decrease) in participation rate from prior period:	-3 percentage points	Percentage point increase (decrease) in percent correct from prior period:	+2 percentage points
Student Groups exceeding average participation rate:	Initially Fluent English Proficient	Student Groups exceeding average percent correct:	English Only Initially Fluent English Proficient Redesignated Fluent English Proficient
Student Groups with highest participation rates:	Initially Fluent English Proficient– 51%	Student Groups with highest percent correct:	Initially Fluent English Proficient– 65% Redesignated Fluent English Proficient– 61%
Student Groups making greatest improvements in participation rates from prior period:	None of the groups showed a positive increase in their participation rate.	Student Groups making greatest improvements in percent correct from prior	

Performance

Average of 2021 DCA ELA Interim 2 Percent Correct Max	2021 DCA ELA Interim 2 Percent Correct	Prior Percent Correct - Unfinished Learning Interims	Change in Percent Correct
English Proficiency			
English Learner	40%	40%	0
English Only	56%	54%	2
Initially Fluent English Proficient (IFEP)	65%	61%	4
Redesignated Fluent English Proficier	61%	56%	5
To Be Determined	N < 11		

Results by Special Education Services Received

Results Summary

Overall Average PARTICIPATION RATE	49%	Overall Average PERCENT CORRECT	54%
Percentage point increase (decrease) in participation rate from prior period:	-3 percentage points	Percentage point increase (decrease) in percent correct from prior period:	+2 percentage points
Student Groups exceeding average participation rate:	Not Receiving Special Ed	Student Groups exceeding average percent correct:	Not Receiving Special Ed
Student Groups with highest participation rates:	Not Receiving Special Ed – 50%	Student Groups with highest percent correct:	Not Receiving Special Ed – 55%
Student Groups making greatest improvements in participation rates from prior period:	None of the groups showed a positive increase in their participation rate.	Student Groups making greatest improvements in percent correct from prior period:	Not Receiving Special Ed – +14 percentage points

Participation

ELA Participation Rates, Interim 2 2020-21	Tested on ELA Interim 2	Not Tested on ELA Interim 2	Total Student Count	Prior Participation Rate- Unfinished Learning Interims	Change in Participation Rate

Results by Socioeconomic Status

Results Summary

Overall Average PARTICIPATION RATE	49%	Overall Average PERCENT CORRECT	54%
Percentage point increase (decrease) in participation rate from prior period:	-3 percentage points	Percentage point increase (decrease) in percent correct from prior period:	+2 percentage points
Student Groups exceeding			

Results by School Site

	Total Student Count	Tested on ELA Interim 2	Tested on Unfinished Learning (Fall)	Average of 2021 DCA ELA Interim 2 Percent Correct Max	Prior Percent Correct - Unfinished Learning Interims
School Name (20-21 ABC)					
A M Winn Elementary K-8 Waldorf	287	0%	0%	0%	0%
Abraham Lincoln El	371	66%	80%	48%	48%
Albert Einstein MS	633	38%	0%	57%	0%

Leonardo da Vinci K - 8 School	616	11%

GRIEVANCE ARBITRATION PURSUANT

TO THE PARTIES COLLECTIVE BARGAINING AGREEMENT

In the Matter of a Controversy Between

SACRAMENTO CITY TEACHERS ASSOCIATION, CTA/NEA,
Grievant

and

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT,
Employer

Testing MOU; AAA Case No. 01-20-0000-2531

Arbitrator

Carol A. Vendrillo, Esq.

January 11, 2021

Appearances:

For the Association:

John Borsos
Sacramento City Teachers Association
5300 Elvas Avenue
Sacramento, CA 95819

For the District:

Steve Ngo
Courtney de Groof
Lozano Smith
2001 North Main Street, Suite 500
Walnut Creek, CA 94596

INTRODUCTION

The Sacramento City Teachers Association filed a grievance on September 16, 2019, alleging that the Sacramento City Unified School District violated a testing memorandum of understanding signed by the parties on November 30, 2016, when it unilaterally implemented a schedule of district-wide student assessments and rejected the Association's offer to use the expedited dispute resolution process outlined in the testing MOU.

An evidentiary hearing was conducted by the undersigned Arbitrator on July 30, July 31, August 10, September 4, October 6, October 7, and October 8, 2020. The parties introduced documentary evidence; witnesses were called to provide sworn testimony during both direct and cross-examination. Verbatim transcripts of the hearings were prepared by a court reporter. On December 14, 2020, the parties filed closing briefs and the matter was deemed submitted.

ISSUE

The central issue in dispute is as follows:

Did the District violate the testing memorandum of understanding in September 2019 when it unilaterally announced a schedule of student assessments? If so, what is the appropriate remedy?

FACTUAL SUMMARY [1]

In October 2016, the parties began negotiations for a successor collective bargaining agreement. Among the Association's opening bargaining proposals was one that sought to reduce or eliminate what it believed to be unnecessary testing. At a bargaining session on November 14, 2016, the District's chief negotiator, Scott

[1] A more detailed recitation of the facts appears below in the Discussion section of this decision.

Holbrook, resisted efforts by Association Executive Director John Borsos to discuss the testing proposal as part of the successor talks. Mr. Borsos insisted it was a proper subject to be discussed at the bargaining table. By all accounts, the terms of the testing were negotiated by Mr. Borsos and Ted Appel, then Assistant Superintendent of Labor Relations. The two exchanged numerous proposals. On November 30, 2016, agreement on the testing MOU was reached and was signed by then-Superintendent Jose Banda and Association officers David Fisher and Nikki Milevsky.

As the parties continued to bargain over a successor agreement, the Association prepared negotiation status reports. These indicated that the parties had tentatively agreed to the testing MOU.

The parties reached agreement on a successor agreement. It was ratified by the Board of Education on December 7, 2017. The parties dispute what terms were made part of the agreement ratified by the Board. Specifically, they disagree whether the testing MOU was adopted by the Board. The document shared with and ratified by Association members included the testing MOU.

Under the terms of the testing MOU, the parties convened an assessment committee. It began meeting in January 2017. Committee members continued to meet and agreed to the administration of certain student assessments.

In November 2018, Superintendent Jorge Aguilar announced his intention to administer a schedule of assessments for the 2018-2019 school year. Again in August 2019, Superintendent Aguilar announced testing for the 2019-20 school year. The Association objected to the scheduled assessments. On Sept. 3, 2019,

b. The fact-finding panel will engage in an informal mediation process to resolve the issue. There will not be formal presentations or briefs, unless mutually agreed upon. The mediation process shall last no longer than forty-eight (48) hours, unless there is agreement to extend the time period. If, at the expiration of the mediation process, no agreement is reached, the Association and the District will each submit its final position. The neutral fact-finder will decide between the two positions, which shall be final and binding.

4. Opt out information for parents will be posted on the district web site. Alternative learning opportunities and resources will be provided for those students who opt out. No teacher shall be required both to administer the required test and to provide the alternative learning opportunities for students who opt out of standardized testing.
5. The District and the Association also mutually agree that monitoring student progress in individual classrooms, across grade levels or subject, at site and district levels may be valuable instruments to monitor student progress and may provide information useful to teacher reflection and planning as well as for student feedback.
6. The District agrees to limit the current District-developed Benchmark to the period from November 7th to December 6th only. Any future District-wide assessment and/or other process for monitoring student progress will be jointly developed and mutually agreed according to the provisions of this agreement.

7. Teachers who grade the benchmark that require additional work beyond their regular workday will be compensated for the additional time spent grading the benchmark. Thursday collaborative time will not be used to grade or otherwise administer benchmarks unless agreed to by the teachers at the work site.
8. To design a comprehensive and balanced system for monitoring student progress, the District and the Association will form a committee, consisting of representatives designated by the Association and representatives designated by the District to develop processes for monitoring student progress and to advise sites and teachers regarding additional local assessment strategies. Decision shall be by consensus between the two parties, except for those areas covered by Paragraphs 2 and 3 of this agreement, which shall apply.
9. The Committee will commence no later than the week of January 9th. Once the committee determines the content, structure and nature of the best processes for monitoring student progress, mutually agreed upon dates may be determined for implementation of any state or federal assessment described in Paragraph 3 above that apply for the 2016-2017 school year.

PARTIES POSITIONS

The Association's position: The testing MOU did not expire after the 2016-2017 school year. It remains in full force and effect. The parties have entered into several other MOUs that have been enforced using the contractual grievance procedure.

The record also references numerous instances after the 2016-2017 school year when the District acted contrary to an understanding that the testing MOU had expired. For example, Matt Turkie, Assistant Superintendent of Curriculum and Instruction, said that in 2019, the District wanted a yes or no answer from the Association about an assessment it wanted to administer so the District could use the fast-tracked dispute resolution process of the MOU (RT 1508-1509 [Turkie]). In January 2019, Dr. Iris Taylor, Chief Academic Officer, offered dates for the assessment committee to meet (Union Exhibit BBBBB). In fact, the assessment committee met on January 15, 2019 (Union Exhibit IIII, p. 770). Two days later, on January 17, 2019, Dr. Taylor and Mr. Turkie made a power point presentation to the Board of Education that included a discussion of the testing MOU (Union Exhibits QQQQ and RRRR).

In no written correspondence sent by Superintendent Aguilar prior to September 3, 2019, did he suggest that the testing MOU had expired (Union Exhibit BBBBB). His communication with Mr. Fisher on November 13, 2018, repeatedly refers to the testing MOU and, at the time he wrote the memo to Mr. Fisher, he believed there to be an existing MOU (RT 93-95 [Aguilar]; Union Exhibit LLLL).

Finally, Superintendent Aguilar testified he changed his mind and began to view the testing MOU as expired toward the end of the 2018-2019 school year (RT 94-96; 157-158 [Aguilar]). However, neither the Level I response to the grievance nor the Level II response to the grievance drafted by Nancy McArn, Chief Human Resources Officer, made any assertion that the testing MOU had expired (Union Exhibits LLLLL and NNNNN).

Taken together, the evidence does not support the District's assertion that the testing MOU expired at the end of the 2016-2017 school year.

Board did not approve the testing MOU as part of the collective bargaining agreement. In anticipation of successor negotiations, the Association drafted and widely circulated a brochure that set out a blueprint for revitalizing the Sacramento City Unified School District (Union Exhibit C). One of its goals was to eliminate what it perceived to be unnecessary testing as the primary indicator of student achievement (Union Exhibit C, p. 20). It was apparent that the Association intended to bring this issue to the bargaining table (RT 228-228 [Appel]; RT 783-784 [McArn]; RT 877 [Fisher]).

In August and September 2016, Mr. Turkie notified Mr. Fisher that the District wanted to implement a series of benchmarks. Mr. Fisher told Mr. Turkie the Association was going to bring the testing issue to the bargaining table (Union Exhibit B; RT 877-878 [Fisher]). On October 17, 2016, the Association sunshined a proposal calling for the reduction in standardized testing (Union Exhibit J; RT 302-303 [Milevsky]). The topic was discussed at the bargaining table on October 17, 2016 (Union Exhibit J; RT 303 [Milevsky]; RT 601 [Appel]; RT 780 [McArn]; RT 1047-1049 [Borsos]). The issue of benchmarks was discussed at a bargaining session on November 9, 2016 (Union Exhibits G, H, and I).

The record also includes a flurry of emails between Mr. Appel and Mr. Borsos on November 10, 2016. The subject of these emails was referred to as the assessment proposal or the testing proposal. Mr. Borsos and Mr. Appel exchanged drafts that would form the basis for the assessment agreement (Union Exhibits K, L, M, N, O, P,

and R). Mr. Appel testified that during these exchanges with Mr. Borsos, they did not discuss whether the testing MOU would be part of the contract (RT 682 [Appel]).

At the bargaining table on November 14, 2016, Mr. Borsos asked Mr. Holbrook where the parties stood with regard to the drafts he and Mr. Appel had been exchanging. Mr. Holbrook said that the benchmark proposal was separate from the successor agreement talks (Union Exhibit W). In his testimony, Mr. Holbrook said the assessment issue was unrelated to the contract and the District was open to discussing it at the table (RT 1135-36 [Holbrook]).

Mr. Appel also testified that the testing MOU was separate from the successor negotiations. He said it was a stand alone agreement that was not part of the contract (RT 677; 1098 [Appel]). Mr. Appel said the testing MOU came out of a separate process (RT 681 [Appel]). Mr. Appel said that he and Mr. Borsos never had a conversation about whether the testing MOU was part of the contract (RT 1098 [Appel]).

Mr. Borsos, on the other hand, testified that he did not consider Mr. Holbrook's remarks at the November 14, 2016 bargaining session controlling. Mr. Borsos said Mr. Holbrook objected to a number of matters that were raised at the bargaining table that ended up becoming part of the contract going forward (RT 1061-1062, 1073 [Borsos]).

Away from the table and prior to a bargaining session later that day, the parties signed off on the testing MOU on November 30, 2016 (Joint Exhibit 1). It was signed by Ms. Milevsky and Mr. Fisher for the Association and by Mr. Appel and then-Superintendent Banda for the District.

Based on events up to that point, the testing MOU was not part of the ongoing successor negotiations at the bargaining table. In fact, after the November 14, 2016

bargaining session, the issue of testing was not discussed at the table by the bargaining teams. The terms had been hammered out by Mr. Borsos for the Association and Mr. Appel for the District. The MOU became effective immediately because both sides wanted to utilize the process right away and did not want to wait until agreement was reached on all outstanding issues raised in the successor talks. In that regard, it was intended to become operational independent of the collective bargaining agreement.

On December 8, 2016, soon after the testing MOU was signed, Ms. Milevsky appeared before the Board of Education. She did not identify the MOU as part of the collective bargaining agreement. (Union Exhibits RR and SS; RT 292, 532-534 [Milevsky]). Similarly, when then-Superintendent Banda announced the testing MOU had been signed, he did not indicate it was folded into the collective bargaining agreement. (Union Exhibit PP). In the Association's newsletter on December 1, 2016, when it informed its members the testing MOU had been signed, it was not included as part of the bargaining update, but was separately listed under the heading of The Benchmark Agreement. (Union Exhibits OO.) The Association's newsletter in December 2017 seeking teacher input on a benchmark survey did not refer to the testing MOU as part of the contract (Union Exhibit GGG).

These facts further support the conclusion that the testing MOU was thought of by the parties as distinct from their collective bargaining agreement.

In asserting the testing MOU is part of the successor contract, the Association points to the negotiation status reports that repeatedly indicated the testing MOU had been tentatively agreed to. (Union Exhibits RRR, WWW, YYY). It is true, as the Association asserts, that the District never challenged this characterization of the testing

MOU (RT 659-

Board and did not ask for a copy of the document voted on (RT 1083-1084 [Borsos]). None of this establishes that the document approved by the Board included the testing MOU. And again, one would expect Association leadership to have examined the tentative agreements gathered by Ms. Nguyen to be presented to the Board to ensure the testing MOU was among them.

After the Board vote, Ms. McArn sent an email to District principals and did not mention the Board's approval of the testing MOU (RT 1099-1102 [Appel]). It was not discussed by Superintendent Aguilar when he met with District principals. Mr. Appel's summary made no mention of the testing MOU (District Exhibit 12; RT 1099-1102 [Appel]). These documents generated after the Board's action continued to treat the testing MOU as [illegible]

Testing MOU is legally enforceable. As explained above, the testing MOU was not negotiated as part of the successor contract talks. It was a stand-alone agreement reached away from the bargaining table. Nor was the testing MOU included in the packet

language, adherence to the terms of the testing MOU does not facially affront constitutional [illegible]

The District also claims the testing MOU divests the Board of its policy making authority. This is a specious argument. The testing MOU was signed by then-Superintendent Banda for the District and as Ms. Arn testified, the superintendent is authorized to sign an MOU on behalf of the District (RT 771, 800 [Arn]).

The District argues that the testing MOU is unenforceable because it is contrary to Education Code Section 17604. This argument too is unavailing. That section provides that when the power to enter into a contract is invested to the governing board, that power may be delegated to the district superintendent. Here, the testing MOU was signed by then-Superintendent Banda with the Board's awareness.

Additionally, the record does not establish the testing MOU required Board approval. No hard and fast rules as to when Board approval is necessary emerge from the

There is a past practice of using the collective bargaining agreement to enforce terms of the parties' memoranda of understanding. (RT 371-372)

requires the untenable conclusion that the parties engaged in a deliberate effort to craft the terms of an agreement that neither could enforce.

Grievance was timely filed. On April 24, 2019, Superintendent Aguilar announced plans to implement certain tests (Union Exhibit BBBBB). When those tests were implemented, the Association did not file a grievance because it had agreed to the administration of those assessments in the past (RT 928-929, 973-978 [Fisher]; Union Exhibit WWWW). On August 5, 2019, Superintendent Aguilar said the District was moving ahead with assessments. He did not announce that the testing MOU was no longer in effect and the Association did not file a grievance. Only after Superintendent Aguilar announced on September 3, 2019 that the MOU was no longer in effect did the Association file a grievance. That complies with the 30-day time limit set out in Article 4.2.4 of the contract.

In May 2017, the parties reached agreement on a Math I placement exam (Union Exhibit MMM). Again, Superintendent Aguilar was not aware of this agreement (RT 76 [Aguilar]).

In November 2017, the parties agreed to conduct a survey to solicit teachers input on District-wide student assessments concerning GATE, English Language Learner Reclassification, English Language Arts and math tests (Union Exhibit HHHH). In February 2018, the parties agreed to additional student assessments that would be used to inform English Language Learner Redesignation and GATE identification (Union Exhibit IIII). This evidence shows a buy-in by both parties to work on garnering agreements over student assessments.

The record reflects that from August until the middle of November 2018, the District did not seek to discuss student assessments with the Association (RT 1531-1532 [Turkie]).

Following that meeting, Mr. Borsos spoke directly with OCR staff and had conversations with Dr. Taylor and Ms. Kari Hanson-Smith about OCR compliance (RT 1632-1633 [Borsos]). Mr. Turkie testified he was unaware of any request from the District to reconvene the assessment committee between February 27, 2019 and September 3, 2019 (RT 1494-1495 [Turkie]).

On April 24, 2019, Superintendent Aguilar, without seeking to reconvene the committee, notified the Association that the District would be moving forward with math placement tests and GATE identification assessments. On May 14, 2019, Mr. Fisher confirmed with Dr. Taylor that these assessments had been given for the past three years (RT 928-929 [Fisher]). Learning that, the Association voiced no objection to the administration of these tests.

The parties did not communicate between May 2019 and August 2019. In a letter dated August 5, 2019, Superintendent Aguilar announced the District's intention to administer student formative and interim assessments during the 2019-2020 school year; attached to the letter was a list of those assessments (Union Exhibit XXXX). Superintendent Aguilar made no request to reconvene the committee prior to announcing the planned assessments. On August 8, 2019, Mr. Fisher reminded Superintendent Aguilar of the testing MOU and demanded that the District follow the process outlined in that agreement (Union Exhibit YYYY).

On August 27, 2019, the Association learned the District was moving forward with the student assessments outlined in Superintendent Aguilar's letter. On August 28, 2019, the Association made the new Chief Academic Officer Christine Beata aware of the testing MOU (Union Exhibit AAAAA).

assessments to monitor student progress, and to utilize the expedited dispute resolution procedure outlined in the MOU should agreement prove unattainable despite good faith and timely efforts by both sides.

CONCLUSION

For the reasons expressed above, the grievance filed by the Sacramento City Teachers Association is GRANTED.

Dated: January 11, 2021

/s/ _____
CAROL A. VENDRILLO, ESQ.
Arbitrator