

ARBITRATION PROCEEDING

In the Matter of the Arbitration

-between-

LOS ANGELES UNIFIED SCHOOL DISTRICT,

The District,

-and-

UNITED TEACHERS - LOS ANGELES (UTLA),  
on behalf of teachers at twenty (20)  
different schools,

The Union and  
Grievants.

Re: Parent/Teacher Conference Pro-  
gram at PHBAO School

ARBITRATION PANEL

Joseph F. Gentile  
Chairperson & Neutral  
Member

Roger Johnson  
District Panel Member

Gerald Solender and  
Edgar Cowan  
Union Panel Members

August 25, 1988

Los Angeles, California

[2440-3251-88]

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STATEMENT OF THE MATTER

On October 5, 1986, an Arbitration Panel constituted pursuant to the terms and provisions of the Agreement between the Los Angeles Unified School District ("District") and the United Teachers - Los Angeles ("UTLA") issued a decision and AWARD relative to the District's compliance with Article IX, Section 4.1, regarding compensation for actual time spent in Parent/Teacher Conferences at Abraham Lincoln High School, a PHBAO School.

In the AWARD, a majority of the Arbitration Panel found that the District had violated Article IX, Section 4.1, of the Agreement and stated that "[t]eachers at Lincoln shall receive compensatory time for the actual time of the Parent/Teacher Conferences" and that this compensatory time be applied "prospective only."

The above AWARD related only to the school involved; however, there were a number of PHBAO school sites which had Parent/Teacher Conferences scheduled in a manner similar to Abraham Lincoln High School. Thus, shortly following the October 5, 1986 decision and AWARD, an avalanche of grievances were filed which stated the following in the "Statement of Complaint" section on the grievance form:

"Teachers are being REQUIRED (according to the Judge Lopez decision) to participate in four evening parent conferences during the 1986-87 school year. Two evening parent conferences has [sic] been past practice at this school and most non-PHABO schools."

There were twenty-one (21) grievances filed involving twenty (20) school sites: nine (9) were from

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elementary schools and eleven (11) were from secondary schools. There was no question but that the issue raised in the Arbitration Panel's October 5, 1986, decision and AWARD had high visibility in the District.

To clearly state those schools involved, the following represents an enumeration of the grievances and other relevant data:

<u>School Site</u>	<u>Grievants</u>	<u>Date of Conference</u>	<u>Date of Grievance</u>
1) Albion Street	Josephine C. Pease, <u>et al.</u> *	11/17-24/86	10/28/86**
2) Annandale	Sondra B. Neiditch, <u>et al.</u>	11/3-7/86	11/12/86
3) Audubon JHS	Sheila C. Berman, <u>et al.</u>	11/5/86	11/7/86
4) Luther Burbank JHS	Robert T. Parker, <u>et al.</u>	11/13/86	10/17/86
5) Cohasset School	Lorraine Reeves, <u>et al.</u>	11/3-7/86	11/7/86
6) Dorsey SHS	Richard J. Perman, <u>et al.</u>	11/20/86	12/15/86
7) El Sereno JHS	Rosalind D. Zachon, <u>et al.</u>	10/29/86	***
8) Griffith JHS	Andrew Ortero, <u>et al.</u>	10/22/86	10/10/86
9) Hollenbeck JHS	Bettie D. Williams, <u>et al.</u>	11/25/86	12/5/86
10) Humphreys Avenue	Mary W. Glazer, <u>et al.</u>	11/17-21/86	12/4/86
11) Robert F. Kennedy	Marilyn Taylor, <u>et al.</u>	10/20-24/86	11/21/86

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12)	King JHS	Darrold P. Stogsdill, <u>et al.</u>	11/12/86	12/1/86
13)	Los Angeles SHS	Edward E. Rice, <u>et al.</u>	11/20/86	10/16/86
14)	Micheltorena ****	Denise Featherstone, <u>et al.</u> and Tomiko Tamae, <u>et al.</u>	10/20-4/86 or 11/17-21/86	11/13/86 11/12/86
15)	Nightingale JHS	Charles Richards, <u>et al.</u>	11/19/86	10/17/86
16)	Nimitz JHS *****	Alfred L. Reyes, <u>et al.</u>	9/21/86 or 10/13/86	12/4/86
17)	Saturn Street	Patricia S. Karasick, <u>et al.</u>	11/11-14/86	11/3/86
18)	Sylvan Park	Laura Edwards, <u>et al.</u>	***	3/17/87
19)	Virginia Road	Dorothy A. Saund, <u>et al.</u>	*** ***	3/4/87
20)	Webster JHS	Cheryl K. Sloane, <u>et al.</u>	11/13/86	10/30/86

\* The "et al." following the name of the individual grievant represents those teachers who affixed their signatures to the grievance. In many instances, the listings were extensive.

\*\* In certain grievances, the grievance protesting the handling of the Parent/Teacher Conferences predated the actual conferences. Such a filing was accepted by the Arbitration Panel.

\*\*\* The date the grievance filed was not clear; however, it reasonably appeared it was timely filed in November of 1986.

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\*\*\*\* Two grievances were filed at this school; thus, the difference between the twenty (20) schools involved and the twenty-one (21) grievances filed.

\*\*\*\*\* During the presentation of the testimony, it was determined that the Parent/Teacher Conferences at this school site were held in August and October of 1986; thus, when the grievance was filed on December 4, 1986, it was untimely pursuant to the time requirements of the grievance procedure.

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\*\*\* The dates of the Parent/Teacher Conferences were during the Fall Semester of 1986; thus, the Arbitration Panel during the hearing declared these two grievances to be time barred. Specifically, they did not meet the fifteen (15) day time limit for the filing of grievances as found in Article V, Section 8.0 of the Agreement.

The above enumerated grievances were duly and properly processed by UTLA; however, no resolution was reached. Thus, they came before an Arbitration Panel pursuant to Article V of the Agreement on three days: June 8, October 26, and October 27, 1987.

During the course of the hearings all Parties were afforded a full and complete opportunity to be heard, cross-examine witnesses, develop arguments and present relevant evidence. No official transcript was made of the hearing. All witnesses appearing before the Panel were duly sworn. Closing arguments were reserved to Post-Hearing Briefs. These were timely submitted to the Arbitration Panel.

The named grievants and those teachers who joined in each of the above enumerated grievances were fully and fairly represented by UTLA. A number testified during this hearing.

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After the close of the hearing, the members of the Arbitration Panel met in executive session to discuss the evidence record. This decision represents the Chairperson's evaluation of the testimony, documents and arguments in the perspective of the deliberations of the Arbitration Panel.

APPEARANCES BY COUNSEL

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ISSUES AND PROCEDURAL CONSIDERATIONS

At the commencement of the hearing on the first day, the Parties agreed to consolidate the twenty-one (21) grievances listed above for the purposes of this hearing only; however, each grievance remained independent of the others.

The Union suggested that a few of the affected schools be taken as examples of how the Parent/Teacher Conferences were handled and treated at these PHBAO schools. After consideration by the Arbitration Panel, the Panel, or at majority of the Panel, felt each school site must be considered independently and that it would be inappropriate to create a template and then apply it to the schools.

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The Parties were unable to frame and agree on the specific statement of the issue to be addressed and resolved by this Arbitration Panel; however, in their respective statements, the Parties appeared to agree on certain factual components:

- 1) that the contract provision at issue was Article IX, Section 4.1;
- 2) that the twenty (20) school sites in question were PHBAO schools;
- 3) that the twenty (20) schools scheduled Parent/Teacher Conferences in addition to the regular Back-to-School and Open House activities;
- 4) that the affected teachers were required to participate in the Parent/Teacher Conferences, and
- 5) that the affected teachers were not provided additional pay for the time involved with these Parent/Teacher Conferences.

After two days of hearing, the Arbitration Panel, in the interest of providing assistance to the Parties as they addressed this evidence record, framed the issue for them in the following manner:

"Did the District violate Article IX, Section 4.1, when it scheduled parent conferences at any of the following listed schools on the dates indicated?

"If so, what is the remedy?"

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This then was the issue which the Arbitration Panel used in considering the evidence record.

The District raised an untimeliness issue relative to certain schools, namely, Sylvan Park and Virginia Road. As already stated above in the enumeration of the schools involved, the grievances regarding these schools were considered as untimely.

#### FACTUAL SUMMARY

Certain of the background facts should be re-acknowledged in this decision, for they place in sharper focus the Parent/Teacher Conferences under consideration.

Judge Robert B. Lopez issued his "Order Re Final Approval of School Board Desegregation Plan and Discharge of Write of Mandate" on or about September 10, 1981. One of the critical elements in this Order was the expression of the need to increase parent/teacher communication in what were identified as PHBAO schools.

As a result of Judge Lopez's expression, various PHBAO schools commenced scheduling additional parent/teacher conferences to enhance parent/teacher communications. There were variances between the affected schools as to the approach; however, such conferences were held.

A Memorandum dated May 24, 1985, was issued by the District which addressed in more formal terms the need for PHBAO schools to develop parent/teacher conference schedules over and above the usual contacts, such as the "Back-to-School and Open House" programs. During the 1985-86 school year, PHBAO schools attempted to meet this requirement. One of these schools was Abraham Lincoln High School.

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It was Abraham Lincoln High School's approach which triggered a grievance that culminated in the October 5, 1986 decision and AWARD by an Arbitration Panel. This decision and AWARD in turn spawned the twenty-one (21) grievances now placed before this Arbitration Panel.

These grievances must be considered in the perspective of the August 1, 1986, Memorandum from Theodore T. Alexander, Assistant Superintendent Student Integration Options, to the principals of PHBAO schools ("Alexander Memorandum"). In the Alexander Memorandum, the subject of Parent/Teacher Conferences was considered and an outline for the 1986-87 school year provided. Specific "implementation guidelines" were provided.

The "implementation guidelines" called for a number of general principles to be used in scheduling Parent/Teacher Conferences. They provided, inter alia, that parent/teacher conferences "not be held on the same day as Back-To-School and Open House activities," that they "may be held in any arrangement of times and dates during the designated time period," and that "shortened days and early evening hours may be used to allow parents and teachers greater flexibility in scheduling." Certain record keeping requirements were also delineated. Some of these records were made a part of this evidence record.

Each school site in question was reviewed and considered individually. As already indicated, the Arbitration Panel was concerned that a template not be made and the schools viewed from that perspective. The reverse was the situation -- each individual school and its practice were considered and from that emerged a pattern.

With reference to the elementary schools involved [Albion, Annandale, Cohassat, Saturn Street, Micheltorena, Humphreys Avenue and Robert F. Kennedy], this evidence record established the following "pattern" by the respective administrations of the schools:

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- 1) each of the elementary schools extended the period of the parent/teacher conferences over a week or five days;
- 2) each of the elementary schools shortened the student day which allowed teachers to schedule parent/teacher conferences during what would have been their regular school day;
- 3) each of the elementary schools allowed the teachers to make their own schedules; there was considerable flexibility given to the teachers in this regard;
- 4) each of the elementary schools scheduled parent/teacher conferences during at least one evening period during this week. In the case of one school, two early evenings were scheduled; however, this was the result of local teaching staff input;
- 5) teachers were not required to be present during any of the scheduled parent/teacher conference times unless they had scheduled such conferences during this time, even when there was a shortened day schedule;
- 6) in some elementary schools, many of the teachers were able to schedule their parent/teacher conferences during what would have been their regular school day, thus avoiding early evening conferences. If the teachers were able to schedule all of their conferences in the afternoon or during the period of the shortened day, they were not, as stated above, required to attend any evening conference sessions, and
- 7) many of the elementary schools had been participating in the Parent/Teacher Conference program for more than a few years.

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Turning to the remaining eleven (11) PHBAO secondary schools, the first matter is the status of Nimitz JHS. As stated earlier, during the testimony as to what took place at this school site, the testimony indicated that the parent/teacher conferences were held on dates which made the grievance untimely; thus, the Arbitration Panel was only concerned with the remaining ten (10) PHBAO secondary schools.

As with the seven (7) elementary PHBAO schools, a pattern developed as to the approach at these secondary schools with respect to the scheduling of the parent/conference time. The evidence record indicated the following:

1) teachers had some input as to the times but not the dates;

2) with respect to the scheduling of the parent/teacher conferences, the scheduling was done on one day during the school week and the evening hours were used for the conferences;

3) on the day of the parent/teacher conferences, the schools scheduled either a shortened or minimum school day to provide the teachers a "break" between the teaching hours and the evening parent/teacher conference. An exception to this was at Webster JHS and Dorsey SHS where the teachers expressed a preference to a shortened day after (which was a Friday) the scheduled parent/teacher conference day;

4) according to the evidence record, and there was some confusion as to the specific recollections of the witnesses on these points, Audubon JHS, Los Angeles SHS, Nightingale JHS and El Sereno JHS all scheduled shortened days on the day of the parent/teacher conference; a minimum day was scheduled at Luther Burbank JHS, King JHS, Hollenbeck JHS, and Griffith JHS on the day of the parent/teacher conference.

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The above reflects the essential factual context for this disagreement.

Ancillary to the above factual summary, testimony was also received as to bargaining history regarding the bargaining table discussions surrounding the negotiations of Article IX, Sections 1.0, 3.0 and 4.0. It was noted from this testimony that no precise restrictions and limitations were placed into Section 4.0, but the test of "reasonableness" stated.

It was further established that during the 1982-83 negotiations the Union unsuccessfully attempted to eliminate Back-To-School and Open House activities from schools which had the "mandatory parent conferences," namely, the PHBAO schools.

#### APPLICABLE CONTRACT TERMS

Article IX covers the subjects of "hours, duties and work year." Section 4.0 speaks to "other professional duties" and provides in Section 4.1 for the following:

"All duties required of each employee shall meet the test of reasonableness, and shall be assigned and distributed by the site administrator in a reasonable and equitable manner among the employees at the school or center."

[emphasis supplied]

#### DISCUSSION

To commence this discussion, the Chairperson of the Arbitration Panel will quote from the October 5, 1986

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decision regarding Abraham Lincoln High School ("Lincoln Decision"):

"To resolve the issue as presented, the Arbitration Panel must first determine whether the Parent/Teacher Conferences at the PHBAO schools come within the scope of Article V, Section 1.0. The subject matter is not specifically identified in the Agreement and Section 1.0 makes definite and certain that 'a grievance is defined as a claim that the District has violate an express term of this Agreement and that by reason of such violation, the grievant's rights under this Agreement have been adversely affected'."

The Arbitration Panel in the Lincoln Decision found that Parent/Teacher Conferences were indeed covered within the scope of Article V, Section 1.0; thus, the Arbitration Panel in the instant case will move to the next consideration.

The next consideration is that presented in the issue as framed by this Arbitration Panel after the Parties were unable to reach an accord. That issue was as follows:

"Did the District violate Article IX, Section 4.1, when it scheduled parent conferences at any of the following listed schools on the dates indicated?"

The Arbitration Panel's use of the word "scheduled" in the above issue includes consideration of a teachers' pay and/or compensation relative to the application of the Article IX, Section 4.1, "test of reasonableness" to the facts attendant to each individual school situation.

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There is no question but that the addition of the Parent/Teacher Conference program for the PHBAO schools adds responsibilities and obligations for those teachers at those schools -- responsibilities and obligations not shared by teachers at other than PHBAO schools. The contractual question is whether this additional activity meets the "test of reasonableness" as found in Article IX, Section 4.1.

As stated in the Lincoln Decision,

"...it is anticipated that professionals, as part of mastering their profession and meeting the demands of the profession, will expand personal time without direct compensation. The balance between when compensation begins and ends is for the bargaining table, not the Arbitration Panel."

UTLA attempted during the 1982-83 negotiations to eliminate what appears to be the "doubling-up" of "meetings" for teachers at PHBAO schools. UTLA was unsuccessful in its bargaining endeavors.

Does this mean that the scheduling of the additional parent/teacher conferences for teachers at PHBAO schools does not have to meet the "test of reasonableness" as found in Article IX, Section 4.1? The Chairperson of this Arbitration Panel would say "no."

A reasonable and fair reading of this evidence record strongly suggests that the District and the site administrators recognize the additional "responsibilities and obligations" associated with the Parent/Teacher Conference program for the PHBAO schools. The "implementation guidelines" found in the Alexander Memorandum and the on-site administration of the Parent/Teacher Conference program clearly demonstrate attempts to reasonably accommodate and compensate the affected teachers for their involvement in these added meetings.

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This is precisely what the Arbitration Panel had in mind when the Lincoln Decision was issued on October 5, 1986.

Therefore, the "bottom-line" inquiry is simply this: Did the site administrators at the PHBOA schools in question meet the "test of reasonableness" as found in Article IX, Section 4.1, when they scheduled the parent/teacher conferences as part of the Parent/Teacher Conference program?

Reasonable persons will disagree in responding to this inquiry, however, the Chairperson found that the approach used in the elementary schools met the "test of reasonableness." There was a very real attempt to blend the conferences into the regular school day and eliminate the early evening conferences. There was teacher input and almost complete teacher autonomy in effecting the scheduling over the five day period. There were no demands to be present when no conferences were scheduled, even if there was a shortened school day. These factors combined to demonstrate to the Chairperson that the added responsibilities and obligations were reasonably accommodated to by the site administrators through the District's "implementation guidelines." Therefore, no violation of Article IX, Section 4.1, can be found with respect to the grievants at Albion, Annandale, Cohassat, Saturn Street, Micheltorena, Humphreys Avenue and Robert F. Kennedy elementary schools.

Using the same rationale as expressed above to the secondary schools, factual differences immediately develop. In the secondary schools, the parent/teacher conferences were evening without the scheduling flexibility present in the elementary school environment. In certain schools, a shortened day was provided and this allowed more time between the end of the regular school day and the commencement of the parent/teacher conference time period.

Two of the schools provided some flexibility when they granted the shortened day the following day in order to accommodate the affected teachers.

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Other secondary schools provided a minimum day for the teachers on the day the parent/teacher conferences were scheduled. Though the difference may be small, the minimum day provided a more reasonable accommodation to the affected teachers than a shortened day.

Again, reasonable persons will disagree, however, this evidence record strongly supports the conclusion that those secondary schools which provided a minimum day to teachers [Luther Burbank JHS, King JHS, Hollenbeck JHS and Griffith JHS] on the day of the parent/conferences met the "test of reasonableness" as found in Article IX, Section 4.1. However, those secondary schools which did not provide a minimum day, but a shortened day, either on the day of the parent/teacher conferences or the day after [Webster JHS, Dorsey SHS, Audubon JHS, Los Angeles SHS, Nightingale JHS and El Sereno JHS] did violate the "test of reasonableness" as found in Article IX, Section 4.1.

With respect to remedy, the Arbitration Panel will apply this prospectively only as was done in the Lincoln Decision.

#### AWARD

Based upon a careful consideration of all of the evidence and arguments, it is the decision of the Arbitration Panel, or a majority thereof, that:

1) the grievances as filed by the teachers at Nimitz JHS, Sylvan Park and Virginia Road are DENIED for the reasons stated above;