

STATE OF CONNECTICUT
STATE DEPARTMENT OF EDUCATION

IN THE MATTER OF THE
INTEREST ARBITRATION
BETWEEN:

: Hearing Dates: September 19, 2012; October 12,
2012; October 13, 2012; October 14, 2012

NORWALK BOARD OF EDUCATION : Close of Hearings: October 14, 2012

-AND-

:

NORWALK FEDERATION OF
TEACHERS, LOCAL 1723, AFT,
AFL-CIO

: Award Date: November 3, 2012

Appearances:

For the Norwalk Board of Education – Shipman & Goodwin LLP

For the Norwalk Federation of Teachers – Ferguson, Doyle & Chester, P.C.

For the Fiscal Authority – Thomas S. Hamilton, City of Norwalk Director of Finance

Arbitration Panel
Richard H. Kosinski, Chairman,
Representative of the Interests of the
Public in General
John Romanow, Representative of
the Interests of Local and Regional
Boards of Education
John Gesmonde, Representative of
the Interests of Exclusive Bargaining
Representatives of Certified
Employees

DECISION AND AWARD

I. NATURE OF THE PROCEEDINGS

The Norwalk Board of Education (Board) and the Norwalk Federation of Teachers, Local 1723, AFT, AFL-CIO (Federation), are parties to a collective bargaining agreement (the Agreement) for the period from September 1, 2010 through August 31, 2013. In their negotiations for a successor Agreement, the parties exchanged proposals on July 19, 2012. The parties met 3 times for direct negotiations. Thereafter, the parties met with mutually agreed mediator J. Larry Foy on 2 occasions but failed to resolve outstanding issues.

This mature collective bargaining relationship has been in effect for over 60 years. Despite that fact, 66 issues have been presented to this Panel for decision. A few issues have been resolved, but the parties remain in dispute over a wide range of issues. The Board filed a 70 page Brief and the Federation filed a 98 page Brief. The significant number of issues in dispute has put substantial pressure on the Panel to render an appropriate Award pursuant to the statutory factors within the nonwaivable 20 day statutory deadline after the close of hearings.

II. STATUTORY FACTORS

The arbitration Panel's authority, as stated in Connecticut General Statutes §10-153f(c)(4), is as follows:

The written decision shall include a narrative explaining the evaluation by the arbitrators or the single arbitrator of the evidence presented for each item upon which the decision was rendered by the arbitrators or the single arbitrator and shall state with particularity the basis for the decision as to each disputed issue and the manner in which the factors enumerated in this subdivision were considered in arriving at such decision, including, where applicable, the specific similar groups and conditions of employment presented for comparison and accepted by the arbitrators or single arbitrator and the reasons for such acceptance. . . . In arriving at a decision the arbitrators or single arbitrator shall give priority to the public interest and the financial capability of the town or towns in the school district, including consideration of other demands on the financial capability of the town or towns in the school district. In assessing the financial capability of the town or towns there shall be an irrebuttable presumption that a budget reserve of five percent or less is not available for payment of the cost of any item subject to arbitration under this chapter. The arbitrator or single arbitrators shall further consider, in light of such financial capability, the following factors: (A) The negotiations between the parties prior to arbitration, including the offers and range of discussion of the issues; (B) the interests and welfare of the employee group; (C) changes in the cost of living averaged over the preceding three years; (D) the existing conditions of employment of the employee group and those of similar groups; and (E) the salaries, fringe benefits, and other conditions of employment prevailing in the state labor market, including terms of recent contract settlements or awards in collective bargaining for other municipal employee organizations and developments in private sector wages and benefits. The parties shall submit to the arbitrators or single arbitrator their respective positions on each individual issue in dispute between them in the form of a last best offer. The arbitrators or single arbitrator shall resolve separately each individually disputed issue by accepting the last best offer thereon from either of the parties, and shall incorporate in a decision each such accepted individual last best offer and an explanation of how the total cost of all offers accepted was considered.

A. The public interest and financial capability of the City of Norwalk

Norwalk's 2010-2011 Strategic School Profile, compiled by the State of Connecticut Department of Education shows that 43.2% of Norwalk Public School students qualify for free or reduced price meals compared to the state average of 34.1%, and that 12.5% of Norwalk students are not fluent in English compared to the state average of 5.6%. 35.9% of Norwalk students come from

homes where English is not the primary language. Black students make up 21.5% of the Norwalk student population, while 36.4% of the student population is of Hispanic origin.

Norwalk students were below state averages in every subject throughout grades 3-8 on the Connecticut Mastery Test (CMT) except Grade 5 Science. Norwalk Grade 10 students were below state averages on the CAPT achievement test. In CAPT reading, 39.6% of Norwalk students met goal, while 44.7% of students statewide met goal (the higher state standard). In CAPT writing, 51.1% of Norwalk high school students met goal, while statewide 61.2% of students did so. In CAPT math, 34.7% of Norwalk students met goal, while 49.5% of students statewide did so. In CAPT science, 32.5% of Norwalk students met goal compared to 47% of students statewide. On SATs, Norwalk students scored lower than the state averages on math, critical reading and writing. 22.9% of school districts in the state scored lower than Norwalk on the math portion of the SAT, 19.8% of districts scored lower in critical reading and 24.4% of school districts scored lower on the writing portion of the test.

Norwalk has been identified as one of the low-performing school districts in the state, as measured by student achievement. As of April 15, 2011, 50% of Norwalk's third-graders were not reading at grade level, based on 5 years of CMT data. On April 19, 2012, the Brookings Institution identified the Bridgeport-Stamford-Norwalk area as having the largest achievement gap in all metropolitan areas studied in terms of test scores.

Governor Dannel P. Malloy's statewide education reform plan is designed to address the achievement gap. As a part of Governor Malloy's plan, Norwalk has been classified as an Alliance District, 1 of the 30 lowest-achieving school districts in the state. It is estimated that updating Norwalk curriculum will cost \$7,834,940 over three years.

The State Department of Education (SDE) has grouped Norwalk with other school districts. Norwalk is in District Reference Group (DRG) H. The State Department of Education uses 7 data indicators to classify districts, including socioeconomic status (median family income, parental education and parental occupation), three indicators of need (percentage of children living in families with a single parent, percentage of public school children eligible to receive free or reduced-price meals, and percentage of children whose families speak a language other than English at home) and enrollment (the number of students attending schools in that district). The most affluent and low-need districts are grouped in DRG A. The poorest and highest need districts are in DRG I.

In the Fiscal Year (FY) 2013 Board budget, 32 teaching positions were eliminated. 8 library aides were eliminated and library aide hours were cut. Housemasters and assistant principals saw their hours reduced. 6 literacy specialists were eliminated.

i. The City of Norwalk.

Median household income in Norwalk in 1999, 2007, 2009 and 2011 ranked 20/23 in Fairfield County. Thousands of residents of Connecticut and Norwalk have lost their jobs since 2008.

On September 28, 2012, Norwalk Director of Finance Thomas S. Hamilton prepared a Report on the City’s Financial Capability Relative to Collective Bargaining Agreements. The next several paragraphs are excerpted from his report.

U.S. Census data indicates that Norwalk’s median monthly owner cost (with mortgage) is \$2,728 compared to the statewide average of \$2,068, or 32% more than the state average. In 2011, the median household income in Norwalk was \$77,327 compared to the statewide median household income of \$70,705.

The “Net Equalized Grand List Per Capita,” which is driven by property values, is a major determinant of State Education Cost Sharing (ECS) aid. Table 10 is a comparison of ECS aid for the towns of DRG H. Municipalities are referred to herein as towns, regardless of size.

¹Table 10 – ECS Aid Comparison

	FY 2012 ECS	Populatio	Student	Per Capita	ECS Aid
Norwalk	\$10,095,131	85,603	10,856	\$118	\$930
Ansonia	\$15,031,668	19,249	2,725	\$781	\$5,516
Danbury	\$22,857,956	80,893	10,175	\$283	\$2,246
Derby	\$6,865,689	12,902	1,449	\$532	\$4,738
East Hartford	\$41,710,817	51,252	7,242	\$814	\$5,760
Meriden	\$53,783,711	60,868	8,361	\$884	\$6,433
Norwich	\$32,316,543	40,493	3,871	\$798	\$8,348
Stamford	\$7,978,877	122,643	15,036	\$65	\$531
West Haven	\$41,399,303	55,564	6,234	\$745	\$6,641

Table 11 is self-explanatory.

²Table 11 – ECS Aid Comparison with Selected Wealthier Communities

¹ Connecticut Department of Education website, Bureau of Grants Management

² Connecticut Department of Education website, Bureau of Grants Management CT Economic Resource Center Inc, Town Profile 2012.

		Median	10/2009		
Norwalk	\$10,095,131	\$77,327	10.856	\$118	\$930
Cheshire	\$9,298,837	\$111,416	4.947	\$320	\$1,880
Milford	\$10,728,519	\$78,738	7.129	\$192	\$1,505
Southington	\$19,839,108	\$79,840	6.797	\$470	\$2,919
West Hartford	\$16,076,120	\$82,412	10.184	\$254	\$1,579

93% of Norwalk’s education budget is funded from local Norwalk taxpayers, while other DRG H communities contribute, on average, 74% of the cost of public education in their respective communities. The 74% figure is affected by Norwalk and Stamford because 3 of the towns in DRG H contribute less than 50% of the cost of education through taxes.

According to Hamilton, “The June, 2012 Zillow Home Value Index indicates that for the 12 months ending June 2012, Norwalk home values declined by 11.7% to \$314,500. This 11.7% decline was the worst reported in Fairfield County, and out of Connecticut’s 169 municipalities, it was the 13th worst performance statewide.” The commercial property at 535 Connecticut Avenue, Norwalk, CT, sold for \$25,600,000 in 2006 and \$11,000,000 in January, 2012.

In FY06, the City collected over \$6.5 million from real estate conveyance taxes; in FY12, collections were \$2.2 million. The City has lost 18% in annual assessments due after tax appeals between 2011 and 2012. Town Clerk recording fees were \$771,951 in FY06 and \$392,385 in FY12. Interest income was \$5,394,854 in FY07 and \$1,004,262 in FY12. Intergovernmental revenues were 17% of total city revenues in FY91 and 5.6% in FY12.

In FY10, Norwalk per pupil spending was \$15,727. The City eliminated 24 full-time, non-public safety positions in FY10, representing 7% of its civilian workforce. In FY11, all City employees took a wage freeze, with many bargaining groups reopening their contracts in order to do so.

As of July 2011, the City had an unfunded liability of \$35.9 million in its pension plans. It is projected that, over a five-year period, Norwalk’s Annual Required Contribution will have increased by \$8.1 million, or 387%.

Norwalk had nearly \$100 million in pension fund losses in 2008 that must be made up through increased employer contributions, and unfunded Other Post-Employment Benefits (OPEB) liabilities of \$213.5 million, which will require the City to contribute approximately \$18.5 million yearly in order to properly fund them.

In 2012, the Director of Finance proposed a 4.1% tax levy increase and a 3.8% mill rate increase for FY13. The proposal was rejected by the Norwalk Common Council in a bipartisan vote. Cuts resulted.

ii. The Board of Education.

Total budget increases over 4 years were 4.85%. The Board has presented additional budgetary

information which the Panel has considered.

Moody's Investors Service, in its rating for the Norwalk 2012 general obligations bond issue, states:

The Aaa rating reflects the City's healthy financial position supported by comprehensive fiscal policies, conservative management practices, sound fund balance levels as well as a manageable debt position. The rating further considers the city's strategically-positioned local economy and stable sizeable tax base with potential growth opportunities from ongoing redevelopment efforts.

Moody's also states that "Norwalk's Aaa rating is due in part to Moody's determination that Norwalk has no indirect linkages to the weakened credit profile of the U.S. Government." Moody's also states that Norwalk's strengths include effective financial management during the economic downturn, budget reserves that continue to provide a sound cushion and a substantial tax base with above average wealth indices. Moody's further states: "Norwalk's financial position is expected to remain sound given the city's comprehensive fiscal planning and oversight as well as the maintenance of reserves in line with targeted levels. According to city policy, unassigned General Fund balance is to be maintained between 5% and 10% of operating revenues" Moody's notes that in fiscal 2011, the general fund balance was at 10.4% of revenues with 9.7% unassigned. Moody's also indicates:

As fiscal 2012 draws to a close, the city anticipates a slight draw on reserves due to the application of fiscal 2011 encumbrances. Ending total General Fund balance is projected at \$30.6 million or 10.1% of revenues of which \$28.7 million or 9.5% of revenues is projected to be unassigned.

According to Moody's "as of July 1, 2011 the city's pension plans remained well funded" The analysis goes on to say that Norwalk's sizeable tax base remains stable and that its debt position is expected to remain manageable.

For the same bond issue, Standard and Poor's Rating Services assigned Norwalk an AAA long-term rating. The rating, according to Standard and Poor's, reflects its view of Norwalk's deep, diverse economic base and ongoing mixed-use development, location near and access to regional employment centers throughout the southwest Connecticut and New York City metropolitan areas, strong income levels and an extremely strong property base, strong financial position afforded primarily by reliable property taxes (with no appreciable funding interdependence with the federal government), coupled with strong management policies and practices, and a moderate-to-low debt burden, net of self-supporting enterprise funds. Standard and Poor's goes on to say, "The City is reporting an overall fund balance of \$30.5 million or roughly 10% of expenditures, which we consider strong."

Hamilton creates and publishes on behalf of the City of Norwalk a Comprehensive Annual Financial Report (CAFR). According to Hamilton in the FY11 CAFR, "Per capita income in the county remains among the highest in the nation." The City is a significant commercial,

industrial and service center. It has developed a tourist market centered on its harbor, islands, National Registry Mansions, Museums and a Maritime Aquarium comprised of nautical museum, aquarium and IMAX Theatre. Hamilton states, "Norwalk has not been immune to the impact of the recession of 2008. . . . However, since property tax revenues comprise about 90% of Norwalk's total revenue and property re-evaluation takes place only once every five years in Connecticut, Norwalk has better insulated from the most detrimental impacts of the recession."

The CAFR references several large projects currently underway or recently completed, including the 33,000 square foot (sf) innovation center for Pepperidge Farm Corporation. In addition to the innovation center, Pepperidge Farm's 100,000 sf corporate headquarters bring valuable new research and development facilities to the City. The City also began collecting tax on 597 Westport Avenue, a newly-constructed 235 unit luxury housing development completed in 2010. Also well underway is Avalon Connecticut, a 311 unit of multi-family housing and 15,000 sf of new retail space. Summerview Square, a new 45 unit multi-family development located at Jefferson and West Main Streets, has completed two of its four phases and is ready to break ground on its last phase of an additional 32 units. The development has transformed this neighborhood of older historic homes with new vitality and is expected to be completed this summer. The CAFR also indicates construction on Norwalk Hospital's new 628 space parking garage is complete and the Hospital is currently in the process of developing a 92,600 sf addition to add a new state of the arts out-patient facility on the hospital campus. Construction is also underway at Maplewood at Strawberry Hill a project to convert the former Fitch School on Strawberry into an 84 unit congregate housing facility.

In addition to the above, the ongoing development of i-Park, the former Perkin Elmer site at Main Avenue, owned by National RE/Sources, continued in 2011. L.A. Fitness received approval for a 12,000 sf addition to its 48,000 sf health club and plans to break ground early next year. The City has expedited permitting while ensuring that infrastructure improvements needed to accommodate new development and mitigate any adverse impacts are provided. A second health club facility, a new Crunch health club recently opened on 770 Connecticut Avenue and also in development is the proposed 180 child day-care center, which is expected to open next year.

According to the Redevelopment Agency, as of June of 2012, new mixed use development is in process at Waypointe, a 1.3 million sf mixed use development; 20 North Water, with 107 multi-family dwelling units; 99 Washington Street, a mixed use development with 52 dwelling units, 3200 sf restaurant and 4750 sf office space; Chestnut Street Mixed Use/Rehab, a 24,745 sf mixed use development; Wall Street Place, a 66,275 sf retail & restaurant and 374 residential units; The Berkley, a 150,000 sf mixed use development with office, retail & residential; District 95-7 with multiple phases that include 1.14 million sf mixed use development; Hillside Plaza LLC, a conversion to mixed use retail, restaurant, office & multifamily, construction of which was completed in the Spring 2012.

In retail and service development, the Norwalk Inn & Conference Center was completed in Summer 2012 with a third-floor addition with 37 new rooms and 7 rooms in an historic structure; Hotel Zero, a new 96 room hotel with a 4,000 sf restaurant; CVS, construction to start in the Fall

2012; i-Park, a conversion from office to medical offices & a 48,000 sf LA Fitness Health Club; Stew Leonard's, a 20,000 sf addition to the retail store; Dolce Norwalk Center, expanded use of the conference center to allow celebratory events, that construction completed in 2010; SoNo Hotel, a new 121 room hotel; SoNo Fieldhouse, a new 51,000 sf indoor commercial recreational facility; Georgetown Subaru, construction completed; SoNo Ice House, reuse of existing building for ice rink facility.

In office and manufacturing, in addition to the Pepperidge Farm, there is a new conversion at 346 Main Avenue of a 38,000 sf building to medical offices; American Cancer Society, a new 13,000 sf office building; Norden Park; 110 Richards Avenue, a 17,000 sf office addition to existing building; Norwalk Cove Marina, a new 11,000 sf high bay boat storage building; Wusthof-Trident of America, a new 45,000 sf warehouse; 24 East Avenue, a new 11,000 sf medical office and 2 residential units; Merritt River Partners, a new 82,700 sf office building; King Industries, a new 27,000 sf office, lab and research building.

In housing development, Maplewood at Strawberry Hill; Avalon Bay; Pepperidge Farms; Summerview Place; Avalon East Norwalk, 244 multifamily units; 349 Main Street, 6 residential units and 4,000 sf retail; 1 West Avenue; 25 Bouton Street, a 12 unit multifamily development; Silvermine Homes, a 10 unit conservation development, plans approved Spring 2010; 22 Oakwood Avenue, 11 multifamily units; Oyster Bend/Greyrock Companies, 36 units with a marina, construction completion scheduled Fall 2012.

In schools, museums & community facilities, Norwalk Hospital; Winston Trek/Clover Hill School, a new 12,000 sf building at a private high school; Stepping Stones Museum for Children addition; Elderhouse addition to existing structure; Connecticut Friends School, a private K-8 school, construction scheduled Fall 2011; St. George Greek Church, a 21,000 sf community center; Shorehaven Golf Course, a maintenance facility expansion, construction completed Fall 2012.

In public, there is a new 32,000 sf fire station and headquarters; wastewater treatment plant was expanded and upgraded, construction underway Summer 2012; North Water Street Extension to West Avenue was completed in 2010; Norwalk River Valley Linear Trail phase III planning underway; Route 7/Merritt Parkway Interchange construction scheduled Fall 2012.

The Federation presented additional economic information, including Norwalk's June 2012 unemployment rate of 6.7%, which the Panel has considered.

B. The negotiations between the parties prior to arbitration including the offers and range of discussions of the issues

Prior to these proceedings, negotiations between the parties were very contentious.

C. Interests and welfare of the employee group

In the words of current Board member Michael Lyons, negotiations which resulted in the current contract had “an extremely good outcome. . . . There will be a 1.35% general wage increase in year 1; a 1.36% increase in year 2; and a 1.37% in year 3. . . . The switch over from the PPO to the HSA will take effect in January. It will save \$2M a year for each of the three years of the contract, in addition to having the potential to save them close to \$1M next year, partially in this year’s budget.” Lyons, at the time that he made those statements, was on the Norwalk Board of Estimate and Taxation (BET). The BET indicated that the contract was revenue neutral.

In support of their positions on the issue of wage increases, medical benefits and general working conditions, the parties have submitted collective bargaining agreements, as well as information concerning changes in wages for teachers in the state, which will be discussed specifically in the appropriate sections.

D. Changes in the cost of living averaged over the preceding 3 years

The best evidence on this factor was presented by the Federation in the form of an excerpt from a United States Bureau of Labor Statistics document stating the Consumer Price Index – All Urban Consumers for the Northeast urban area. That document covered the period from January 2010 to August 2012, during which the index rose from 232.294 to 246.252, or 6%. The changes in the annual cost of living averaged over that period were, therefore, 2.32%.

E. The existing conditions of employment of the employee group and those of similar groups

The Board uses as a comparison group of Fairfield County school districts. The Federation uses as comparison groups Southern Fairfield County, DRG H and urban school districts. The comparison between Norwalk teachers and the teachers in those towns and in the state generally will be discussed regarding each issue in dispute. A review of the wealth comparisons among the comparison groups is discussed in detail in the economic issues.

F. Salary, fringe benefits and other conditions of employment prevailing in the state labor market including the terms of recent contract settlements or awards in collective bargaining for other municipal employee organizations and development in the private sector wages and benefits

In support of their positions on the issue of wage increases, medical benefits and general working conditions, the parties have submitted collective bargaining agreements, as well as information concerning changes in wages for teachers in the state, which will be discussed specifically in the appropriate sections.

III. FINDINGS AND CONCLUSIONS

This decision is the result of the Panel having carefully considered all of the statutory factors outlined above. Said factors as were relevant were applied to each disputed issue. Each item of evidence may be considered to have applied to all relevant issues even if it is not specifically discussed in the analysis of a particular issue.

A. ISSUES IN DISPUTE:

Issues 1 and 1A, Article IV, Section 6: Subsidy for Federation President

Currently, the Federation must reimburse the Board for 60% of the President's salary when the President is on full-release. The current contract language also requires the Board to pay full benefits to the Federation President. The Federation has the right to elect to release the President from all teaching duties.

In these proceedings, the Federation is proposing to increase the Federation's portion for partial release to 65% of wages, while retaining 100% of health benefits for the released Federation President in the event that the Federation does not elect full release. The Board is proposing to decrease the amount of a partial release to a 50/50 split. With regard to the full release option, the Board is proposing to eliminate any subsidy for the fully released President, requiring the Federation to pay 100% of the President's salary and fringe benefits at the group rate. The Federation's last best offer (LBO) on full release is to increase the portion paid by the Federation to 65% of salary and fringe benefits in 2013-2014 (Issue 1) and for September 1, 2014 increase the Federation portion to 70% and on September 1, 2015 increase the Federation portion to 75% (Issue 1A). The Board's last best offer on Issue 1A is that no such language shall appear in the Agreement.

Any subsidy of the Federation President is not appropriately the financial responsibility of the Board. A person who works full time for the Federation should not receive any salary or benefits from the Board. Union dues, not public funds, should go to pay the benefits and salary of a Federation President. The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Board's LBO on Issues 1 and 1A.

Issue 2, Article IX, Section 4: Family illness leave

In its Brief, the Federation stated it had no objection to the Panel awarding the last best offer on this issue to the Board.

Issues 3A, Article X, Section 1(a): Plan Design; 3B, Article Section 1(a): HSA eligibility (ex-spouse benefit); 4, Article X, Section 1(d): Premium cost sharing 2013-2014; 4A-Premium Cost Sharing 2014-2015; 4B-Premium Cost Sharing 2015-2016; 6-Article X, Section 6-Change of Carrier; 32A, Appendix A4-Plan Design; 32B, Appendix A4-Non-Standard Benefits; 33A, Appendix A4-Deductible Amount; 33B, Deductible Amount; 33C, Deductible Amount; 34-Out of Network Co-Insurance Percentage; 35-Co-Insurance Maximum; 35A, Appendix A4-Co-Insurance Maximum Effective January 1, 2016; 36A-Board Contribution to Deductible Amount 2013-2014; 36B-Board Contribution to Deductible Amount 2014-2015; 36C-Board Contribution to Deductible Amount 2015-2016

On August 1, 2012, the Board brought its insurance consultant, Robert Lindberg, to negotiations to explain its initial proposals with respect to insurance changes. He explained that the changes "will offset the 10% [trend] increase while being cognizant of the cost to members for 2012,

2015, and 2016 and in anticipation of the national health insurance reform.” After he finished his explanation, the Federation did not have any questions for him.

The Federation claims that the total amount of savings proposed by it approximates \$2,852,365.80 over the three-year collective bargaining agreement proposed. It further claims that the plan as designed provides over \$2 million dollars in specific, delineated changes to the medical plan. In support of its claims, the Federation offered a one page document prepared by its insurance consultant, Dr Joseph Fields. The document was entered into evidence during the hearing as a stand-alone document. There were no underlying documents to support the claimed savings.

The High Deductible Health Savings Account plan in effect has an annual duration beginning January 1st and ending on December 31st each year. On January 1, 2014, Federation proposes increasing employee cost share by 1% for a claimed savings of \$176,362. The Federation also proposes on January 1, 2014 (Issue 36B) that the Board contribution to the deductible amount will be reduced to 65%, a 10% cost shift from the Board to the individual employees in the HD HSA, for a claimed savings of \$228,450. On January 1, 2014, the Federation is proposing to increase the out-of-pocket payment limits which are currently \$2,400/individual, \$4,800/family to \$3,000/individual, \$6,000/family for an additional claimed savings of \$35,272.40. On January 1, 2015, the Federation is proposing an additional 1% increase in cost share for an additional claimed savings of \$176,362. Also on January 1, 2015, the Federation is proposing to drop the Board contribution to the deductible amount to 60% for an additional claimed savings of \$114,225. Finally on January 1, 2016, the Federation is proposing an increase to the HSA deductibles from \$1,500/\$3,000 to \$2,000/\$4,000 for a claimed savings of \$881,810. By going to a \$2,000/\$4,000, the OOP maximum out-of-pocket will go from \$4,000 an individual to \$8,000 an individual.

The Federation also proposes (Issues 3A and 32A) that, effective January 1, 2014, the Board shall provide all individual employees and family coverage in a split-funded or insured Aetna High Deductible/Health Savings Account. Under this change, according to the testimony of Dr. Fields, the Board would save an additional \$818,028.24. The Federation claims that its last best offer on Issue 3A would save the Board an additional \$421,856.16 because all remaining PPO members would, by the addition of that language, be required to be in the High Deductible Plan. The Board’s last best offer is to continue in the Anthem Blue Cross/Blue Shield HD-HSA Plan.

As to Issue 3B, the Board is proposing that “Any practice of providing ex-spouses with insurance coverage at Board expense shall terminate effective September 1, 2013. However, to the extent such may be required by divorce decree in full force and effect prior to September 1, 2013, the employee may cover said ex-spouse by paying for the same at the applicable COBRA rate.” The Federation’s last best offer provides as follows. “An ex-spouse shall be covered with the Health Insurance coverage when the divorce decree requires such Health Insurance coverage. Employees currently receiving this benefit shall be grandfathered. Effective September 1, 2013, this eligibility shall not apply to other bargaining unit members not grandfathered.”

No other contract in Fairfield County offers such a benefit to its employees. Spouse is defined in

the plan document to include ex-spouses. The plan document provides that benefits can also be provided to “[t]he Dependent child under the age of 25 of the Covered Person or spouse” The Federation’s proposal extinguishes the benefit in a humane way that protects the 5 to 10 individuals who are currently enjoying the benefit

With regard to cost sharing, the Board proposes to go to 13% effective on September 1, 2013, the first day of the contract and it proposes to increase the employee’s contribution by 2 percentage points in each of the next two years of the new contract. The Federation’s last best offer is no increase in the first year, with a 1% increase in each of the next two years of the contract. The Federation proposes its increases to be effective on January 1, 2014 and January 1, 2015, respectively, the first day of each plan year. (Issues 4A and 4B)

The average HD-HSA premium share in Southern Fairfield County is 14.125% in the current plan year and 15.16% in 2013-2014; the shares in other urban districts are 13.75% and 12.5%, respectively; the shares in DRG H are 11.75% and 11%, respectively.

The Federation is raising a technical issue concerning the implementation of Board last best offers on premium cost-sharing, the claim apparently being that premium shares cannot change in the middle of a plan year. There is no merit to and no authority for that proposition. The premium cost share issue is the subject of an agreement between the parties herein and any carrier is not a party to that agreement.

Because of the Panel’s awards as to Issues 26 and 27, it is not appropriate for the Panel to award a premium cost increase in the first year of the contract. The Panel also does not consider appropriate 2% increases for 2 years in a row.

As to Issue 6, the Board’s last best offer provides, “Change of carrier/third party administrator. The Board reserves the right to change the carrier/third party administrator for the benefits described in this Article and Appendix A-4 if the level of benefits and coverages is substantially equal to the current benefits and coverages. The Board agrees to provide the Federation a copy of any RFP it makes, and it shall additionally provide the Federation with all written responses. The Federation shall have fourteen days to comment on the responses before the Board makes a decision of whether to change the carrier/third party administrator. Networks shall be considered substantially equivalent if the disruption rate (of doctors comparing the networks) is ten percent or less.” The Federation’s last best offer provides as follows: “Change of carrier/third party administrator. The Board reserves the right to change the carrier/third party administrator for the benefits described in this article and Appendix A-4 if the level of benefits and coverages are substantially equal to the current benefits and coverages. The Board agrees to provide the Federation with a copy of any RFP it makes and it shall additionally provide the Federation with all written responses. Sixty (60) days prior to the implementation of the proposed change, the Board of Education shall provide the Federation information concerning access which shall not be less than a 92.5% network match and that all plan documents shall be provided to the Union for review. If the Union objects based upon the requirements containing herein, the Union shall have the right to arbitrate the issue prior to implementation.”

The Federation makes 3 claims about this issue. The first is that the Board's last best offer provides the Federation with only 14 days to comment on the responses before the Board makes a decision on whether to change carrier/third party administrator. That is not enough time for the Federation to digest and review a change of carrier/third party administrator for plans which generally run in excess of 100 pages. Secondly, the Board's language goes on to say that network shall be considered substantially equivalent if the disruption rate is 10% or less. This is below the standard of 92.5% network match which was testified to by Dr. Fields during the pendency of these proceedings. Thirdly, the change of carrier language proposed by the Board presents no meaningful right for the Union to dispute and arbitrate the issue where there is a dispute regarding benefits and coverages. After 14 days, under the Board's last best offer, the Board would have the right to implement the changes leaving the Federation with a change of carrier which may be significantly in violation of the parties' agreement and leave both parties in the unenviable position of back filling and re-establishing a former plan after the new plan was created. This is not the proper way to do this. The Federation should have adequate time to review and digest the changes in plan and an opportunity to properly point out discrepancies or mistakes and/or omissions in the plan put forth by the proposed carrier or third party beneficiary.

In Southern Fairfield County, 10 of the 13 contracts have language substantially requiring the Board on change of carrier to provide equal to or better benefits and coverages. In the urban comparison, 8 of 9 and in DRG H, 8 of 9 towns have similar language. Bethel, Brookfield, Easton and Ridgefield are the only towns in Fairfield County that have defined substantially equal by disruption percentage. None of these towns were over 90%. A number of contracts provide for significant notice prior to the change, including Greenwich and Sherman with a 60-day notice, Trumbull with a 30-day notice and Westport with a 30-day notice and opportunity to meet and discuss. In Fairfield County, only Danbury, Greenwich, Newtown, Sherman, Stamford, Stratford, and Westport provide language regarding the ability to arbitrate over a change of carrier, representing 7 of the 24 towns therein. Hartford has substantially better or equal to language with 60 days to review prior to implementation. In New Haven, the Board may request a re-opener; in Ansonia, the notice is 90 days and the issue is subject to binding arbitration; in Derby, the decision of whether new coverage is substantially equivalent or better may go to arbitration; in Norwich, the Union shall be provided 60 days prior notice and the issue shall be subject to arbitration; and in West Haven, the Federation shall have 45 days to review before implementation on the issue of equal to or better.

The Panel has issues with each last best offer. The Board's proposed review time is short. On the other hand, the Federation's proposal of the right to arbitrate prior to implementation could cause substantial delays in that implementation.

As to Issue 32B, the Board's last best offer sunsets benefits surrounding non-surgical temporomandibular joints (TMJ) on January 1, 2014. The teachers receive the benefit of almost every non-standard insurance option offered by Anthem. The Federation made no claim in its Brief about this issue.

As to Issues 33A, 33B, 33C, 34, 35, 35A, 36A, 36B and 36C, the Board is proposing to increase the deductible amount effective January 1, 2014 from \$1,500/\$3,000 to \$2,000/\$4,000 with the

Board covering 50% of the employees' deductible in each year of the contract. The Federation has offered no deductible change in the coming year from the current plan. The Federation also proposes to go to a \$2,000/\$4,000 deductible on January 1, 2016 and asks the Board to continue to cover 75% of that deductible. The Board on Issue 34 is also seeking to change the out-of-network co-insurance from 80%/20% to 70%/30%, while the Federation proposes maintaining an 80/20% split. Issues 35 and 35A concern maximum co-insurance out of pocket (OOP). The Federation's last best offer is to maintain maximum OOP at \$900/\$1,800 until January 1, 2014, when it proposes a maximum OOP of \$1,500/\$3,000; on January 1, 2015, it proposes a maximum OOP of \$2,000/\$4,000. The Board's last best offer on co-insurance maximum is \$3,000/\$6,000, effective January 1, 2014.

6 of the 15 communities that offer an HD-HSA in Fairfield County provide a \$1,500/\$3,000 deductible. With the exception of Norwalk, every district in Fairfield County contributes less than 75% toward their employees' deductibles, with 10 of the 15 funding 50%.

The Panel has balanced the interests of the parties on the insurance issues. The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Board's LBOs on Issues 3A, 4A, 6, 32A, 32B, 33B and 36C and the Federation's LBOs on Issues 3B, 4, 4B, 33A, 33C, 34, 35, 35A, 36A and 36B.

Issue 5, Article X, Section 1(e)(1): Imputed income avoidance

The Federation is proposing to add a new section to Article X concerning life insurance as follows: "e.(4) Employees, age 50 or over, may elect to decrease their term life insurance coverage to fifty thousand dollars (\$50,000) (or the indexed amount) IRS Standard for tax-advantaged coverage." The Board's last best offer is: "No such language." Currently and continuing in the agreed-to-language in these proceedings is Article X, Section e. Life Insurance 1, which states, "The Board shall provide 100% premium for \$150,000 term life insurance for each employee." The Federation, by its offer on Issue 5, seeks to allow employees at their election when attaining the age of 50 or over to decrease their term life insurance from \$150,000 annually to \$50,000. The purpose of this election is to allow employees to avoid paying Federal taxes on the advantage coverage which currently is \$50,000. The Federation's offer would have no cost to the Board because they would be purchasing a much lower amount for those employees who elect the reduced coverage. In Fairfield County, no other contract has a provision by which an employee has the right to decline life insurance. Some towns specify a minimum level of life insurance. Since there is no cost to the Board for providing this benefit to employees, the Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Federation's LBO on Issue 5.

Issues 7 and 8, Article XII, Sections 1 and 3, Standard for making and changing assignments

Article XII, Assignments, of the parties' current Collective Bargaining Agreement, which in some form or another, has been in the Agreement since 1967, states:

1. The best interest of students and the educational program are paramount in the

assignment and transfer of certificated personnel. Assignments shall be made after every reasonable effort has been made to meet the requests and preferences of certificated personnel. Assignments made would be changed only in the best interest of the school system.

The difference between the Federation and the Board on Issue 7, both of which are modifying the current contract, is that the Federation would continue to include in the contract an obligation by the Board that every reasonable effort be made with regard to this issue, whereas the Board is proposing to delete that language. Both parties have modified the word “meet” to consider. The parties both agree that assignments will be changed only in the best interest of the school system. Language similar to the current language is contained in 7 of 13 contracts in Southern Fairfield County, 5 of 9 contracts in the urban districts and 5 of 9 contracts in DRG H. Generally, Boards of Education agree that reasonable requests and desires, wishes and preferences of teachers will be met or considered with regard to the issue of assignment. The “every reasonable effort” language proposed by the Federation leaves room for potential grievances.

Issue 8 concerns Article XII, 3, of the parties’ Agreement, which states, “To the extent possible, changes in grade assignments in elementary schools, and in subject assignments in secondary schools shall be voluntary” The Board proposes to eliminate the language “shall be voluntary, and in any case” from the current contract language so that the contract would read: “To the extent possible, changes in grade assignment in elementary schools, and in subject assignments in secondary schools shall not be effected or announced without a prior personal conference at the commencement of which the reason(s) for the proposed change shall be provided to the individual teacher(s) involved. . . .” Changes in grade assignment in the elementary schools and subject assignment in the secondary schools will continue to be made in the best interests of the school system.

The Board presented no testimonial evidence that the current Agreement has caused them undue harm or in any way, affected the running of the school system, and the Board presented no testimony or documentary evidence establishing that this language has caused problems for the school district or that there were any grievances filed or necessitated by the continued implementation of this language. The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Board’s LBO on Issue 7 and the Federation’s LBO on Issue 8.

Issues 9, 10, 11, 19A-C, 22A-C, 37A-D, 38A-D, 39A-D: Stipends.

In its Brief, the Federation stated that it had accepted the last best offers of the Board on Issues 9, 19A, 22A, 37A, 38A and 39A. The Board’s last best offers will provide no increase on any stipends over the duration of the contract.

The final set of issues relating to wage increases are Issue 10, Stipend Increase for Class Coverage 2014-2015; Issue 11, Stipend Increase for Class Coverage 2015-2016; Issue 19B, Substitute Stipend 2014-2015 relating to administrative coverage; Issue 19C, Substitute Stipend 2015-2016 relating to administrative coverage; Issue 22B, Long-Term Substitute Salary 2014-

2015; Issue 22C, Long-Term Substitute Salary 2015-2016; Issue 37B, Appendix A6 Salary Schedule 2014-2015, Issue 37C, Appendix A6 Salary Schedule 2015-2016; Issue 37D, Appendix A6 Step Movement 2013-2014; Issue 38B, Extra Compensatory Stipend Schedule 2014-2015; Issue 38C, Extra Compensatory Stipend Schedule Appendix A7 2015-2016; Issue 38D, Step Movement Appendix A7 2013-2014; Issue 39B, Extra Compensatory Stipend Schedule Appendix A10 2014-2015; Issue 39C, Extra Compensatory Stipend Schedule (A-10) 2015-2016; Issue 39D, Appendix A10 Extra Compensatory Movement 2013-2014. For each of these sets of issues, the Federation, after accepting a freeze in the first year of Agreement, is seeking a 2% increase for each position in 2014-2015 and a 2% increase for every position or schedule in 2015-2016. The only other issues with regard to ancillary positions are whether or not there will be step movement in the first year of the contract. The Federation says “yes,” the Board says “no.”

The stipend in Norwalk for a football coach at the maximum step is the 2nd highest in Southern Fairfield County. Norwalk teachers at the maximum level can be paid over \$9,300 a year above their regular salary.

For all stipends, the Federation has accepted a 0% increase in the first year of the contract. As to Issues 38D and 39D, consistent with its decision on Issue 27, the Panel has determined that there will be no step movement in the first year. The Panel has further determined that another 0% is appropriate for the second year. Based on the double 0%, the Panel has also further determined that acceptance of the Federation’s LBOs for the third year is appropriate.

Issues 14, 15 and 16, Transfers

Issues 14, 15 and 16 relate to Article XIII, Transfers. Provisions related to said issues have been Agreement since 1967, 1974 and 2006, respectively.

The current language with regard to Issue 14 states:

The best interest of students in the educational program are paramount in the assignment and transfer of certificated personnel. Transfers shall be made after every reasonable effort has been made to meet the requests and preferences of the certificated personnel. Although the Board and the Federation recognize that some transfers of certificated personnel from one school to another is unavoidable; they also recognize that frequent transfers of certificated personnel is disruptive of the educational process and interferes with optimum teacher performance.

The differences between the Federation and the Board on Issue 14 are two. The Board would strike in the above paragraph, “every reasonable has been made” language before effectuating a transfer. Both parties are agreeing to change as a second modification the word “meet” to, in the case of the Federation, “consider” and in the case of the Board, “considering.” This is the same issue which the Panel considered in Issue 7.

Issue 15 concerns transfers after the beginning of the school year. The current Agreement states:

If there is a reason to believe that an involuntary transfer of a teacher after the opening of school may be required because of differences between projected and actual enrollment, the teacher shall be notified of this possibility in writing no less than ten (10) school days after the opening of school. The actual transfer, if deemed necessary, shall be effective no later than fifteen (15) school days following the opening of school.

The Federation is proposing to increase the notification period from 10 to 15 days and to increase the maximum transfer date from 15 to 20 days following the opening of school. The Board is proposing to delete this language from the Agreement. The potential for chaos which could be engendered by eliminating the current language is not in the best interest of students, parents and teachers.

As to Issue 16, the Federation proposes to continue language in the present Agreement which states, "The transfer list is active for positions that are vacant between June 15 and August 1. At all other times, vacancies are to be filled from the candidates who have applied for the positions." The Board's last best offer is to delete this language from the parties' Agreement.

In Fairfield County, Darien provides that in-district teachers desiring a transfer should be considered first, Greenwich provides that current employment in the Greenwich School System shall be a factor considered in the hiring process, and others require that in-district candidates be granted an interview. Language close to the Norwalk contract language is in the Stamford contract; however, that contract states that "[n]othing in this Article shall be construed to prevent the Board from considering other candidates for a position."

The purpose of the current language is to provide a period where current teachers would have a preference over outside candidates to voluntarily transfer. This is a short window which allows current employees to move to other positions in the system. By eliminating this language, the Board would be returning to the prior practice which was to give no preference to current teachers but to hire from outside the school system. After August 1, vacancies are filled from candidates who applied for the position. This is a minor preference for current employees which was voluntarily agreed to by the Board in 2006. It should not be removed from the Agreement.

The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Board's LBO on Issue 14 and the Federation's LBOs on Issues 15 and 16.

Issues 17A, 17B, 17C, 17D and 17F, Professional Meetings

The Board in Issues 17A-D is proposing to eliminate or modify the language that has been in the Agreement in its present form since the mid-70s. As to Issues 17A-D, the language has been in the Agreement since 1967, 1974, 1974 and 1989, respectively.

As to Issue 17A, the Federation is proposing to continue the language in the Agreement which states:

Teachers recognize that their responsibility to their students and their profession requires the performance of duties that involve time beyond the normal school day. Although Monday and Tuesday afternoons are reserved for meetings and in-service training, meetings affecting the same teacher shall not be scheduled for both days more than once a month. Attendance at parent conference is a professional obligation. Attendance at PTA meetings by teachers shall only be required at meetings which are concerned with curriculum and/or student progress.

The Board's last best offer on Issue 17A deletes the following language from Paragraph 1 of Article XVIII: "Although Monday and Tuesday afternoons are reserved for meetings and in-service training sessions, meetings affecting the same teacher shall not be scheduled for both days more than once a month."

In effect, the Board's last best offer on Issue 17A is to allow the Board to schedule as many meetings a month on any day that it wishes. Under the Board's last best offer, teachers outside their normal school day could be required at the unfettered discretion of the Board to work additional time.

Professional meetings on specific days language is contained in certain contracts in the comparison groups. Specifically noted is Bridgeport, which maintains by contract, Wednesday; Bristol, Wednesday; Danbury, Monday and Tuesday; East Hartford, Tuesday; Fairfield, Tuesday; New Haven, Monday; Norwalk, Monday and Tuesday; New Britain, Wednesday; and Westport, Monday.

The Federation proposes as its last best offer on Issue 17B to continue the current contract language which states:

Faculty meetings shall be limited to a maximum of two per month and shall normally be completed in 45 minutes but shall not exceed one hour. The faculty meeting shall begin 10 minutes after the dismissal of the last class of the day. City-wide department meetings shall be limited to two each semester and shall not be scheduled in the same week as other meetings involving the same teachers.

The Board's last best offer on Issue 17B is: "Faculty meetings shall generally begin 10 minutes after the dismissal of the last class of the day. City-wide department meetings shall be limited to two each semester and shall not be scheduled in the same week as other meetings involving the same teachers."

In Southern Fairfield County, 9 of 13 districts have a limitation on the maximum length of meetings and/or a limit on the number of meetings per month; in urban, 8 out of 9 districts have a length of meeting limit and, with the exception of 2 districts, each is an hour or less; in DRG H, 11 districts have a limit on the maximum length of meetings, with 1 group having a length of more than one hour.

Issue 17C concerns Article XVIII, Paragraph 3, Curriculum and In-Service Meetings. The

Federation's last best offer is the current language in the Agreement, which states: "Curriculum in-service meetings involving the same teacher shall be limited to one (1) per month, except during those months where there are five (5) Mondays or Tuesdays, two (2) in-service meetings may be held." The Board's last best offer is to delete this provision from the Agreement. By deleting the language of 17C, the Board would be able to require unlimited curriculum in-service meetings for Norwalk teachers. Under the Board's last best offer, teachers would be required without any notice any day of the week or number of times to work outside the normal workday.

As to 17D, the Federation's last best offer is the current language which provides that:

Once a month the same teachers may be asked to attend either an additional mini-faculty meeting or mini-curriculum in-service with the same restrictions as days of the week starting times and length of time as outlined in paragraphs one and three above. This meeting shall not occur on the day the bargaining unit holds its monthly general membership meeting.

The Board's last best offer is: "Once a month the same teacher may be asked to attend an additional mini-faculty, a mini-curriculum in-service meeting and/or a data team meeting. Such meetings shall not occur on the day the bargaining unit holds its monthly general membership meeting."

Under the Board's last best offer, teachers may be asked to attend all three meetings (mini-faculty, mini-curriculum in-service and data team). There are no restrictions on the days of the week, the starting time or the length of time. That means that the Board could start the meetings an hour or two hours after school, or require the teachers to come back at night to attend these meetings because the starting time could be any time and the amount of time that such meeting takes place would be up to the Board, so in effect, three times a month, every month, a teacher could be required to come back to school at 7:00 p.m. and remain until 10 or 11 o'clock to attend mini-faculty meetings, mini curriculum in-service meetings and/or a data team meeting.

The last issue concerning meetings (Issue 17F) relates to Article XX Paragraph 11, Professional Meetings. The Federation proposes that, "Effective September 1, 2013, during the weeks that elementary conferencing occurs there shall be no Wednesday morning meetings. This time shall be used for elementary conferencing." The Board proposes no such language. The Federation's last best offer eliminates elementary teachers' Wednesday morning meeting three times in November and three times in March to allow teachers additional time for parent teacher conferences. The offer concerns 1-1/2 hours in the Fall and Spring, respectively. The offer allows the opportunity to schedule more parent conferences at a time when translators are available to deal with non-English speaking parents. Parents' conferences are getting longer and more complex requiring teachers to spend not the original 10 minutes per conference, but more often 15 or 20 minutes per conference. This would allow for more time for these expanded conferences and provide additional time early in the day for parents who are not available after school or on that one evening in Fall or Spring set aside for parent conferencing. Teachers will continue to perform teacher/parent conferences outside their normal workday and outside the two hours set aside for the evening meeting in the Fall and the Spring.

The Board's proposals on Issues 17B-D place a significant burden upon teachers that the Board has failed to justify by the presentation of substantial evidence. The Federation's proposal on Issue 17F has not been justified by the presentation of substantial evidence. The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Board's LBOs on Issues 17A and 17F, and the Federation's LBOs on Issues 17B, 17C and 17D.

Issues 18A, 18B, 18C and 21: Class Size and ratios.

The Board has made 3 proposals to modify the language currently in the Agreement. Issues 18A, 18B and 18C will be discussed together since they all relate to class size. The Agreement concerning class size has existed since the 1967-1969 contract. The Federation is proposing to maintain current contract language. Issue 18A concerns the number of students in the classroom. The Federation's last best offer states:

The Federation and Board shall continue to consult to eliminate as rapidly as possible all instructional classes of heterogeneously grouped children in excess of twenty-two (22) students per class in grades K, 1, 2; twenty-four (24) in grades 3, 4, 5; and twenty-eight (28) students per class in the secondary level. These class size provisions shall not be applicable to magnet schools.

The Board's last best offer states:

The following guidelines shall prevail whenever feasible subject to the circumstances which exist regarding facilities and funding:

- twenty-two (22) students per class in grades K, 1, 2;
- twenty-four (24) students per class in grades 3, 4, 5;
- twenty-eight (28) students per class at the secondary level.

These class guidelines shall not be applicable to magnet schools.

The Federation's last best offer provides for actual class sizes. The Board's proposal states that the class size provisions are guidelines which shall prevail when feasible and are subject to the circumstances which exist regarding facilities and funding.

A paper authored in 1998 by Eric A. Hanushek, Professor of Economics and Public Policy and Director, W. Allen Wallis Institute of Political Economy, University of Rochester, entitled "The Evidence on Class Size," stated,

No topic in education has received the public and professional attention that class size has received. . . . Calls for reductions in class sizes are a rallying point for parents, teachers, and administrators across the nation, and politicians have rushed to claim credit for introducing policies aimed at reducing class sizes. The pupil-teacher ratio in a district is frequently used as the fundamental metric for quality, and comparisons across districts

become indices of equity. Yet, the surprising fact is that the enormous amount of research devoted to studying class size has failed to make a very convincing case that reducing class size is likely to improve student performance. It will increase costs dramatically, but performance is another matter.

Of the total of 377 available econometric studies of the determinants of student performance, 277 consider teacher-pupil ratios. . . . Fully 85% of the studies suggest either that fewer teachers per student are better (i.e., yield negative estimates) or that there is less confidence than usually required that there is any relationship at all (i.e., are statistically insignificant).

According to Professor Hanushek: “The econometric evidence is clear. There is little reason to believe that smaller class sizes systematically yield higher student achievement.” Hanushek noted that in Japan, class sizes are much larger than in the U.S., but “Japanese student performance is on average much better than U.S. student performance.”

Hanushek further stated:

It appears that the ultimate effect of any large-scale program to reduce class size will depend much more importantly on the quality of new teachers hired than on the effects of class size reductions per se. Variations in teacher quality have been shown to be extraordinarily important for student achievement, and the econometric studies providing such results indicate that these variations completely dominate any effects of altered class size.

A 1998 study in Connecticut found that reductions in class size from a base of 15 to 30 students had no effect on student achievement. It stated, “The estimates are precise enough to identify improvements in math, reading, or writing achievement of just 3/100ths of a standard deviation.” *The Effects of Class Size and Composition on Student Achievement – New Evidence from Natural Population Variation*, Caroline M. Hoxby, Department of Economics, Harvard University and NBER.

An article entitled, “Class Size: Counting Student Can Count,” published in 2003 by the American Education Research Association, stated, “The nationwide trend toward smaller classes was prompted by a class-size reduction experiment in Tennessee called the Student/Teacher Achievement Ratio or STAR (1985-1989).” The STAR study compared smaller classes of 13 to 17 students at the K-3 level relative to regular size classes of 22-26 students. The article further stated, “STAR data indicated that smaller classes led to statistically significant improvements in reading and mathematics and benefits were greatest for students who started in small classes early (full day kindergarten or first grade).”

Districts that have elementary class size student limitations in the contract or by Board policy are 10 of 13 in Southern Fairfield County, 8 of 9 in the urban group and all 9 in DRG H. Districts with the same limitations in the secondary schools are 11 of 13 in Southern Fairfield County, and 8 of 9 each in the urban group and DRG H.

There is no class size language in the following Fairfield County districts: CES, Darien, Easton, New Canaan, Redding and Region 9. Where such language does exist, the following are examples:

- “Wherever feasible and subject to the circumstances which exist regarding staff and facilities, strive for . . .” (Bethel);
- “It is the desire of the Board to maintain, wherever possible, classes of a size that will preserve the best teaching-learning conditions, dependent upon such factors as available personnel, physical facilities, financial abilities, etc.,” (Brookfield);
- “The Board shall make every reasonable effort, prior to the start of the year, to maintain class sizes . . .” (Monroe);
- “Whenever practicable, the Board shall maintain . . .” (New Fairfield);
- “Subject to the availability of funds and facilities, class sizes for the duration of this contract will be planned in accordance with this Article 8.” (Newtown);
- “Class sizes shall show general adherence to these standards, with allowance made for normal enrollment growth during the forthcoming school year.” (Ridgefield);
- “Every reasonable attempt will be made to keep a regular class size to no more than thirty (30) pupils.” (Shelton);
- “The Board of Education, through their agent, the Superintendent of Schools, shall endeavor, under normal circumstances, to maintain class size as follows:” (Stamford);
- “the following goals for class sizes are to be strived for . . .” (Trumbull);
- “The establishment of individual class size is a matter of Board policy.” (Weston); see also Westport and Wilton.

Issue 18B concerns ratios. Ratios are defined in the current contract language which has been in the parties’ agreement for many years. The current language of Paragraph 2, Article XX, which is part of the Federation’s last best offer, states, “The Board intends to maintain a pupil/teacher ratio of 24.0 to 1 at the elementary schools and 21.3 to 1 at the secondary schools, exclusive of team teaching, during the length of this agreement.” The Board’s last best offer contains the same language except that “22” replaces “21.3” and it is prefaced by the following clause: “Subject to available funds.”

Issue 18C, paragraph 4 of Article XX, concerns the procedure to be used in resolving class size problems at the building level. Under the language of the contract, teachers consult with their principal about the class size problem at the building level and, if that does not work, the administration after consulting with the Federation twice a year, October and February, will submit to the Board a plan to reduce excessively large classes recognizing the distribution of enrollment, programs offered, ages of children and utilization of personnel. The class-size study for the first semester of the 2012-2013 was prepared by Elio Longo, Jr., COO of the Norwalk Public Schools, and NFT President Mellion, and passed on to the Board.

Class size issues are inevitably controversial, difficult and the subject of opposing expert opinions. Teacher quality and class size are factors in student achievement. This is particularly true with a diverse student body. Unfettered discretion by the Board on class size is not in the

public interest.

There is no evidence of any grievance on class size. The Board has failed to justify by substantial evidence its modifications as proposed for Issues 18A and 18B. However, the consultation related to the plan required by paragraph 4 of Article XX is an unnecessary burden on management. The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Federation's LBOs on Issues 18A, 18B and 21, and the Board's LBO on 18C.

Issue 20, Article XX, Paragraph 14, Preparation Time at the Secondary Level

The current Agreement has language which has been in effect since 1969. The Federation proposes to continue language that is in the current contract as follows:

All middle and high school certificated personnel below the rank of Assistant Principal, who have had a preparation period, shall continue to have one, and each teacher may utilize this period in a fashion he/she deems necessary. No such teacher shall be deprived of a preparation period without his or her consent except temporarily in an emergency. No emergency, however, shall be deemed to exist as a result of a financial difficulty experienced by the Board.

The Board in its last best offer proposes to eliminate this language and substitute it with language which states: "Time shall be set aside each day for unit members assigned to middle and high school levels to engage in professional activities to prepare for instruction including team and individual planning time." As to the Board's last best offer: it eliminates the guarantee of a one-period per day unrestricted preparation period; the amount of time each day is not delineated; a teacher could be provided, consistent with its language, five minutes, and that would not be grievable; and it includes restrictions that could be imposed upon teachers during this time, including team meetings.

The following districts have language to the effect that teachers, during their preparation time, are free to prepare for their individual professional responsibilities: in Southern Fairfield County, 11 of 13; in the urban districts, 9 of 9; in DRG H, 9 of 9. Some districts in Fairfield County are beginning to move towards identifying permissible uses of preparation time. The agreement in Redding states that "At Redding Elementary School, one (1) such preparation period per week may be used for collaborative/team planning." The language in Brookfield provides that the Board will be allowed to engage "in experimental programs which may involve, on a team, grade, or school basis, variations in the preparation periods set forth above after prior approval of the teachers affected, which approval shall not be unreasonably withheld."

The Board, which has the burden of proof, has failed to present any substantial evidence that would justify the change in the Agreement proposed. The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Federation's LBO on Issue 20.

Issue 23, Article XXX, Early Retirement Incentive

The Federation's last best offer is to continue current contract language which provides that any teacher whose current age plus number of years' experience total at least 80 and has been employed by the Board for at least 15 years and is eligible for retirement as defined in Connecticut General Statutes and who is at least 55 years of age at the time of retirement may elect to retire. Said employee under paragraph 2 of Article XXX shall receive individual health insurance coverage afforded other members of the bargaining unit by whom the retiree was represented from the time of retirement to age 65. The retiree has the choice of continued dependent coverage under the Board group rates at no cost to the Board. The Board's last best offer states, "This provision shall be applicable to teachers who submit their irrevocable letter of resignation effective with the end of the 2013-2014 school year and no later than June 30, 2014, after which this provision shall terminate."

The early retirement provision as proposed by the Federation provides in Section 1c that any employee furnishing documented evidence of permanent physical disability who does not qualify under the provisions of this article may individually request the Board to be afforded all benefits of the early retirement plan. Each case will be individually considered by the Board. If the Board's offer is selected, then permanently physically disabled teachers would no longer have the benefit. Monroe, Stamford, Waterbury and Weston have early retirement insurance.

Normally when an employer wishes to eliminate a benefit for employees like the post-employment medical benefits, it grandfathers existing employees who have relied upon or may be close to attaining the benefit, and takes it away for future employees hired after the contract begins. That is not the case with the Board's proposal. The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Federation's LBO on Issue 23.

Issue 24, Article XXXI, In-Service Credit

Under the in-service article, the Board allows teachers to gain credit toward degree advancement and the Board provides the opportunity for teachers to receive half the credits necessary for degree, change and/or advancement on the salary columns in the Agreement. The article, as is stated in the present contract, is the last best offer of the Federation. The Board of Education is proposing to eliminate this Article from the contract, providing that teachers who have received in-service credit on the salary schedule prior to July 1, 2013 shall maintain such credit for salary schedule placement purposes.

As to districts which provide reimbursement for tuition, in Southern Fairfield County, 10 of 13; in the urban districts, 4 of 9 and in DRG H, 5 of 9. Districts which provide an annual revolving fund paid for by the Board to effectuate this purpose include Darien at \$30,000, Greenwich at \$190,000, Stamford at \$150,000, Weston at \$65,000 and Westport at \$50,000.

The CEU credit has been effectively eliminated under Governor Malloy's education reforms. The education reform statutes refocus teacher development and continuing education by placing

an emphasis on small group and individualized training in contrast to the workshop and credit-oriented system of the past. The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Board's LBO on Issue 24.

Issue 25, Article XXIV, Duration

The Board is asking the panel to award a one-year contract, as opposed to the Federation which is asking for a collective bargaining agreement with a three-year duration. As to contract durations, in Fairfield County, 22 of 23 are for a three-year period and 1 is for a two-year period; in Southern Fairfield County, 13 out of 13 districts have three-year contracts; in the urban comparison group, 8 of 9 districts have three-year contracts and 1 district has a two-year contract; and in DRG H, 8 of 9 districts have a three-year contract and 1 district has a two-year contract.

The Panel has not been persuaded that a 1 year contract is appropriate here. The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Federation's LBO on Issue 25.

Issues 26-31, Salary

Among remaining issues between the parties concern step movement for teachers on step in 2013-2014 (Issue 27), step movement for teachers on step in 2014-2015 (Issue 29) and step movement for teachers on step in 2015-2016 (Issue 31). On these three issues the Federation requests that the Panel award step movement for each teacher on step in all three years of the Agreement. The Board is seeking that teachers on step receive no step movement, if there is a one-year duration, and no step movement for three years if the Panel awards the Federation's duration of three years.

Additionally, still before the Panel is the salary schedule for 2014-2015 (Issue 28). The Federation's last best offer on Issue 28 is that, "On September 1, 2014 increase all salaries on each line of the salary schedule in effect on August 31, 2014 by 2 ½ percent (2.5%)." The Board's last best offer, if there is a multi-year Agreement, on Issue 28 is, "To construct the salary schedule for 2014-2015, each step on the 2013-2014 shall be carried over without change." The second issue with regard to a general wage increase still before the Panel is Issue 30, Appendix A3 Salary Schedule 2015-2016. The Federation's last best offer with regard to Issue 30 is, "On September 1, 2015 increase all salaries on each lane of the salary schedule in effect on August 31, 2015 by 2 ½ percent (2.5%)." The Board's last best offer on Issue 30 is as follows: "The parties shall negotiate over Appendix A Salary Schedule 2015-2016, through reopener negotiations in accordance with statute. Article XXXIII, Longevity, shall also be subject to negotiation in such reopener negotiations."

In a comparison of Southern Fairfield County statistics for 2012-13, Norwalk teachers at MA Max earn \$81,184, ranking 12/13. Greenwich, Darien, New Canaan, Westport, Weston, Trumbull, Fairfield and Wilton teachers all earn on an annual basis \$10,000 more than Norwalk teachers. Norwalk teachers at Sixth Year Max earn \$87,770, ranking 12/13. Greenwich teachers

earn \$108,960. Teachers in Darien, Westport, Weston, New Canaan and Wilton each earn over \$12,000 more annually than Norwalk teachers.

In Fairfield County in 2012-13, Norwalk teachers rank 24/26 in Masters Max salary and 23/26 in Sixth Year Max salary. When longevity step L-4 is included, Norwalk teachers rank 6/24 and 8/24, respectively.

Norwalk teachers are placed on the following longevity steps after completing the following years of teaching: L-1, 17; L-2, 22; L-3, 27; and L-4, 32. The longevity benefit adds over \$12,496 to the salary of each teacher after 32 years.

Norwalk ranks 38/169 in the state in the 2012-2013 Adjusted Equalized Net Grand List Per Capita (AENGLC) wealth ranking. In 2010-11, average teacher salaries in Norwalk ranked 5th in the state.

In Southern Fairfield County, the Norwalk teacher on the MA column, by the measure of 35 year earnings, earns less than one in Greenwich, Weston, New Canaan, Darien, Stamford, Wilton, Westport, Fairfield and Trumbull, and more than one in Monroe, Stratford and Bridgeport. A Norwalk teacher would make \$2,735,954, while one in Greenwich would make \$3,208,808, one in Stamford would make \$2,884,080 and one in Bridgeport would make \$2,452,301.

The Norwalk teacher on the Sixth Year column earns less than one in Greenwich, Wilton, Weston, New Canaan, Stamford, Fairfield, Westport, Monroe, Darien and Trumbull, and more than one in Stratford and Bridgeport. A Norwalk teacher would make \$2,971,710, while one in Greenwich would make \$3,475,722 and one in Stamford would make \$3,147,424.

In Teacher Settlements for the 2009-10 Season, the increases (including increment) provided in the current Norwalk contract were reported for each year at 2.85%, 2.86% and 2.87%, as compared to average settlements of 0.75%, 2.79% and 3.10% in the state. In the 2009-10 season, there were 45 hard freezes; in the 2010-11 season, there were 37 hard freezes; and in the 2011-12 season, there were 26 hard freezes.

The Norwalk Administrators and Supervisors Association (NASA) signed a Memorandum of Agreement dated June 9, 2011 in which it agreed to defer a previously-negotiated raise of 3.5% until retirement. It also signed a Memorandum of Agreement dated June 10, 2011, which states, "1. The Board and NASA hereby agree to extend the current agreement by three additional contract years 2012-2013, 2013-2014 and 2014-2015." According to the Memorandum, the employees shall receive a zero GWI in the first year and step advancement and increment if applicable and appropriate. In the second and third years, 2013-2014 and 2014-2015, employees shall receive a 2% general wage increase and step advancement. Finally, the parties agreed to roll over all other covenants from the 2009-2012 Collective Bargaining Agreement with an exception for a health insurance re-opener.

Between 2008-13, all the other Board units took at least one zero general wage increase (except for nurses, who are currently negotiating). All of the City units (except nurses) took a zero

settlement in one of the years. In Case No. 2010-MBA-203 (City of Norwalk DPW and Local 2405 of Council 4, AFSMCE, AFL-CIO), the Arbitration Panel noted that employees “did not receive any wage increase or step advancement for the year commencing July 1, 2010.” There, the Panel awarded step movement for the following year to avoid having these employees frozen on step for two years.

Step movement in each year of the contract proposed herein has been calculated to be 1.73% in year 1, 1.43% in year 2 and .98% in year 3 based on the Full Time Equivalent (FTE) Distribution in 2011-2012. Step movement in 2013-14 would cost \$1,350,331.

In January 2010, Federation President Bruce LeVine Mellion stated: “This is no longer the case for Norwalk teachers who have one of the highest average teacher salaries in the state, clearly the best health insurance both while actively teaching and in retirement, and outstanding contract language.”

In the context of a public utilities case, the Connecticut Supreme Court has defined the term “public interest,” in *Briggs Corp. v. Pub. Util. Comm’n*, 148 Conn. 678, 174 A.2d 529 (1961). It stated,

The primary element in the determination of “the public interest,” as the words are used in the phrase “not inconsistent with the public interest,” is the maintenance of an adequate transportation system designed to meet the needs of the public. Consideration must also be given to the safety and welfare of the public, the maintenance of our highways, and the proper regulation of carriers.

Using that as a guide, in the education context, “public interest” may be defined as the maintenance of an adequate education system designed to meet the needs of the public. Consideration must also be given to the safety and welfare of the public, and supply and maintenance of education facilities and other school property.

Since the public interest and the financial capability of a town or towns in a district have priority over other statutory factors, one would expect that there would be some general relationship between the relative wealth of a district and the relative salary rank of teachers in that district when compared with other districts, other things being equal. The parties have submitted several salary comparisons, all designed to place their respective positions in the most favorable light. When salary data are combined, the larger pool of available information increases the validity of any analysis of that data. The Panel is deeply indebted to secretarial staff for assembling the combined data into a format for proper analysis.

The illustrative analysis which follows uses AENGLC ranks as its basis:

	A	B	C	D	E	F	G
					D-C	E/C	

	Nor AENGLC rank	Nor salary rank	Salary at Nor AENGLC rank	Current Nor salary	Salary diff.	% diff.	FTE
BA Min	14/34	5/34	47,190	48,994	+1,804	+3.82%	0
BA Max	14/34	21/34	73,559	69,279	-4,280	-5.82%	12
MA Min	14/34	16/34	51,594	51,384	-210	-0.41%	0
MA Max	14/34	23/34	85,319	81,184	-4,135	-4.85%	90.9
6Y Min	14/34	6/34	55,998	58,554	+2,556	+4.56%	0
6Y Max	14/34	22/34	94,024	87,770	-6,254	-6.65%	62.6
7Y Min	5/8	1/8	60,101	66,919	+6,818	+11.34%	0
7Y Max	6/9	6/9	96,003	96,003	0	0.00%	366.6
Doc Min	9/24	1/24	61,994	81,259	+19,265	+31.08%	0
Doc Max	9/24	5/24	103,272	109,935	+6,663	+6.45%	33

By way of example, at 7Y Max (with 366.6 full time equivalents) in the 9 district comparison group, Norwalk ranks 6th in AENGLC and 6th in salary; therefore, its salary is equal to what it in theory can afford to pay at its AENGLC rank. In the comparison group, the 6th rank salary is \$96,003. Norwalk's 6th rank salary is the same. The same analysis can be made of the other salaries listed.

The above analysis and the salary comparisons provided by the parties directly bear on the statutory factors of the public interest, financial capability of the town or towns in the school district, the interests and welfare of the employee group, and the existing conditions of employment of the employee group and those of similar groups. Based on said analysis, salary comparison groups and other data of record, it is clear that Norwalk's salary structure, with its ups and downs, is quite unusual and has not evolved over time in a particularly rational manner. That structure is further complicated by substantial longevity benefits.

There is a danger in strict adherence to a statistical analysis. But such analysis can be used as a

guide, along with other evidence and analyses, when the statutory factors are applied.

A hard freeze occurs when there is no general wage increase and no step up on a salary schedule. A soft freeze occurs when there is no general wage increase, but there is a step up on the salary schedule.

Considering all the evidence related to the statutory factors, the Panel has concluded that a hard freeze is appropriate in the 1st year (in its Brief, the Federation agreed to a soft freeze), a general wage increase with step movement is appropriate in the 2nd year and a reopener of wages and longevity is appropriate in the 3rd year. The Panel suggests that the dysfunctional nature of the current salary structure, and longevity benefits, the generosity of which is unprecedented in the state, are worthy subjects of negotiations in the reopener. The Panel concludes that the reliable, probative and substantial evidence on the whole record supports the Board's LBOs on Issues 26, 27, 30 and 31, and the Federation's LBOs on Issues 28 and 29.

The total cost of all offers accepted was considered by the Panel. That cost included the salary and stipend increases, decreased by savings generated by increased teacher premium share and other insurance changes.

IV. AWARD

The Panel accepts the Last Best Offers of the Norwalk Board of Education on Issues 1, 1A, 2, 3A, 4A, 6, 7, 9, 10, 14, 17A, 17F, 18C, 19A, 19B, 22A, 22B, 24, 26, 27, 30, 31, 32A, 32B, 33B, 36C, 37A, 37B, 37D, 38A, 38B, 38D, 39A, 39B and 39D. John Gesmonde dissents on Issues 1, 1A, 3A, 4A, 6, 7, 10, 14, 17A, 17F, 18C, 19B, 22B, 24, 27, 30, 31, 32A, 32B, 33B, 36C, 37B, 37D, 38B, 38D, 39B and 39D.

The Panel accepts the Last Best Offers of the Norwalk Federation of Teachers on Issues 3B, 4, 4B, 5, 8, 11, 15, 16, 17B, 17C, 17D, 18A, 18B, 19C, 20, 21, 22C, 23, 25, 28, 29, 33A, 33C, 34, 35, 35A, 36A, 36B, 37C, 38C and 39C. John Romanow dissents on Issues 3B, 4, 4B, 5, 8, 11, 15, 16, 17B, 17C, 17D, 18A, 18B, 19C, 20, 21, 22C, 23, 25, 28, 29, 33A, 33C, 34, 35, 35A, 36A, 36B, 37C, 38C and 39C.