



UESF

United Educators of San Francisco
AFT/CFT, AFL-CIO • NEA/CTA

2310 Mason Street ■ San Francisco, CA 94133 ■ 415 956-8373 ■ Fax 415 956-8374 ■ www.uesf.org

Paraprofessional Pension Reform

December, 2010

UESF has finalized negotiations with SFUSD to move paras out of the unsatisfactory Public Agency Retirement System (PARS), and into Social Security. Please read the following, which includes a brief history and key problems with PARS, the settlement highlights, and other important information. The MOU between the SFUSD and UESF follows.

History & Key Problems with PARS:

- SFUSD paraprofessionals have been enrolled in PARS since December of 1992. During that time, SFUSD has failed to make the minimum contributions to the system for most paras' individual accounts, violating Federal Social Security law. The PARS system also has high administrative costs and a lower rate of return than most pension systems.
- The PARS system pays out an inadequate benefit compared to Social Security. A typical paraprofessional earns approximately \$26,000 per year in the SFUSD, with an ending account balance in PARS of \$50,000. If a para were to work the minimum 40 quarters in Social Security at \$26,000 per year, they would earn a monthly benefit of approximately \$636. Paying out the equivalent amount as Social Security, the \$50,000 PARS benefit would last only 6.5 years. Social Security is guaranteed for your entire life. (Note: These figures are only an estimate and individual account balances will vary based on your age when you began working for the district.)
- The officers and staff at UESF, beginning with former Para VP Bradley Reeves, have worked hard since 2003 to address para pension reform, including commissioning a \$20,000 study from an actuary to analyze the problem. The union has attempted to negotiate a settlement with the district starting in January, 2009, and CTA group legal services has supported legal counsel to provide expert advice to our negotiators. When the union threatened a lawsuit against the district in October, and got on the front page of the *SF Chronicle*, the district negotiators turned their attention to the problem.

Settlement Highlights

- All paraprofessionals will be moved out of PARS and into Social Security. The agreement calls for this to be accomplished by 1 April 2011. If the Social Security Administration permits, paras who are at the end of their careers and will not have enough 'quarters' to qualify for Social Security benefits will make their future contributions to a personal 403(b) plan.

- **All** of the money that all paras have earned up to the move into Social Security will be transferred to a 403(b) plan that is controlled exclusively by the individual.
- The district will pay between \$400,000-\$600,000 towards improving paraprofessional retirement to make up some of the money paras have been shorted over the years. This money will be distributed to the paras whose accounts received insufficient contributions. A \$200,000 portion of the amount is contingent upon the SFUSD not getting penalized by the Social Security Administration in excess of one million dollars.

Moving Forward

- Paras **may** be entitled to be retroactively enrolled in Social Security for up to three years or more. The Social Security administration is currently reviewing UESF's request for this information. Paras should collect copies of W-2 forms issued by the District so that they can confirm with Social Security their past earnings should the SSA retroactively enroll paras.
- Paras should find their latest Social Security statement and review their accounts. Many paras have earned retirement credit in Social Security through other employment. All paras receive a Social Security statement because they participate in Medicare, which is also on the statement. The form comes approximately two months before your birthday. Paras may also consider going to a Social Security office to discuss their benefits and to get a copy of their updated statement.

The ballot included with this page is for a general vote by all UESF paraprofessionals. The UESF Executive Board will receive the results of this election and make a final determination on 5 January 2011.

TENTATIVE AGREEMENT
MEMORANDUM OF UNDERSTANDING and SETTLEMENT AGREEMENT
Between
The SAN FRANCISCO UNIFIED SCHOOL DISTRICT
(“District”)
And
The UNITED EDUCATORS OF SAN FRANCISCO
(“Union”)
Regarding Paraprofessional Retirement Security

A. Statement of Purpose

This Memorandum of Understanding (“MOU”) memorializes the parties’ agreement and understanding reached over the course of discussions and negotiations related to paraprofessional retirement security. It also constitutes a mutual release of claims by and between the Union and the District arising from the plan of retirement benefits provided to paraprofessionals and their status with respect to social security. By executing this MOU the parties are establishing an agreed-upon process that shall resolve all issues between them related to paraprofessional retirement.

The parties further agree that in executing this MOU they have fully discharged their obligations to bargain in good faith over paraprofessional retirement. Therefore no cause exists for, and the parties clearly and mistakenly waive any right to, the filing of unfair practice charges related to paraprofessional retirement as set forth below.

All terms and conditions of this MOU are material and, for this MOU and the release and waivers it contains to remain in effect, all conditions in this MOU must be fully satisfied.

B. Terms

1. *Ratification by Paraprofessional Membership:* The Union shall put the terms of this agreement to a ratification vote among its paraprofessional membership within thirty days of execution of this MOU by the parties. Upon ratification these terms become final and binding on the parties.

2. *Mutual release and waiver:* Conditioned upon the full implementation of the terms of this MOU, the Union as an entity and, to the extent permitted by law as the collective bargaining representative of active paraprofessionals on behalf of all affected unit members, releases the District, and the District releases the Union, from all known and unknown claims they may have against each other arising out of the Paraprofessionals’ PARS Target Benefit Plan and removal from social security coverage. This agreement shall not be interpreted to create a right of indemnity, or constitute a hold harmless agreement, or otherwise establish any liability on the part of the Union towards the District or the District towards the Union. Further, the Union shall not aid or assist any of its current or former members whosoever may seek to assert liability against the District related to the PARS Target Benefit Plan (except insofar as may be required

by law and in compliance with a valid and enforceable subpoena, in which case the Union shall provide the District with notice thereof and copies of any materials so provided). Both the Union and the District expressly reserve -- and do not waive -- any rights each may have against PARS. Neither the Union nor the District shall file any unfair practice charges related to paraprofessional retirement.

3. *Final Settlement Agreement:* The Union, together with the District, shall upon the completion of the requirements set forth in this MOU, execute a final settlement agreement with the District resolving all issues between them related to paraprofessional retirement and such agreement shall contain a full release and waiver of any such claims.

4. *Additional Funding of Paraprofessional Retirement:* The District shall make a one-time contribution to paraprofessional retirement in the amount of \$400,000. Such amount shall be distributed among and deposited into the retirement accounts of paraprofessionals for the purpose of correcting alleged noncompliance with respect to paraprofessional retirement. Such monies will remain in a District trust account for the benefit of active paraprofessionals who allegedly did not receive the 7.5% allocation from PARS, pending agreement on the allocation formula by the District and the Union. Such funding shall be made available within 60 days of the date this agreement is ratified by the Union's paraprofessional membership.

5. *Contingent Additional Funding of Paraprofessional Retirement:* To the extent that the Social Security Administration and the Department of the Treasury assess the District for any alleged non-compliance arising out of paraprofessional retirement and/or removal from social security, but such assessments, including fines, penalties and principal, do not exceed One Million Dollar (\$1,000,000), upon the resolution of such regulatory or administrative action by signed agreement, consent or otherwise, the District shall make an additional Two Hundred Thousand Dollar (\$200,000) contribution to paraprofessional retirement, with such amount to be utilized as set forth in section 4 of this MOU. Such contingent funding shall be deposited within sixty days of such final agreement releasing the District of any further liability resulting from the alleged non-compliance arising out of paraprofessional and/or removal from social security between the District and SSA, the Treasury Department and any other applicable governmental entity.

The parties recognize that neither has authority or control over actions taken by the SSA or the Treasury Department and, as such, with the exception of this section 5, the terms of this agreement are neither dependent or contingent upon any action or inaction by such agencies.

6. *Section 403(b) plan:* The District shall submit an RFP or RFQ providing for establishment and administration of a §403(b) retirement savings plan. Such RFP/RFQ shall require vendors to include in their responses a detailed summary providing for an alternative retirement system component for non-social security covered paraprofessionals (as set forth below). The vendor responses shall provide for ongoing administration and compliance of such plan, as well as the transfer from PARS to the §403(b) plan of all paraprofessional accounts in the PARS Target Benefit Retirement Plan on a basis that does not result in a taxable distribution

of such accounts for those paraprofessionals who submit a signed election form for such a transfer, if such an election form is required by applicable law.

The RFP/RFQ and resulting §403(b) plan shall provide for the rollover or deposit on a tax-preferred basis paraprofessionals' accrued but unused sick and vacation upon retirement.

The Union shall be entitled to review the District's RFQ/RFP and provide comments and/or input, and entitled to be involved in the review and consideration of responses to such RFP/RFQ. The parties agree that the final selection of a Third Party Provider may be subject to the duty to bargain in good faith pursuant to decisions of the Public Employment Relations Board which set forth the circumstances under which the selection or change of a Third Party Provider is negotiable. Administrative fees or expenses incurred with respect to the transfer from PARS to a 403(b) plan shall be born by the District.

7. Termination of PARS Target-Benefit Plan: The District shall cease the paraprofessionals' participation in the PARS Target-Benefit Plan and concurrently enroll paraprofessionals in social security, subject to the following: Paraprofessionals currently over the age of 55 years old, and who would not expect to obtain forty quarters of covered Social Security earnings between the implementation date of Social Security enrollment and their expected social security retirement date may elect irrevocably, in writing to remain uncovered by social security and concurrently make an irrevocable written election for deferral/contribution of a minimum percentage of their earnings to the District's §403(b) such that, combined with the bargained-for District contribution, the total amounts contributed to such §403(b) plan satisfy Social Security and Treasury Regulations providing for an alternative retirement system.

Such process shall be implemented within 30 days of entering into agreement with a Third Party Provider (as set forth above).

C. Deadlines/Completion dates

The deadlines and dates for completion set forth in this MOU are material terms and conditions, but may be amended by written agreement of the parties. As used in this MOU, "days" refers to work days.

E. No admission of wrongdoing or liability

Neither party admits to any wrongdoing or liability by executing this MOU, and this MOU may not be used as evidence in any forum or for any purpose, including but not limited to any liability or wrongdoing towards the other.

F. Incorporation into Collective Bargaining Agreement

The essential terms of this tentative agreement shall be incorporated into the provisions for paraprofessional retirement contained in the classified contract, and shall be set forth in language appropriate for inclusion in the collective bargaining contract.

Agreed and accepted on this ___ day of _____, 2010 in San Francisco, CA

For SFUSD

For UESF

Tom Ruiz

Dennis Kelly

Carolyn Samoa