

TENTATIVE AGREEMENT

ECRA/UTLA

January 20, 2016

ARTICLE VI - GRIEVANCE PROCEDURE

- 6.1 **Grievance and Parties Defined:** A grievance is defined as a claim that ECRA has violated an express and applicable term of the collective bargaining agreement between ECRA and UTLA and that by reason of such violation, the grievant's rights under this Agreement have been adversely affected. Grievances as defined may be filed by the affected employee or by UTLA on its own behalf or on behalf of an individual employee or group of employees where the claims are similar. On filing a grievance on behalf of a group, UTLA need not specify the names of the employees, but must describe the group so that the Charter School has notice of the nature and scope of the claim.
- 6.1.1 **Interpretation of Agreement:** Interpretation of any of these provisions shall not constitute a material violation of the approved charter. At the earliest possible time, the Charter School shall raise any issues related to whether a grievance requests relief that, if granted, would constitute a violation of the charter.
- 6.1.2 **Scope of Coverage:** All matters and disputes which do not fall within the above definition of a grievance are excluded from this grievance process, including but not limited to those matters for which other methods of adjustment are provided, such as reduction in force and dismissals. Also excluded from this grievance process are those matters so indicated elsewhere in this Agreement. Claimed violations of Articles concerning non-discrimination are to be handled under appropriate statutory and/or judicial procedures rather than under this grievance procedure; however, claims of discrimination based upon UTLA affiliation are subject to this grievance procedure.
- 6.1.3 **Joinder of Grievance:** If the same or essentially the same grievance is filed by more than one employee, then one grievant may process the grievance under this Article on behalf of the other involved grievants. The final determination shall apply to all such grievants.
- 6.1.4 **ECRA as Respondent:** The respondent in any grievance shall be ECRA itself rather than any individual administrator.
- 6.1.5 **Effect of Filing Grievance:** Unless the parties mutually agree to the contrary, the filing or pendency of a grievance shall not delay or interfere with any ECRA action while the grievance is being processed. By the same token, if it is later determined that the grievance is meritorious, nothing in the foregoing sentence shall preclude remedial relief covering the period during which the

grievance was being processed, including the applicable portion of the 15-day period preceding the filing of the grievance.

- 6.1.6 **Non-Waiver:** Processing and discussing the merits of a grievance shall not be considered a waiver by the ECRA of a defense that the matter is not arbitrable or should be denied for other reasons which do not go to the merits.
- 6.2 **Representation Rights:** At all grievance meetings under this Article, the grievant may be accompanied and/or represented by a UTLA representative. If not, the grievant may represent himself or herself, or be represented by any other person, so long as that person is not a representative of another employee organization. The administrator shall have the right to be accompanied by another administrator or other ECRA representative. By mutual agreement other persons such as witnesses may also attend grievance meetings.
- 6.2.1 **Unrepresented Grievant(s):** When a grievant is not represented by UTLA, ECRA shall promptly furnish to UTLA a copy of the grievance. If the grievance is withdrawn without a settlement, ECRA shall so notify UTLA. ECRA shall not agree to a final resolution, until UTLA has been notified of the proposed resolution and been given an opportunity to state in writing its views on the matter.
- 6.3 **Release Time for Employees and UTLA Representatives:** Grievance meetings and hearings will be scheduled by ECRA at mutually convenient times and places during ECRA business hours. Such meetings will be scheduled so as to minimize interference with regular employee duties. If a grievance meeting is scheduled during duty hours, reasonable employee released time, including necessary travel time, without loss of salary will be provided to the grievant, to a UTLA representative if one is to be present, and to any witness who attends by mutual agreement. For arbitration hearings the grievant and witnesses as required shall be afforded released time and mileage, if applicable.
- 6.4 **Confidentiality:** In order to encourage a professional and harmonious disposition of grievances, it is agreed that from the time a Level One Informal Conference is requested in writing under Section 6.7.1 until the grievance is finally resolved, neither UTLA, ECRA, nor the grievant or any agents thereof shall make public the grievance or evidence regarding the grievance. This prohibition is not intended to restrict normal interviewing of witnesses and other necessary preparation for hearing.
- 6.5 **Effect of Time Limits:** If a grievance is not processed by the grievant at any step in accordance with the time limits of this Agreement, it shall be deemed withdrawn. ECRA shall respond, in writing, in a timely manner as provided in this Article. If ECRA fails to respond to the grievance in a timely manner at any step, the grievant has the option to proceed directly to the next step of this procedure. All time limits and grievance steps may be shortened, extended or waived, but only by mutual agreement.
- 6.6 **“Day” Defined:** A “day” for purposes of this Article is defined as any day of the calendar year except Saturdays, Sundays, and legal or school holidays.

6.7 **Level One: Informal Conference**

6.7.1 Before filing a formal grievance, the grievant shall attempt to resolve a grievance by an informal conference with the grievant's immediate administrator. If a grievance does not relate to the immediate administrator and the remedy requested is not within the authority of the immediate administrator, the grievant may initiate the informal conference with the administrator who has such responsibility and authority. Said conference shall be requested within eighteen (18) days of the occurrence of the act or omission giving rise to the grievance or of the date when the grievant could be reasonably expected to know of the act or omission which give rise to the grievance.

6.7.2 A meeting between the grievant and the immediate or applicable administrator shall take place within five (5) days from written request for the informal conference. The administrator shall reply in writing within five (5) days following the informal conference.

6.8 **Level Two: Formal Grievance:** A formal grievance must be filed with the immediate or applicable administrator within fifteen (15) days of the termination or conclusion of the Level One. For claims of payroll or other salary error, the 15 day time limit runs from discovery of the alleged error, but any recovery payment cannot relate back more than three years prior to the grievance filing.

6.8.1 **Use of Grievance Form:** The grievance must be presented in writing to the immediate administrator (or other administrator who has the authority to grant the requested remedy) by completing the applicable UTLA-ECRA Grievance form. The written statement on the grievance form will be clear and concise, including the specific provision(s) of the agreement alleged to have been violated, and it shall state the specific remedy sought.

6.8.2 **Grievance Meeting:** A meeting between the grievant and the immediate or applicable administrator shall (if different from the Principal) take place within five (5) days from presentation of the grievance. The administrator shall reply in writing within five (5) days following the meeting. The receipt of such reply will terminate Level Two.

6.9 **Level Three: Appeal to Executive Director:** If the immediate or applicable administrator is the Executive Director, the grievant may begin the grievance at Level Three; otherwise, the Level Three must be requested within five (5) days of the termination of Level Two. Grievances at Level Three shall include a copy of the original grievance, and the decisions rendered at Level One and Level Two. At Level Three, a meeting between the grievant and the Executive Director shall take place within ten (10) days from presentation of the grievance at that time. The Executive Director shall reply in writing within five (5) days following the meeting. The receipt of such reply will terminate Level Three.

- 6.10 **Request for Arbitration:** If the grievance is not settled in Level Two, UTLA, with the concurrence of the grievant, may submit the matter to arbitration but only if the Association gives written notice to the office of the Executive Director within five (5) days after termination of Level Three.
- 6.11 **Selection of Arbitrator:** Within seven days of receipt of the request for arbitration, UTLA and the ECRA Executive Director shall meet to select an arbitrator. The arbitrator shall be jointly selected by UTLA and the Executive Director of ECRA or selected from the following list by the alternative strike method:

1. Irene Ayala	8. Joe Henderson
2. Mark Burstein	9. Kenneth Perea
3. Doug Collins	10. Guy Prihar
4. Walter Dougherty	11. Michael Prihar
5. Wayne Estes	12. Terri Tucker
6. Joseph Gentile	13. Louis Zigman
7. Isabel Gunning	

If the arbitrator selected cannot be available for hearing within sixty (60) days, the parties shall contact the next remaining arbitrator, until one is selected who is able to serve within sixty days.

- 6.12 **Scheduling Hearings and Decisions:** A hearing shall be scheduled within sixty (60) days from selection of the arbitrator, but shall not be scheduled during the summer time except by mutual agreement. The arbitrator's decision shall be issued within thirty (30) calendar days after final submission of the case. Arbitrators who fail to meet this deadline for decision shall, unless the parties have mutually extended the deadline, be deemed ineligible for selection for new cases until such time as the decision is submitted.
- 6.13 **Documents and Witness Lists:** Either party may request from the other the production, review and right to copy documents not otherwise protected by law relevant to the grievance. If the other party disputes the request, the arbitrators shall determine the issue. The parties shall also, at least five (5) days prior to the first hearing date, exchange lists of intended witnesses.
- 6.14 **Conduct of Hearings:** Hearings shall be conducted in accordance with the procedures contained in Government Code Section 11513. Hearing sessions shall be private with attendance limited to the arbitrator, the parties' representatives, and witnesses as scheduled. In cases involving, evaluations of Below Standard Performance, issuance of Notices of Unsatisfactory Service and/or Act(s), or critical material which has been placed in an employee's official personnel file, ECRA shall proceed first in providing evidence.
- 6.15 **Limitations Upon Arbitrators:** The arbitrator shall have no power to alter, add to or subtract from the terms of this Agreement, but shall only determine whether an express term of either Agreement has been violated as alleged in the grievance and if so what the remedy should be within the meaning of the Agreement. Further, both parties understand

and agree that an arbitration award may be set aside if it violates a material provision of the ECRA charter. Past practice of the parties in interpreting and applying the terms of this Agreement may also be relevant evidence, but shall not be used so as to justify or result in a modification (whether by revision, addition or detracting) of the terms of this Agreement. The arbitrator shall have no power to render an award on any grievance arising after the termination or expiration of this Agreement.

6.16 **Effect of Arbitration Award:** Except as noted herein, the arbitrator's decision shall be final and binding upon the grievant(s), ECRA and UTLA. The California law on final and binding arbitration awards between a school district or charter school and an employee organization shall be applicable to such a decision.

6.16.1 A final and binding award which determined the merits of a dispute shall be conclusive on the grievant(s), ECRA and UTLA in any subsequent proceedings, including disciplinary and termination proceedings.

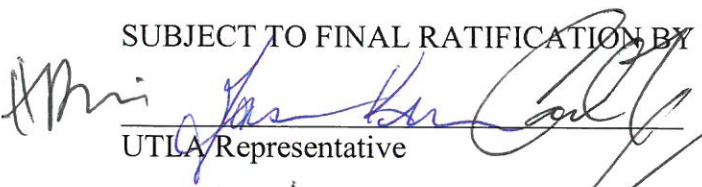
6.16.2 Unless otherwise indicated in this Agreement, this grievance procedure is to be the employees' and UTLA's sole and final remedy for any claimed breach of this Agreement.

6.17 **Expenses:** All fees and expenses of the arbitrator shall be shared equally by UTLA and ECRA. Each party shall bear the expense of presenting its own case. A transcript of proceedings shall not be required, but either party may order a transcript at its own expense. If the other party at any time desires a copy of the transcript, it must share equally the cost of the reporter and transcription.

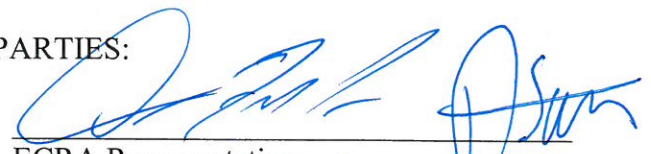
6.18 **Grievance Files:** ECRA shall maintain a file of all grievance records and communications separate from the personnel files of the grievant(s), and grievance documents and decisions shall not be included in the personnel file unless it is reasonably necessary or appropriate to do so.

6.18 **No Reprisals:** There shall be no reprisal against an employee for utilizing these grievance procedures or for assisting a grievant pursuant to these procedures.

SUBJECT TO FINAL RATIFICATION BY THE PARTIES:



UTLA Representative
Date: 1/20/16



ECRA Representative
Date: 1/20/16

