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State of Nevada
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**STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD**

CLARK COUNTY EDUCATION)	EMRB Case No. 2017-008
OF THE ASSOCIATION)	
Complainant)	COMPLAINT
v.)	
CLARK COUNTY SCHOOL DISTRICT)	Failure to Bargain in Good Faith
Respondents)	Expedited Handling Requested
)	Pursuant to NRS 288.280

The Clark County Education Association (“CCEA”) hereby makes the following complaint pursuant to N.R.S. 288.270 and 288.280.

1. The CCEA is an employee organization as defined by N.R.S. 288.040. CCEA’s address is 4230 McLeod Drive, Las Vegas, Nevada 89121.
2. The Clark County School District (“CCSD”) is a local government employer as defined by N.R.S. 288.060. CCSD’s address is 5100 West Sahara Avenue, Las Vegas, Nevada 89146.
3. CCEA and CCSD are parties to a collective bargaining agreement, which is in effect from the beginning of the 2015 school year through the end of the 2016-2017 school year (“CBA”).
4. Beginning in the 2014-2015 school year, CCEA and CCSD began to negotiate the 2015-2017 Collective Bargaining Agreement.

5. It was in the course of negotiations that CCEA and CCSD began work on the Professional Growth Plan (PGS), a new professional growth based salary schedule, wherein Educators/licensed professionals have many options to participate in professional development activities aligned to their individual PGP that is developed collaboratively with their supervisors to accumulate Contact Units (CUs) for advancement on the Salary Schedule.
6. Upon ratification of the CBA on January 14, 2016, CCEA and CCSD continued to work collaboratively to develop the PGP.
7. On January 15, 2016 Staci Vesneske, CCSD Director of Human Resources sent to John Vellardita, CCEA Executive Director and Brenda Pearson, CCEA Director of Professional Development a document titled *Summary and Suggested Timeline*, to draft the Professional Growth System documents with a CCSD/CCEA joint “logo”, draft the parameters for the types of activities that would count towards the 225 CUs for advancement.
8. Drafting of the Professional Growth System Reference Guide was also an extensive and collaborative process, which started with the creation of the Advisory Committee, who was charged with drafting the handbook.
9. The Advisory Committee was made up of CCSD Management appointed by Pat Skorkowsky, CCSD Superintendent and CCEA’s Director of Professional Development and Executive Director. Pat Skorkowsky’s appointees on the Advisory Committee included: Mike Barton, CCSD Chief Academic Officer; Stacie Vesneske, CCSD Director of Human Resources; Brenda Larsen Mitchell, CCSD Assistance Chief Student Achievement Officer; Joyce Herreria, CCSD Director I Employee

Contracts and Compensation; Danielle Miller, CCSD Assistant Superintendent, Andre Long, CCSD Chief Human Resources Officer; and Jesse Welsh, CCSD Assistant Superintendent, Instructional Design and Professional Learning Division. In addition, there were numerous other participants brought in to collaborate in the process.

10. While the CBA memorialized the framework and transition from the old salary schedule to the new PGS Salary Schedule, the understanding of both parties was that much more work needed to be done to develop the full PGP system.
11. By February 2016, CCSD and CCEA, through the Advisory committee, worked on the draft language for the PGS reference guide, going through multiple changes and edits that were submitted by both CCSD and CCEA. Final Approval was required by Pat Skorkowsky for all changes and edits that had a fiscal impact.
12. Under the following CBA Articles, CCSD and CCEA continued to meeting and negotiate the PGP with the understanding that the final approval would need to come from Pat Skorkowsky:
 - a. **Article 26-2-6:** *Notwithstanding any provision of this Agreement to the contrary, there are licensed positions which may be determined by the District to be critical needs positions. In an effort to encourage licensed employees to accept and then to remain in those positions, the parties may negotiate new terms related to this issue under Article 26-5 of this Agreement.*
 - b. **Article 26-3-3:** *Consistent with the Professional Growth System Memorandum of Agreement between the CCSD and CCEA, the process for developing and implementing a Professional Growth Plan shall be as follows:*
 - a. *Develop an Action Plan.*
 - b. *Design the PGP.*
 - c. *Propose and receive authorization for the PGP.*
 - d. *Maintain evidence of the PGP.*
 - e. *Undergo a yearly review of the PGP.*
 - f. *Document accomplishments pertaining to the PGP.*

c. **Article 26-5:** *Representatives of CCSD and CCEA shall meet twice a year as the Professional Salary Table Joint Committee (PSTJC) to review the salary schedule and any emergent issues or implementation problems and by mutual consent can modify the terms of Articles 26-1 through Article 26-5. Those meetings shall take place in the first and last quarter of each fiscal year's budget.*

13. After extensive collaboration and negotiation by the Advisory Committee, made up of CCSD appointed management and CCEA, on March 2, 2016, Stacie Vesneske sent Pat Skorkowsky a Memorandum that memorialized the understanding by and between CCSD and CCEA seeking final approval.
14. The Memorandum specifically states that *"This memorandum is to memorialize the understandings you have discussed verbally in order to avoid any future questions regarding what was agreed to by the parties."*
15. The Memorandum further verifies that the parties agreed upon negotiation that *"Special education teachers teaching in a self-contained classroom are eligible for the two-year track, and may adhere to the track one contact unit options if those activities are available at that site,"* in addition to various other additions and details worked out collaboratively and memorialized in the Memorandum dated March 2, 2016.
16. On March 8, 2016 Pat Skorkowsky responded to the Memorandum sent from Stacie Vesneske by email, which stated *"We are good to go! Final Approval on 3-8-2016."*
17. It was CCEA's full and reasonable understanding that Pat Skorkowsky, as CCSD Superintendent had the authority to speak and responded with CCSD Board approval.
18. There was no indication and response that followed to indicate that he still needed CCSD Board Approval after his response on March 8, 2016.

19. Rather, having received the needed approval, CCEA and CCSD moved forward to ensure the success of the PGP, including a series of jointly approved and negotiated communications, tutorials, forms, informational documents, school site web based and in-person trainings for both educators/licensed professionals and Administrators, as well as a comprehensive reference guide that was distributed and communicated to all Educators/Licensed Professional and Administrators in CCSD.
20. On April 8, 2016, Pat Skorkowsky sent out to all Administrative and Licensed Staff a memorandum communicating the “*historical*” joint effort between CCEA and CCSD in the 2015-2017 CBA. He went on to state that the “*attached innovative Professional Growth System (PGS) Reference Guide was created to provide educators/licensed professionals with opportunities to participate in professional growth activities to enhance classroom instruction and to increase student achievement throughout the District. Through this partnership, we have developed processes, tools, and resources to promote the implementation of the PGS.*”
21. During the time when details to the PGS were being collaboratively developed, CCEA and CCSD also needed to resolve issues that had emerged around those educators/licensed professionals who had undertaken college courses, completed the Master’s or Doctorate degrees, or completed National Board Certification for advancement under the old salary schedule. A Joint Appeal Panel was created to review the submission pursuant to the CBA. Two separate agreements were reached out of this process, memorialized in an MOA and Summary Agreement based on the Joint Appeal Panel decisions.

22. On April 12, 2016, a Summary Agreement was reached between CCSD Superintendent and CCEA which provided a maximum credit of 128 CUs toward future CU accrual for licensed employees who do not complete a Masters or Doctorate degree, but would have achieved column movement credit during the 2015-2016 school year for implementation during the 2016-2017 school year.
23. On April 14, 2016, a Memorandum of Agreement (MOA) was reached on the Transition of current licensed staff to the new PGS that recognized those people who complete a Masters or Doctorate degree during the 2015-2016 school year and would have received a column movement in the old salary schedule.
24. On April 26, 2016, CCEA and CCSD jointly provided all educators/licensed professional a list of all Title I, Tier I, II, and III schools to inform them of which schools qualified for either the two year track or three year track. With the information educators/licensed professionals made decisions on whether to transfer to a school that was on a two year track or three year track in the 2016 spring voluntary transfer period.
25. On May 2, 2016 Joyce Herreria, CCSD Director I Employee Contracts and Compensation, sent to all licensed Employees a Memorandum, wherein she provides the process to receive the CUs or transition in accordance with the April 12, 2016 and April 14, 2016 agreements reached between CCEA and CCSD.
26. Starting on May 9, 2016, CCEA and CCSD jointly provided CCSD Administrators and Associate Superintendents trainings around the new PGS and it's alignment and focus on the Nevada Educator Performance Framework (NEPF), as well as student achievement and growth. The team included Brenda Larsen-Mitchell, Brenda

Pearson, and Karen Stanley, Regional Professional Development Program
Administrative Consultant.

27. On May 16, 2016, a Professional Growth System Documentation Log was jointly provided to all educators/licensed professionals.
28. On May 26, 2016, a joint Memorandum was sent to all CCSD administrators and licensed staff from Pat Skorkowsky and John Vellardita providing additional clarification and additional information around CUs for participating in Professional learning Communities, Mentoring, and College Coursework.
29. On May 26, 2016 and May 28, 2016, CCEA and CCSD jointly communicated to all licensed professional a link for various video tutorials on the PGS, CU verification, and the CU logs, as well as dates throughout June where CCEA and CCSD would be holding an information Q&A.
30. On July 22, 2016, CCEA and CCSD jointly communicated and distributed to all educators/Licensed professionals the *Contact Unit Consideration Form CCF-PGS6*, which every educator/licensed professional must use to obtain approval for proposed professional learning activities under the PGS, and as represented to them under the reference guide they received in April 2016.
31. On August 1, 2016, prior to the start of the 2016-2017 school year, CCEA and CCSD jointly communicated and distributed to all licensed professionals an updated *Professional Growth System Reference Guide* that was updated through a long process of collaborative meetings and negotiations. The final version was approved by both CCSD and CCEA, as stated on the each page of the guide.

32. Included in the “*approved*” Final Version presented to all educators/licensed professionals on August 1, 2016 was the following sections in dispute:

- a. Page 1: The inclusion of self-contained special education teachers in the two-year track.
- b. Page 10-11: Eight Contact Units per semester credit (five CUs per quarter credit) for coursework taken at an “Approved Teacher Education Program” or a college/university designated by the Carnegie Classification of Institutions of Higher Education as a Highest Research Activity or Higher Research Activity institution.

33. The two sections noted above were negotiated pursuant to the CBA after the ratification of the CBA ratified on January 14, 2016. They went to a long process of vetting and a final approval process by and between Pat Skorkowsky, CCSD Superintendent, and CCEA.

34. With the distribution and communication of the updated reference guide, CCEA and CCSD also distributed to all educators/licensed professionals the following tools to go with the PGS:

- a. Group Level Professional Learning Proposal CCF-PGS5, approved by both CCEA and CCSD on August 1, 2016;
- b. Professional Growth Plan CCF-PGS1, approved by both CCEA and CCSD August 19, 2016.
- c. Contact Unit Log CCF-PGS3, approved by both CCEA and CCSD and updated on December 19, 2016; and

- d. Contact Unit Verification Form CCF-PGS2, approved by both CCEA and CCSD and updated on December 19, 2016.

35. On September 20, 2016, in order to address questions from educators/licensed professionals regarding the new PGS, CCEA and CCSD distributed the Professional Growth System Frequently Asked Questions informational piece, which specifically asked educators/licensed professions to “*refer to the PGS Reference Guide*” to learn about not only which activities and courses could accrue CUs, but also whether they were teaching in a school or designation that would put them on a two year or three year track. Moreover, the Frequently Asked Questions document referred educators/licensed professionals to the aforementioned CCF forms to submit CUs for approval and tracking.

36. Beginning on September 27, 2016, The PGS Advisory Committee also jointly held informational trainings/presentations at school sites, starting with Roundy Elementary School.

37. Nevertheless, on January 27, 2017, Andre Long, CCSD Director of Human Resources attended the PGS Advisory Meeting to state for the record that CCSD intended to remove the following from the PGS Reference Guide, because they were not in the 2015-2017 CBA, despite the authority given in the CBA for the advisory committee to be meeting to work out details and make changes with approval from Pat Skorkowsky:

- a. Page 1: The inclusion of self-contained special education teachers in the two-year track.

- b. Pages 10-11: Eight Contact Units per semester credit (five CUs per quarter credit) for coursework taken at an “Approved Teacher Education Program” or a college/university designated by the Carnegie Classification of Institutions of Higher Education as a Highest Research Activity or Higher Research Activity institution.
 - c. Refusal to honor the April 12, 2016 Summary Agreement reached between CCSD Superintendent and CCEA which provided a maximum credit of 128 CUs toward future CU accrual for licensed employees who do not complete a Masters or Doctorate degree, but would have achieved column movement credit during the 2015-2016 school year for implementation during the 2016-2017 school year.
38. Andre Long stated that he was told by Employee Management Relations Associate Superintendent, Eddie Goldman, that Pat Skorkowsky did not have authority to approve changes that were made post ratification, and that the Board of Trustees had not approved the changes.
39. On January 27, 2017, CCEA responded at the advisory meeting for the record that all changes were made in accordance with the process and procedures created by and between CCSD and CCEA in good faith under the CBA. Moreover, CCEA considered any unilateral action on the part of CCSD to be bad faith bargaining, and that CCEA would pursue an Unfair Labor Practice complaint.
40. Nevertheless, in violation of the CBA and agreements had by and between CCEA and CCSD through the Superintendent’s approval and representation of having authority to speak for CCSD, on February 7, 2017, a memo was sent from Mark Oakden a

CCSD member of the PGS Advisory Committee to Jesse Welsh, Assistant Superintendent, Instructional Design and Professional Learning Division unilaterally changing the PGS Reference guide and making unilateral substantive changes, including the proposal of additional changes that had not been agreed upon by CCEA.

41. On February 27, 2017, CCEA sent CCSD a response Memorandum to respond to the proposed unilateral changes to the PGS wherein CCEA made clear *“how damaging CCSD’s retroactive position and decision to unilaterally make changes to the Professional Growth System would be to labor relations with CCEA, as well as trust in the Professional Growth System as a whole by licensed employees. CCEA has worked with CCSD in good faith to negotiate each aspect of the implementation of the Professional Growth System, and worked to ensure the integrity of the process. For CCSD to decide more than a year later to eliminate changes made by the PGS team, and state on the record that “Superintendent Skorkowsky did not have the authority to approve the changes,” despite speaking for CCSD and the Board of Trustees in his role as Superintendent is an act of bad faith.”*
42. Unfortunately, on March 2, 2017 a memo was sent out to Licensed Employees who were granted either 128 or 225 CUs toward a future PGS advancement due to completing +16 or +32 in the 2015-2016, which would have advanced them in the old salary schedule and was informed of this by Joyce Herreria, CCSD Director of Employee Contracts and Compensation Department.
43. Interestingly, those who completed their National Board Certification were the only ones that did receive their 225 CUs toward a future PGS advancement, as confirmed by Joyce Herreria and Andre Long.

44. Thereafter, on April 6, 2017, another memo was sent from Andre Long and Jesse Welsh to all administrative and licensed staff. The memo made multiple *unilateral changes* to the current “**final and approved**” version of the Professional Growth System Reference Guide, including:
- a. *The category of activities formerly titled “Student-Based Activities: IEPs” has been renamed “Student-Based Activities: IEPs/MDTs,” and the activities in this category have been updated to include writing and participating in MDTs.*
 - b. *All categories of college coursework included in the Professional Growth System Reference Guide will accrue 5 CUs per semester credit or 3.5 CUs per quarter credit. This applies to all college coursework completed during the spring semester of the 2015-2016 school year and beyond.*
 - c. *Special education teachers serving in a self-contained classroom are eligible for the three-year track and CU options for column movement. Educators/licensed professionals at Title I, Tier I and Title I, Tier II schools will continue to be eligible for the two-year track and CU options.*
 - d. *Massive Open Online Courses (MOOCs) will no longer accrue CUs. MOOCs completed between June 2, 2016, and May 1, 2017, will accrue CUs as specified in the previous version of the Professional Growth System Reference Guide dated August 1, 2016.*
45. Moreover, CCSD unilaterally created and distributed a changed version of the Professional Growth System Reference Guide that incorporated all the unilateral changes listed above without notice or approval from CCEA.

46. On April 6, 2017, in response to the memorandum sent to all administrative and licensed staff, CCEA immediately sent a response memorandum objecting to CCSD's decision to make unilateral changes despite CCEA's efforts to work with CCSD in good faith to negotiate each aspect of the implementation of the PGS. CCEA further demanded that CCSD rescind the memo sent to staff on April 6, 2017 by April 10, 2017, which CCSD has refused to comply with.
47. On April 18, 2017, a certified letter was sent by Andre Long to Michelle Kim, CCEA Director of Strategic Initiatives, which stated that the Massive Open Online Courses (MOOC's) was removed based on the PGS Advisory Committee member approval and agreement on January 12, 2017. In effect, making clear the PGS Advisory Committee's authority to meet and make changes to the PGS collaboratively. It is further interesting that this aspect would not be unilaterally removed for lack of CCSD Board of Trustee approval.
48. All the aforementioned actions taken by CCSD are evidence of bad faith bargaining on the part of CCSD. When the PGS was bargained with CCSD and memorialized in the 2015-2017 CBA, and further presented to all educators/licensed professionals who, based on the Reference guide, tools, Frequently Asked Questions, Tutorials, and trainings, as well as the direct communications representing the same understanding by CCSD management, there was clear agreement that what was being presented had the final approval of the Superintendent and the Board of Trustee.
49. The PGS Advisory Committee was a product of negotiations between CCEA and CCSD to have collaborative decision-making authority. The PGS advisory committee, given such authority through negotiations, put together a select team to

draft PGS Reference Guide, no different than any other negotiated policy/regulation book or contract. The Reference Guide outlines with detail the intent of the PGS, and was presented as collaboration between the CCSD and CCEA, not only to all educators/licensed professionals, but even to Legislators during the 2017 Legislative Session.

50. Since unilaterally making the aforementioned changes, CCEA and CCSD have temporarily halted all PGS advisory meetings, which were given authority under the CBA. The action by CCSD has caused damage to the collaborative relationship that has been the hallmark of the PGS.
51. Since unilaterally making the aforementioned changes educators/licensed professionals have contacted CCEA with deep concerns that if CCSD unilaterally makes changes now, what would prevent them from making similar unilateral changes in the future.
52. Since unilaterally making the aforementioned changes educators have contacted CCSD Board of Trustee members, as well as CCSD management to share their frustrations and disappointment.
53. It is clear from CCSD's action that they have made representations to educators/licensed professional that showed there was agreement with every section of the August 1, 2016 PGS Reference Guide, and in doing so not only misguided them in a manner that significantly affects their compensation, but engaged in bad faith bargaining with CCEA.
54. It is further evident from the CCSD's action that it is there intent to ensure that the Professional Growth System Model is a failure, as unilateral actions not only create

unnecessary harm to the collaborative process, but given that this is a new compensation system that we are asking educators/licensed professional to embrace in order to improve their practice in the classroom, this action most certainly has the effect of creating distrust and harms the integrity of the PGS moving forward.

55. These actions as set out above are a repudiation of the CBA, and a failure to bargain in good faith.

56. For the reason set out above, CCEA files this complaint against CCSD pursuant to NRS 288.270 and 288.280, because this is not simply a violation of the Collective Bargaining agreement and subsequent MOUs and Summary Agreement, but rather a willful act of disregard of the mission and vision behind that Professional Growth System which was intended to serve Clark County educators and students.

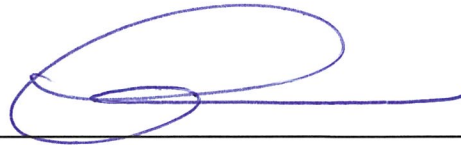
WHEREFORE, CCEA prays that the Local Government Employee Management Relation Board grant the following relief:

- a. Hear this case and make an expedited determination as required by NRS 288.280;
- b. Make a finding that Respondents have violated NRS 288.270 by committing the prohibited practice of failing to bargain in good faith with CCEA;
- c. Order Respondents to immediately cease and desist failing to bargain in good faith;
- d. Order Respondents to post a notice notifying all affected by failure to bargain in good faith that they will not violate NRS 288.270 by failing to bargain in good faith with CCEA, including the CCSD Board members, members of the PGS Advisory Committee, and all CCEA bargaining unit employees;

- e. Order Respondents to immediately prohibit the revision of the *Professional Growth System Reference Guide* as drafted by the Advisory committee and approved by CCSD and CCEA dated August 1, 2016;
- f. Order Respondents to immediately work collaboratively with CCEA to ensure that the CBA is followed and the PGS is properly implemented in collaboration with CCEA;
- g. Award CCEA its reasonable attorney's fees and expenses incurred in bringing this proceeding;
- h. Make any and all other orders deemed appropriate by the Local Government Employee Management Relation Board.

Respectfully submitted,

DATED this 19 day of April, 2017



Michelle Kim, Esq.
Director of Strategic Initiatives
Clark County Education Association
4230 McLeod Drive
Las Vegas, NV 89121

CERTIFICATE OF SERVICE

This is to certify that on the 19 day of April, 2017, the undersigned, the Director of Strategic Initiatives at the Clark County Education Association (CCEA), placed a true and correct copy of the foregoing **COMPLAINT** in the United States Mail, postage prepaid, certified-return receipt requested, addressed as:

Pat Skorkowsky
Superintendent, CCSD
5100 W. Sahara Avenue
Las Vegas, NV 89146

By: 

Michelle Kim, Esq.
Director of Strategic Initiatives
CCEA