

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

In the Matter of the Arbitration Between

GREENWICH BOARD OF
EDUCATION

-and-

GREENWICH EDUCATION
ASSOCIATION

CGS Section 10-153f Interest Arbitration
Proceeding

Panel Members:

J. Larry Foy, Esq., - Chair

John Romanow, Esq. - Board Appointed

John Gesmonde, Esq.- Assn. Appointed

October 18, 2007

Appearances

Shipman and Goodwin

By: Attys. Thomas B. Mooney and Gwen J. Goodman

For the Board

Joan M. Hughes, Ed. D.

For the Association

Arbitration Award

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I. The Proceedings

This dispute between the Greenwich Board of Education (the Board) and the Greenwich Education Association (the Association) arose from the reopener negotiations under the parties' July 1, 2006 to June 30, 2009 collective bargaining contract (2006-2009 contract). The reopener provision concerns salary issues for the final (third) year of the 2006-2009 contract. The parties were unable to resolve two disputed issues in those negotiations. Accordingly, this arbitration panel was appointed in accordance with CGS 10-153f to hear and decide the disputed issues.

The parties appeared before the arbitration panel on September 4, 2007 for a brief administrative hearing. Further hearings were held on September 28 and 29, 2007 at which the parties were accorded a full opportunity to adduce evidence, examine and cross-examine witnesses and make argument. Final last best offers were submitted by the parties at the conclusion of the September 29, 2007 hearing. Written post-hearing briefs were submitted by the parties' representatives on October 5, 2007. On October 8, 2007 the panel met in executive session to deliberate the two disputed issues. The arbitration award is to be issued by October 19, 2007.

Issue 1 concerns the Board's last best offer for a new "pilot" performance compensation plan. The Association rejects that proposed plan in its last best offer. Issue 2 concerns the general wage increase to be added to salaries in the reopener year (2008-09) which is the third year and final year of the 2006-09 Contract.

II. The Parties' Last Best Offers on the Disputed Issues

Issue 1

Subject: "Pilot" Performance Compensation Program

Contract Sections: Article 9 (A), Article 9 (G), Article 9 (M), Appendix A-1 Salary Schedule

Board's Last Best Offer on Issue 1:

Add to Article 9(A):

or Appendix A-1

Add to Article 9 (G):

Notwithstanding the foregoing, teachers first hired in Greenwich for the 2008-2009 school year and thereafter who met the criteria for placement on Appendix A-1 set forth in Article 9 (M) shall be placed by the Superintendent on Appendix A-1 as identified and in accordance with Article 9(M) below.

New Article 9(M):

Teachers shall be compensated in accordance with Appendix A or Appendix A-1. Appendix A shall apply to all teachers, except as follows. Appendix A-1 shall apply in 2008-2009 only to teachers who meet the following criteria:

1. Teachers employed prior to the 2008-2009 school year who voluntarily agree in writing prior to June 30, 2008 to be placed on Appendix A-1 and who meet the following criteria:
 - a. the teacher was assigned to a school or house in which the revised TEPD program (hereinafter TEPD plan) was piloted in 2007-2008 and was evaluated that year in accordance with said TEPD plan, *and*
 - b. the teacher does not have tenure as of July 1, 2008; *and*

- c. the teacher would otherwise be placed on steps 1, 2, 3 or 4 of Appendix A.

OR

- 2. Teachers first hired in Greenwich for the 2008-2009 school year who are assigned to a school or house in which the revised TEPD plan was piloted in 2007-2008 and would otherwise be placed on steps 1, 2, 3 or 4 of Appendix A.

Appendix A-1 shall have four classifications:

Level I

Level II

Level III

Level IV

Level I:

Previously-employed teachers who meet the criteria set forth above, if any, shall be placed on the sublevel in Appendix A-1 analogous to the step on which they would otherwise be placed on Appendix A. Teachers first hired in Greenwich for the 2008-2009 school year who meet the criteria set forth above shall be placed on a sublevel in Appendix A-1 in accordance with degree status in Level I, in a sublevel as determined by the Superintendent or his/her designee, considering (but not being limited to) the factors set forth in Article 9(G).

Teachers placed in this Level I will be comprehensively evaluated in accordance with the TEPD plan each year. Such teachers shall move to the next highest sublevel (B, C or D) each subsequent year until the teacher reaches the highest sublevel (D). If a teacher in this Level I is rated as Proficient or Exemplary through the TEPD plan in the third year of employment, he/she will be placed in Level II for the following year. Only non-tenure teachers shall be in Level I, and any teacher achieving tenure will be placed in Level II in the first year thereafter.

Level II:

When a teacher is placed in Level II as a result of achieving tenure in Greenwich, the teacher shall remain in Level II for the following three years. When a teacher is placed in Level II after three years in Level I as a result of being evaluated Proficient or Exemplary, the teacher will be comprehensively evaluated in the fourth year and will be moved to Level III if the teacher is again rated as Proficient or Exemplary.

Every three years, teachers in Level II shall be comprehensively evaluated in accordance with the TEPD plan. Such teachers will then be placed for the following three years in Level II or Level III as determined through such

evaluation as follows: evaluation as Unsatisfactory or Basic, remain in Level II; evaluation as Proficient or Exemplary, move to Level III.

Level III:

When a teacher is placed (or remains) in Level III as a result of comprehensive evaluation, the teacher shall remain in Level III for the following three years. In the third year, such teachers shall be comprehensively evaluated in accordance with the TEPD plan. Such teachers will then be placed for the following three years in Level II, Level III or Level IV as determined through such evaluation as follows: evaluation as Unsatisfactory or Basic, move to Level II; evaluation as Proficient, remain in Level III; and evaluation as Exemplary, move to Level IV. Notwithstanding the foregoing, if a teacher in Level III would otherwise move down to Level II on the basis of comprehensive evaluation, the teacher shall remain in Level III pending another comprehensive evaluation in the following year. After the year in which the second comprehensive evaluation is completed, the teacher shall be placed in the Level as determined through said evaluation in accordance with the TEPD plan as follows: evaluation as Unsatisfactory or Basic, move to Level II; evaluation as Proficient, remain in Level III; evaluation as Exemplary, move to Level IV.

Level IV:

When a teacher is placed (or remains) in Level IV as a result of comprehensive evaluation, the teacher shall remain in Level IV for the following three years. In the third year, such teachers shall be comprehensively evaluated in accordance with the TEPD plan. Such teachers will then be placed for the following three years in Level III or Level IV as determined through such evaluation as follows: evaluation as Unsatisfactory or Basic or Proficient, move to Level III; and evaluation as Exemplary, remain at Level IV. Notwithstanding the foregoing, if a teacher in Level IV would otherwise move down to Level III on the basis of comprehensive evaluation, the teacher shall remain in Level IV pending another comprehensive evaluation in the following year. After the year in which the second comprehensive evaluation is completed, the teacher shall be placed in the Level as determined through said evaluation in accordance with the TEPD plan as follows: evaluation as Unsatisfactory or Basic or Proficient, move to Level III; evaluation as Exemplary, remain at Level IV.

New Schedule A-I:

SALARY SCHEDULE A-I				
LEVEL	BA	MA	MA6	PHD
Level I - A	47,272	52,205	57,145	60,831
Level I - B	49,363	54,373	59,394	63,141
Level I - C	51,869	56,885	61,889	65,645
Level I - D	54,373	59,394	64,400	68,184

Level II	63,399	68,406	73,423	77,177
Level III	72,616	78,428	83,443	87,202
Level IV	n/a	88,914	96,904	100,880

The Association's Last Best Offer on Issue 1:

Article 9 (A): No Provision
Article 9 (G): Current Language
Article 9 (M): No Provision
Appendix A-1: No Schedule A-1

Issue 2

Subject: General Wage Increase (GWI)

Contract Sections: Article 10 (A), Article 10 (B), Appendix A, Appendix B, Appendix C, and appendix A-1 (if Appendix A-1 awarded on Issue 1)

Board's Last Best Offer on Issue 2:

2.8%

Association's Last Best Offer on Issue 2:

3.5%

III. Statutory Factors

Subdivision (4) of Subsection (c) of Section 10-153f of the Connecticut General Statutes sets forth factors to be considered by the panel in selecting between the parties' last best offers on the issues in dispute. That subsection provides in relevant part as follows:

In arriving at a decision, the arbitrators or the 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 arbitrators or single arbitrator 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 the 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 the terms of recent contract settlements or awards in collective bargaining for other municipal employee organizations and developments in private sector wages and benefits.

Section IV of this award contains the parties' respective arguments supporting their last best offers. Section V contains the panel's discussion on each issue and the panel's selection of last best offers based upon the evidence presented, the statutory factors and the arguments presented by the parties.

IV. Argument by the Parties

The parties' representatives presented extensive argument in their post hearing briefs in support of their respective opposing last best offers on the two disputed issues. The panel has read and considered those arguments. We will not comprehensively summarize these arguments in the award. Instead, the briefs are reproduced below without footnotes or appendices.

The Board's Brief

I. INTRODUCTION

The Greenwich Board of Education (the "Board") has spent years discussing with the Greenwich Education Association (the "GEA") the need for a new plan for compensating teachers. However, while the GEA accepted a large settlement and agreed to talk, it now flatly refuses any change in the compensation system. The statutory criteria do not support a union decision to impede educational reform. The GEA cannot simply take the money and run from the issue. Rather, applying the statutory criteria, this Panel has the right and the responsibility to accept the Last Best Offer of the Board of Education on Issue # 1.

The Board and the GEA agreed two years ago to further enhance teacher salaries in Greenwich by providing a 3.5% increase in each of the last two years, plus step movement. At the same time, the parties agreed to discuss the advisability of changing the compensation system, and they identified the elements of such a plan. The Board participated in good faith in those discussions, but it was stonewalled by the GEA, first by its prematurely withdrawing from the discussions and then by adamant refusal to consider any system of performance-based compensation.

The Board cannot cede to the GEA a veto over this important initiative. Accordingly, in these reopener negotiations, the Board proposed a system that closely parallels the considerations identified in the contract, Article 9(N). Throughout the negotiations, the GEA never once made a single counterproposal to change the old system in any respect. By contrast, through negotiations and in these arbitration proceedings, the Board has refined and narrowed its proposal.

The Board's Last Best Offer on Issue # 1 is quite limited. Newly-employed teachers entering the Greenwich Public Schools in 2008-2009 will participate if they meet very specific criteria. Currently-employed non-tenure teachers assigned to the pilot schools in 2008-2009 will have the opportunity to elect to participate in the new system. In addition, the Board would welcome discussion about how other currently-employed teachers may elect to participate in the new system, next year or in the future. However, there is no requirement that **any** currently-employed teacher participate.

Paying teachers based on their performance is not novel; research and practice in the area of performance-based compensation has grown significantly as school districts seek to provide quality teachers in every classroom. Introduction of the performance component in this contract will assist the Board in retaining and recruiting high quality teachers, a serious problem in Greenwich. Moreover, by relating compensation to performance, the Board will focus teacher attention on effective methods, which over time will contribute to improving teacher performance and, thus, student performance.

This one-year salary reopener presents the ideal situation to implement the proposed new plan. There is no risk to any teacher, and there is some possibility of benefit during the reopener year. With a limited period of time and limited number of participants to start, the performance-based compensation system can be properly evaluated and modified by the Board and GEA collaboratively. Such a decision will not be the end of Western Civilization as we know it, as the GEA would have the Panel believe. Rather, awarding the Last Best Offer of the Board on this issue will simply introduce into the contract a modest provision for performance-based compensation. More importantly,

it will require the GEA to engage in a good faith, meaningful dialog in future negotiations over whether and how performance will affect teacher compensation in Greenwich.

Finally, the Board's proposed General Wage Increase ("GWI") is reasonable and appropriate relative to the settlements throughout the State of Connecticut. The Board's offer in this regard will provide teachers with a wage increase while ensuring that GEA members remain the highest paid teachers in the state. Accordingly, the Board respectfully requests that the Panel award the last best offers of the Board on each of the issues in dispute.

II. ARGUMENT

Connecticut General Statutes § 10-153f(c)(4) directs the Panel to consider a number of factors in reaching a decision in this matter, including the priority factors of the public interest and the financial capability of the Town. In what follows, the Board will address the evidence in light of those factors to demonstrate that the last best offers of the Board of Education should be awarded for each of the two issues in dispute.

A. The Priority Considerations Support The Last Best Offers Of The Greenwich Board Of Education

Connecticut General Statutes § 10-153f(c)(4) establishes the following priority criteria for the Panel's consideration: "In arriving at a decision, the arbitrators or the single arbitrator shall give priority to the public interest and the financial capability of the town or towns in the school district . . ." As is evident through the documentation and testimony provided to the Panel during the hearing, both priority factors weigh significantly in favor of the Board for each of its last best offers.

1. Introducing a Limited, New System of Compensating Teachers is in the Public Interest

In Greenwich, Connecticut, there is a clear need for modification of the teacher compensation system. Teacher retention in Greenwich is a serious issue that can and should be addressed through performance-based compensation, as part of a multi-faceted approach to teacher compensation.

As explained by Mr. William Kelly, Board member and Chair of the Negotiations Committee, the Greenwich Public Schools consistently loses teachers with zero to eight years' experience. Between 1998 and 2007, teachers with zero to eight years' experience comprised 468 of the 581 teachers who resigned or left the District for reasons other than retirement. Board Exhibit 12. This past year alone, the District lost fifty-nine such teachers, forty-eight of whom were teachers with zero to eight years' experience. Board Exhibit 12.

These annual teacher losses in Greenwich amount to approximately 7% of the District's teachers, a major burden for the Board, its remaining teachers, and its students. Board Exhibits 3 and 12; Testimony of Mr. William Kelly. The Board is constantly faced with the need to train new teachers in general teaching principles, as these teachers are often coming right out of college, and in the systems, philosophies and methods used by the Greenwich Public Schools. Not only does this training mandate significant time and money on the part of the Board, but it requires teachers to be out of the classroom for training. Testimony of Mr. William Kelly. The Board strives to maintain consistently high standards for its teachers, which in turn will result in high academic standards for its students. Significantly, the Board has implemented various incentives in its efforts to retain high quality teachers. Testimony of Mr. William Kelly; Board Exhibit 86. First, and arguably most important, teachers within the Greenwich Public Schools are already the highest paid teachers in the state. Board Exhibits 6 through 11. This status applies across the board – for minimum and maximum salaries, for teachers with bachelor's degrees, master's degrees and sixth year degrees. *Id.* Clearly, high salaries alone will not solve the District's teacher retention problem.

The Board has also implemented several programs dedicated to providing other assistance to its teachers. For example, the Board devotes \$10,000 annually to the operation of a commuter van to transport teachers from the train station in downtown Greenwich to Greenwich High School, one middle school and one elementary school. Board Exhibit 86. At this time, the Board fills one and one-half of a van to assist these commuting teachers in avoiding the traffic that plagues the Fairfield County area. Testimony of Mr. William Kelly. Further, sixty-three teachers currently take advantage of the Board's offer for them to bring their children to attend pre-school through twelfth grade within the Greenwich Public Schools at a cost of only 5% of the actual tuition, which has a value of almost \$600,000. Board Exhibit 86. The Board hired a childcare program planning consultant, at a cost of \$14,000, to research and report on effective childcare programs for individuals teaching within the Greenwich Public Schools, and that work continues with the opening of such a program in 2008-2009. Board Exhibit 86; Testimony of Mr. William Kelly.

As further incentive for teachers in the District, the Board agreed, during the negotiations for the 2006-2009 contract, to increase the amount of tuition reimbursement and decrease the number of years a teacher must work in Greenwich prior to receiving that reimbursement. Testimony of Mr. William Kelly; Board Exhibit 2, at Article 15. Specifically, the Board set aside over \$120,000 for each contract year for the purpose of tuition reimbursement, and added in the contract, at the request of the GEA, that a teacher need only spend one year teaching in the District prior to receiving the reimbursement. *Id.* Despite all of these incentives, the retention problem in Greenwich persists, and the public interest supports further efforts, specifically, the Board's Last Best Offer on Issue # 1, performance-based compensation.

Apart from the retention issue, the public's interest in improving the education of its children supports the Board's proposed performance-based compensation plan. By compensating teachers as they perform to the high standards set by the Board and the State of Connecticut, the District will be better able to retain the most qualified.

Moreover, introducing issues of performance into compensation can change the dialog by focusing teacher attention on the characteristics of effective teaching. The public interest is surely well-served by improving teacher performance and thereby providing a better education for students.

The Board's last best offer of a new performance-based compensation system provides an appropriate, fair, reasonable solution to the District's teacher retention problem and its need to deliver high quality teachers to each student within the Greenwich Public Schools. Indeed, over recent years there has been nationwide recognition of the need to change systems of teacher compensation to attract high quality individuals into the teaching profession and to retain those who could, and often do, leave the profession to explore employment that is more financially lucrative.

a. Attracting a New Generation of Teachers

In 2000, it was projected that, over the next decade, 2.2 million teachers would be needed to support the growing student population. Board Exhibit 60. However, under current compensation practices, high-achieving college graduates who may otherwise enter teaching are entering other professions, attracted to positions offering competitive salaries, team-work opportunities, and quick advancement through the ranks. Board Exhibit 56. This new generation of potential teachers no longer views teaching as a life-long career; indeed, even those who initially identify themselves as "long term teachers" now express disappointment with salary and advancement opportunities and reference "wanting to do 'something different. . .'" Association Exhibit, Peske, Heather G., "The Next Generation of Teachers: Changing Conceptions of a Career in Teaching," at 5 (Dec. 1, 2001).¹ As described by Harvard Professor Susan Moore Johnson, "Current recruits will not be content to patiently wait their turn to exercise leadership inside and outside of their classrooms." Board Exhibit 60. By changing the compensation system, teaching can and will become more attractive to this new generation of potential teachers.

Education reform organizations throughout the country are addressing this important issue and ensuring that the issue takes front stage in the upcoming presidential election. Testimony of Dr. J. Todd White; Board Exhibit 57. Indeed, the policy guide drafted by Strong American Schools advocates for teacher quality reform by way of, among other things, awarding bonuses based on individual teacher performance. Board Exhibit 57. Moreover, pending legislation for the Reauthorization of the No Child Left Behind Act includes provision for performance-based incentives in an effort to improve teacher quality. Board Exhibits 76, 77; Testimony of Dr. J. Todd White.

The National Institute for Excellence in Teaching (the "NIET") is a driving force in the nationwide effort to provide quality, highly-educated teachers for all students. The mission of the NIET is to ensure "a highly skilled, strongly motivated and competitively compensated teacher for every classroom in America with the ultimate goal of improving student academic achievement." Board Exhibit 50, "Testimony of Dr. J. Todd White," at 2. Created by the Milken Family Foundation and funded through federal and private grants, the NIET advocates for comprehensive teacher quality reforms, which include a performance-pay component. Testimony of Dr. J. Todd White.

According to Dr. White, the Senior Vice President for Training with the NIET and a distinguished educator, teacher quality is the number one indicator of student performance. Testimony of Dr. J. Todd White. Across the board, however, high-achieving individuals who choose professions other than teaching cite compensation as at least one reason they chose not to enter the teaching profession. *Id.* Recent college graduates think long-term when choosing a profession; when those students look at their potential salary over ten or fifteen years, they do not see a future in teaching. *Id.*

The NIET is dedicated to solving the issues of teacher quality, retention and recruitment. To that end, it has created the Teacher Advancement Program ("TAP"), a multi-faceted plan currently being implemented in seventeen states and just under 200 schools. Testimony of Dr. J. Todd White; Board Exhibit 50, at 2. TAP consists of four main elements: (1) Multiple Career Paths; (2) Ongoing Applied Professional Growth; (3) Instructionally Focused Accountability; and (4) Performance-Based Compensation. Board Exhibit 50 at "Multiple Career Paths." As outlined after the description of TAP, the Greenwich Public Schools already offer teachers opportunities analogous to each of the four TAP elements, except for performance-based compensation.

The first element, Multiple Career Paths, allows for teacher advancement within the teaching discipline. Board Exhibit 50 at "Multiple Career Paths." Teachers who demonstrate exemplary knowledge and skills are compensated with additional responsibilities outside the classroom which may include designation as a mentor or master teacher, responsibility for evaluating career teachers, and organizing and delivering professional development workshops. Testimony of Dr. J. Todd White; Board Exhibit 50 at "Multiple Career Paths." Importantly, mentor and master teachers are compensated accordingly. Board Exhibit 50 at "Multiple Career Paths."

A second core element of TAP is Ongoing Applied Professional Growth. Board Exhibit 50 at "Ongoing Applied Professional Growth." In TAP schools, time is specifically set aside for "teacher learning," weekly professional development programs that focus on real-time student issues. Testimony of Dr. J. Todd White; Board Exhibit 50 at "Ongoing Applied Professional Growth." This professional development time allows for, among other things, collaboration among teachers and improvement in daily instruction. Board Exhibit 50 at "Ongoing Applied Professional Growth." This aspect of TAP is especially critical for teachers who receive below average

ratings in their evaluations. Testimony of Dr. J. Todd White. By educating teachers and improving their skills, TAP promotes the goal of providing quality teachers in all classrooms.

The third element of TAP is Instructionally Focused Accountability, a comprehensive evaluation system. Board Exhibit 50 at “Instructionally Focused Accountability.” Each teacher is evaluated by fellow teachers and administrators four to six times per year using a multi-level rubric evaluation system. Testimony of Dr. J. Todd White; Board Exhibit 50 at “Instructionally Focused Accountability.” The rubric, which is very similar to the work of Charlotte Danielson, a well-known educator and researcher in the area of teacher evaluation, consists of multiple measures, using multiple evaluators, multiple evaluations, strong support and clear evaluation criteria. Testimony of Dr. J. Todd White. The program further emphasizes reflective evaluation practices, on the premise that the more accurately a teacher is able to reflect on his/her teaching techniques and practices, the more effective the teacher will be. *Id.*

Finally, TAP includes Performance-Based Compensation as a fourth core component. Board Exhibit 50 at “Performance-Based Compensation.” As Dr. White explained through his testimony, we cannot pay teachers too much, especially for their knowledge and skills. Under TAP, high performing teachers are compensated with a performance bonus that is determined by their evaluation and the value-added scores of their students. Board Exhibit 50 at “Performance-Based Compensation.” Thus, a teacher’s bonus is awarded based on his or her position, level of responsibility, performance and output. Board Exhibit 50 at “Performance-Based Compensation.”

Dr. White has seen firsthand over the past eight years the success of the four core components of TAP. As the Senior Vice President for Training, Dr. White spends his time in TAP schools training teachers and evaluators and assisting schools with the general implementation of the program. According to Dr. White, implementation of TAP changes the conversation in the teachers’ lounge. Teachers begin to speak in the language of the TAP system and incorporate the scientific model into their own art of teaching. Teachers have frequently reported to Dr. White that TAP has improved their teaching abilities.

Additional evidence of the success of TAP is in its widespread implementation. Testimony of Dr. J. Todd White. Schools now actively seek limited grant money to become a TAP school and improve their teacher quality. Board Exhibit 69. Indeed, while union support of TAP varies greatly throughout the country, teachers themselves frequently vote to implement TAP in their schools. Testimony of Dr. J. Todd White. Indeed, in the highly-unionized environment of the Chicago Public Schools, last year far more schools applied to participate than spaces were available. *Id.* TAP has been successful in diverse school settings, ranging from urban to suburban to rural. *Id.*

While the Board is not proposing the District implement TAP, the Board’s performance-based compensation proposal, combined with the revised Teacher Evaluation and Professional Development (“TEPD”) Plan currently being piloted in the District, mirrors the four essential elements of TAP. Testimony of Dr. Ellen Flanagan; Testimony of Dr. J. Todd White.

First, the Board’s plan allows teachers to advance quickly up a career ladder. Testimony of Dr. Ellen Flanagan. Teachers in Greenwich already have opportunities to pursue multiple career paths. The current contract provides opportunities for mentor teachers, learning facilitators and professional development coaches. Moreover, under the Board’s proposal, through demonstrated knowledge and skills new teachers will be able to advance rapidly and be designated as an Exemplary teacher. *Id.* The Board’s TEPD plan also includes significant professional development for teachers, which aligns with TAP’s requirement for Ongoing Applied Professional Growth. Testimony of Dr. Ellen Flanagan. Specifically, if a teacher is evaluated as performing in the lowest two levels of the evaluation rubric, that teacher and his or her supervisor or mentor will work together to develop a support plan to assist the teacher to improve in his or her area(s) of weakness. *Id.* This support plan may include working with a reading specialist, assistance from the professional development coach (there is one coach in each school building), professional development workshops, and inter-classroom visitation. *Id.* Improvement in the area of weakness will be evaluated the following year through the TEPD plan. *Id.*

Additionally, as Dr. Flanagan testified, the District is in the process of developing a mandatory professional development system through which every teacher evaluated in the lowest two levels of the TEPD plan will be assigned various professional development sessions in that teacher’s area of weakness. Testimony of Dr. Ellen Flanagan. This system will require the teacher’s principal to select the appropriate professional development classes to ensure the teacher’s weakness areas are met. *Id.* This new system will also include follow-up by the teacher’s principal, whereby the principal will work with the teacher to ensure that the professional development skills are retained and applied in the classroom. *Id.*

A third aspect of the Board’s proposal that aligns with TAP is the Board’s rigorous revised TEPD plan. Testimony of Dr. Ellen Flanagan. As Dr. White explained, a clear, comprehensive teacher evaluation plan is the cornerstone for any successful teacher reform program. The revised TEPD plan in Greenwich meets such standards. Testimony of Dr. J. Todd White. The TEPD plan, which is more thoroughly outlined below, involves a three year cycle of comprehensive evaluations for tenured teachers, and an annual comprehensive evaluation for non-tenured teachers, with significant training for administrators on application of the multi-faceted rubric system. Testimony of Dr. Ellen Flanagan. The TEPD plan allows for, among other things, multiple measures of evaluating a teacher’s performance, multiple evaluations through the year or three year period, and multiple evaluators for each non-tenured teacher. Testimony of Dr. Ellen Flanagan; Board Exhibit 79.

Finally, the Board's performance-based compensation system will recognize high-performing teachers for high quality work. Testimony of Dr. Ellen Flanagan. A financial performance incentive is a necessary component of any successful school reform plan, whether the plan functions like TAP or like the plan proposed by the Board. Testimony of Dr. J. Todd White. As will be seen in more depth below, the Greenwich plan differs slightly from TAP in this respect. TAP recognizes high-performing teachers in the form of an annual bonus. Testimony of Dr. J. Todd White. The Board's proposed system, by contrast, modifies the salary schedule to create incentive through rapid advancement on that schedule. Moreover, eventually the Board's plan will promote accountability by conditioning continued high compensation on continued high performance (subject to safeguards). Testimony of Mr. William Kelly. That element, however, will be subject to future negotiations, and it will not be implemented this year.

The need to change how we compensate teachers is almost universally acknowledged. See Board Exhibits 50 through 77. This need is recognized by think tank reports, *see, e.g.* "Teaching At Risk: A Call to Action" (Board Exhibit 16), teachers themselves, *see, e.g.* "Performance Pay for Teachers: Designing a System that Students Deserve" (Board Exhibit 71), and even members of the United States Congress in the TEACH Act and the proposals to reauthorize No Child Left Behind (Board Exhibits 77 and 78). We even see repeated references to the need to revamp teacher compensation in the GEA's exhibits:

- "Our findings suggest that retaining the next generation of teachers may, in fact, be much more difficult than retaining the previous generation of teachers was." Association Exhibits, Peske, Heather D., "The Next Generation of Teachers: Changing Conceptions of a Career in Teaching," at 5 (Dec. 1, 2001).²
- "By recruiting prospective teachers broadly, providing high-quality induction and professional development, improving working conditions, paying well, and developing career ladders that engage expert teachers in sharing their craft wisdom and extending their influence, officials can ensure that students will be well served." Association Exhibits, Peske, Heather D., "The Next Generation of Teachers: Changing Conceptions of a Career in Teaching," at 8 (Dec. 1, 2001).
- "One important benefit of performance-based compensation is that it provides a financial incentive for teachers to improve their teaching skills." Harris, Debbi C., "The Promises and Pitfalls of Alternative Teacher Compensation Approaches," The Great Lakes Center for Education Research & Practice, at 14 (Apr. 2007).
- "One critical need is to identify **highly effective teachers** who can serve as mentors and master teachers and who might be recruited to high-need schools through a variety of incentives, including additional salary" Association Exhibits, Testimony of Linda Darling-Hammond for the United States Senate HELP Committee, at 5 (Mar. 9, 2007) (emphasis in original).³

Even Professor Braun, the witness called by the GEA, writes:

States and districts have many levers at their disposal, among them the improvement of teacher training, standards for licensure, effective mentoring for new teachers, policies regarding the assignment of teachers to schools and to classrooms within schools, more equitable distribution of resources, **targeted professional development, as well as high salaries and differentiated pay schedules**. A coherent, sustained and systematic initiative that involves many, if not all, of these levers will surely meet with greater success than a narrow effort focused on just one.

Braun, "Using Student Progress to Evaluate Teachers: A Primer on Value-Added Models," Educational Testing Service (2005), at 16 (emphasis added). Clearly, both parties have identified the need to change the manner in which teachers are paid. Only the Board, however, has addressed the issue. The public interest requires action, not a rearguard action to defend the status quo.

b. **Implementing a New Approach**

The Board's proposal for a performance-based compensation system provides a fair, appropriate means by which to solve the Town's problem of teacher recruitment and retention and to ensure that all Greenwich students are educated by quality teachers.

In this one-year salary reopener, the only binding aspect of the Board's plan is the class of affected teachers and placement of these few teachers on new Appendix A-1. The mechanism for advancement through the Board's proposed Appendix A-1 is simply a proposal that will be subject to further negotiations. However, the Board elected to provide the Panel with a comprehensive view of the performance-based compensation plan so that the Panel could better understand the potential future benefits with regard to teacher advancement and opportunity. In any event, it is imperative that the plan be adopted as proposed so that the parties can engage in meaningful future negotiations. Otherwise, the GEA will simply persist in stonewalling and resisting appropriate efforts for change.

i. The Plan

The Board's Last Best Offer on Issue # 1 introduces the concept of performance-based compensation in a very limited way. It mandates the participation only of select teachers who will be new to the Greenwich Public Schools in the 2008-2009 school year.⁴ Those select new teachers are those who are placed at a school where the revised TEPD was piloted during the 2007-2008 school year, which schools include Julian Curtis Elementary School, North Mianus Elementary School, Eastern Middle School, and Clark House at Greenwich High School, and who would otherwise be placed on steps one through four of the current salary schedule. Testimony of Dr. Ellen Flanagan; Testimony of Mr. William Kelly. These teachers will knowingly accept employment in Greenwich under the new plan, and thus the Board's proposal will be put to the test without affecting the expectations of any currently-employed teacher.

Teachers currently teaching in the Greenwich Public Schools will not be required to participate in this new program. However, current teachers may opt-in to the performance-based compensation system, by June 30, 2008, if they meet the following criteria: (1) the teacher was assigned to a school in which the revised TEPD was piloted during the 2007-2008 school year and was evaluated pursuant to the revised plan; (2) the teacher does not have tenure as of July 1, 2008; and (3) the teacher would otherwise be placed on steps one through four of the current salary schedule for the 2008-2009 school year.

The system includes four different levels, with Level I containing four sublevels. Appendix A-1, which details the salaries for each level and sublevel, can be found within the Board's Last Best Offer. A new teacher entering Greenwich in 2008-2009 will be placed in accordance with his or her degree status in a sublevel of Level I. The Superintendent or his/her designee will have discretion as to which sublevel the teacher is placed. A teacher already in the school system who opts-in to the plan will be placed on a sublevel of Level I analogous to the step on which he or she otherwise would have been placed in the current salary schedule.

Any teacher entering the plan on Level I will be comprehensively evaluated every year in accordance with the revised TEPD plan and will automatically move up the sublevels until reaching the fourth sublevel. If a teacher in Level I is rated as Proficient or Exemplary in his or her third year of employment, he or she will advance to Level II the following school year. According to Appendix A-1, performance as Proficient by a teacher in his or her third year of employment will result in a \$10,000 base salary increase. In addition, any teacher attaining tenure will automatically advance to Level II and will thereby receive the same \$10,000 base salary increase.

If a teacher reaches Level II by way of evaluation through the revised TEPD plan as Proficient or Exemplary, that teacher will be evaluated again in his or her fourth year of employment (the year before attaining tenure), and that teacher can move to Level III if that teacher is again evaluated as Proficient or Exemplary pursuant to the revised TEPD plan. Teachers who reach Level II by attaining tenure will remain in Level II for the next three years. Every three years, teachers in Level II will be comprehensively evaluated according to the revised TEPD plan. If a teacher is evaluated as Basic or Unsatisfactory, the teacher will remain in Level II for the subsequent three years. A teacher who scores Proficient or Exemplary will move to Level III in the subsequent school year.

Once in Level III, the teacher remains there for the subsequent three years until again undergoing a comprehensive evaluation pursuant to the revised TEPD plan. If the teacher is evaluated as Proficient pursuant to that comprehensive evaluation in the third year, the teacher will remain in Level III for the succeeding three years. If the teacher is rated Exemplary, the teacher will move to Level IV, again for the next three years. If the teacher is rated Basic or Unsatisfactory, the teacher will remain in Level III for another year, during which the teacher will be subject to another comprehensive evaluation. If the teacher is rated Basic or Unsatisfactory for a second consecutive year, the teacher will then move to Level II for the next three years. If the teacher is evaluated as Proficient, that teacher will be permitted to remain in Level III for the next three years. If the teacher is rated Exemplary, the teacher will move to Level IV for the next three years.

Level IV is similar. A teacher placed in Level IV by way of a comprehensive evaluation will remain in that level for the subsequent three years until undergoing a comprehensive evaluation pursuant to the revised TEPD plan. Placement in the year following such evaluation will follow the rules above. The teacher can remain at Level IV for the three years following if the evaluation supports such placement. If it does not, the teacher remains at Level IV for an additional year, during which he or she is again comprehensively evaluated. At that point, the teacher will remain at Level IV for another three years if evaluated as Exemplary, or the teacher will move to Level III for the next three years if evaluated as Unsatisfactory, Basic or Proficient.

Significantly, the Board's proposal does not include any quota or other limit on the number of teachers who can reach or stay at Level III or Level IV. Testimony of Mr. William Kelly; Testimony of Mr. Larry Simon. Teachers will be evaluated on their individual performance using the revised TEPD plan and be placed on the salary schedule in accordance with that performance, as described above. The gradual escalation in the number of teachers and the gradual nature of any moves pursuant to the plan will permit the Town to project needs appropriately to fund teacher salaries under the new compensation system.

ii. Teacher Evaluation

The revised TEPD is the cornerstone of the Board's proposal for a new performance-based compensation plan. This revised plan provides a comprehensive, rigorous system by which teachers are held to high standards

and are evaluated on multiple levels of performance. This revised plan provides an appropriate basis for evaluating teacher performance.

Dr. Ellen Flanagan, the Director of Human Resources for the Greenwich Public Schools, guided the work of the evaluation committee to revise the current TEPD, a project that was widely acknowledged as necessary. This need was identified by former Superintendent Dr. Larry Leverett when Dr. Flanagan was appointed, and was again recognized by all participants in the Knowledge and Skills Based Compensation Committee. Testimony of Dr. Ellen Flanagan; Testimony of Mr. William Kelly.

In revising the TEPD, the Board followed the law. Specifically, Connecticut General Statutes § 10-151b provides that the Board must implement a professional development plan, including teacher evaluation, that complies with the guidelines for teacher evaluation established by the State Board of Education, as well as any guidelines *mutually agreed-upon* by the Board and the teachers' representative. Moreover, Connecticut General Statutes § 10-220a(b) provides that the development of teacher professional development must include "the advice and assistance of the teachers and administrators employed by such boards, including representatives of the exclusive bargaining representative of such teachers and administrators chosen pursuant to section 10-153b."

As detailed below, Dr. Flanagan initiated a collaborative effort with the GEA and the Greenwich Organization of School Administrators ("GOSA") to revise the evaluation plan. However, the Board was permitted to approve, and did approve, a teacher evaluation plan developed with GEA participation as long as it conformed with the guidelines established by the State Board of Education for teacher evaluation. Connecticut General Statutes § 10-151b. The manner in which teachers are evaluated is a permissive subject of bargaining. See *Wethersfield Bd. of Education v. State Bd. of Labor Relations*, 201 Conn. 685 (1986). Thus, the Board was not obligated either to negotiate or otherwise reach agreement with the GEA concerning the teacher evaluation plan. A more in-depth discussion of the laws regarding teacher evaluation plans is attached hereto as Appendix A.

Since her appointment as Director of Human Resources in the Greenwich Public Schools in 2005, Dr. Flanagan has been charged with overseeing the development of a new teacher evaluation plan. Testimony of Dr. Ellen Flanagan. As Dr. Flanagan testified, revision of the old evaluation plan was necessary because it did not call for the observation of tenured teachers, which made it difficult to ensure teacher quality. *Id.* Further, the plan did not include clear standards of what the District expected of its teachers, thwarting attempts at consistency throughout the District schools. *Id.*

The revision process began in June 2006 when Dr. Flanagan contacted Cathy Delehanty, the president of the GEA, about the TEPD Plan Committee she was organizing. Testimony of Dr. Ellen Flanagan. Dr. Flanagan and Ms. Delehanty solicited volunteers for the Committee, which had its first meeting in June 2006 and continued to meet and study relevant evaluation research throughout the summer. *Id.* The Committee was comprised of teachers and administrators throughout the District, including representatives from both bargaining units, representatives of various departments and all school levels, as well as the Deputy Superintendent and Assistant Superintendent. *Id.* The ultimate goal of the Committee was to develop a more robust evaluation system that would identify characteristics of good teaching within the Greenwich Public Schools; measure teachers across the spectrum of their responsibilities; provide opportunity for in-depth review of performance; provide support in areas of need; and create a system that promotes collaboration between evaluator and teacher and provides a tool to inform professional learning at the district, building and individual level. *Id.*

During the summer of 2006, the Committee researched teacher evaluation systems and participated in monthly meetings during which the research and evaluation ideas were shared. The Committee reviewed the literature on teacher evaluation and researched existing evaluation systems. Testimony of Dr. Ellen Flanagan. During the summer, the Committee hired a consultant from Cooperative Educational Services, Donna DeRecinos, to assist the Committee. *Id.* The Committee extensively studied the work of Charlotte Danielson, including, "ETS Pathwise: Components of Professional Practice," published by Educational Testing Service, and the book, Enhancing the Professional Practice: A Framework for Teaching (2d Ed. 2007). Board Exhibits 84a and 84b. These materials provided a wealth of examples of how the act of teaching can be broken down into various elements and evaluated along a continuum of performance. These "rubrics" are similar to those used by the State Department of Education in evaluating teacher performance under the Common Core of Teaching. See Board Exhibit 80.

After reviewing the literature, the research and existing plans, the Committee began the process of revising the TEPD, and it established a timeline for implementation. Testimony of Dr. Ellen Flanagan. The Committee started with a simple question: What does good teaching look like in Greenwich? *Id.* The Committee developed a draft revision of the TEPD using this question, as well as the Connecticut State Department of Education Guidelines for Teacher Evaluation, which require that teacher evaluation plans be based on Connecticut's Common Core of Learning, Connecticut's Common Core of Teaching, and the Connecticut Framework: K-12 Curricular Goals and Standards.⁵ Testimony of Dr. Ellen Flanagan; Board Exhibits 80, 81 and 82. The draft, which included three domains -- Learning, Teaching, and Professional Responsibilities, and components and indicators for each domain -- was sent to all certified teachers in the District in the form of an online survey. Testimony of Dr. Ellen Flanagan.

The Committee held three informational meetings to discuss the survey, collect input, and provide additional information to teachers as needed. *Id.*

The Committee reviewed the comments and suggestions of the teachers and incorporated them into the plan, which resulted in the final draft -- a highly structured, detailed set of rubrics to define the continuum of performance for teachers within the District. Testimony of Dr. Ellen Flanagan. Development of the rubrics was followed by a second online survey for teachers and an additional three informational meetings. *Id.* The Committee did not take a vote on implementing the pilot program. *Id.* The GEA representatives voiced concerns during the May and June 2006 Committee meetings over piloting the evaluation plan (which would have delayed implementation for an entire additional year), but they made no effort to withdraw from the Committee's work or block the Committee's efforts. *Id.* The decision to commence the pilot plan was based on the timeline set by the Committee at the start of their discussions. *Id.* There was no showing from the GEA during the hearing that the revised TEPD plan is inconsistent in any way with the Connecticut State Department of Education Guidelines for teacher evaluation. Moreover, the GEA presented no evidence whatsoever, through its "expert" or otherwise to rebut the testimony of both Dr. White and Dr. Flanagan that the revised TEPD plan is an effective tool to measure teacher performance comprehensively and accurately.

In June 2007, the Committee released the Teacher Evaluation Plan Newsletter, which explained why the TEPD plan needed to be revised and the general details of the revised plan. Board Exhibit 84. The Newsletter further clarified that the TEPD Committee had never discussed the implementation of a performance-based compensation plan that used the TEPD to determine teachers' pay. Board Exhibit 84. Indeed, as Dr. Flanagan testified, neither she nor the Committee was ever charged with developing a performance-based compensation system, using the TEPD plan or otherwise. Testimony of Dr. Ellen Flanagan. Performance pay had nothing to do with the need to revise the evaluation system, and the revision was undertaken to establish an effective means for evaluating teacher performance. *Id.* Once the revision was complete, however, it made perfect sense for any performance component to be based on the District's evaluation plan rather than the similar performance continuum promulgated by the State Department of Education that the parties had discussed in the 2005 negotiations. Testimony of Mr. William Kelly; *compare* Board Exhibit 80 with Board Exhibit 79.

On June 13, 2007, Dr. Flanagan received a letter from Ms. Delehanty and Ellen Murdock, the TEPD Committee Co-Chair, explaining that the GEA was not in support of the plan to pilot the revised TEPD in the 2007-2008 school year. Associate Exhibit XI-14, 15. Ms. Delehanty and Ms. Murdock wrote that they did not believe there had been sufficient consensus within the Committee or proper representation of all specialty areas and thus the pilot plan was not ready to be implemented. *Id.* While Dr. Flanagan had heard concerns from the GEA, she was surprised to receive this letter and information that the GEA did not support the plan. Testimony of Dr. Ellen Flanagan. Not-so-coincidentally, the parties began reopening negotiations over performance-based compensation on that June 13th as well. At the June 2007 Board of Education meeting, teachers expressed concern that the rubric system resembled a merit pay system. *Id.* Delaying the implementation of the pilot program would have prevented the Board from moving ahead with a viable proposal for performance-based compensation. Presumably, the GEA will not claim that it was unaware of that fact.

Despite the sudden GEA resistance to piloting the TEPD plan, the Board approved the evaluation plan on August 31, 2007, as it is permitted to do by statute. Testimony of Dr. Ellen Flanagan. The TEPD plan is being piloted during the current school year in four schools: Julian Curtis Elementary School, North Mianus Elementary School, Eastern Middle School, and Clark House at Greenwich High School. *Id.*

As Dr. White testified, training of administrator evaluators is essential for the effective implementation of a multi-faceted teacher evaluation plan such as that being piloted by the Board. To prepare for district-wide implementation in 2009-2010, all administrators will undergo extensive training during the 2008-2009 school year on the revised TEPD plan to ensure consistent, reliable implementation. *Id.*

To train administrators in the revised TEPD plan, the District has employed two consultants from Cooperative Education Services with extensive experience in evaluating teachers. Testimony of Dr. Ellen Flanagan.

Specifically, both consultants are portfolio trainers for the Beginning Educator Support and Training ("BEST") Program for the State of Connecticut, both have teaching experience and one has administrator experience. *Id.*

These consultants will conduct training sessions on both the group and individual level. *Id.* Topics of these sessions will include, among other things, coaching conversations, data gathering, evaluator reliability through videos and live evaluations, focused informal evaluations and written feedback from the consultants. *Id.* The consultants will also conduct paired observations (one administrator, one trainer), and provide training in a time management system, "Breakthrough Coach," which will aid administrators in devoting the time necessary for frequent classroom visits.

In summary, now is the time in Greenwich to implement a change in teacher compensation. If not now, when? If not Greenwich, where? The Board's proposed plan is supported by the entire Town leadership: the Board of Selectmen, the Board of Estimate and Taxation, the Labor Contracts Subcommittee of the RTM, and the Board of Education. Testimony of Mr. William Kelly.

The public interest is served by appropriately balancing the legitimate interests of currently-employed teachers against the needs of the school district and the students it serves. This is a need to address issues of teacher recruitment and retention by introducing a performance component into the teacher compensation system. There is

a valid and appropriate system for measuring that performance. A new group of teachers can decide for themselves whether to accept employment in Greenwich and thus participate in that system. Currently-employed teachers can carry on under the old system if they wish. The Board's Last Best Offer on Issue # 1 is fully supported by the evidence and should be adopted by this Panel.

2. Financial Capability of the Town

The financial capability of the Town of Greenwich strongly supports the Board's last best offers of a performance-based incentive plan and a GWI of 2.8% for the one-year salary reopener.

a. The Budget Process

In Greenwich, the Board of Estimate and Taxation (the "BET") is charged with annually approving the Town's budget, setting the Town's mill rate, and approving any interim appropriations. Testimony of Mr. Larry Simon. As made clear by Mr. Simon, the BET builds the Town's budget from the ground up. *Id.* In other words, instead of having one large pie and allotting pieces to the various Town departments, the BET determines its financial need and constructs the Town's budget around that need. *Id.*

The BET employs a uniform process each year to construct the Town's budget. Testimony of Mr. Larry Simon. Specifically, the BET first sets the Town's mill rate, which has been increased by 3.5% each year for the past four years. *Id.* Next, the BET sets aside money for the funding of all labor contracts entered into by Town boards. *Id.* If a Town board has approved a contract, the BET will always fund the contract. *Id.* The BET then increases all non-salary accounts funded by the Town an additional 3%. *Id.* Next, the BET looks at the Town's fixed charges, such as health care and pension costs, and estimates the Town's future financial need in this regard. *Id.* Finally, the BET attends to capital needs and new initiatives with the balance of the money available within the established 3.5% mill rate increase. *Id.*; see also Board Exhibit 116.

The Town's budget has increased each year over at least the past eight years. Testimony of Mr. Larry Simon. For fiscal year 2008, which commences on July 1, 2008, the budget is set at \$391 million, an increase of 4.85% from 2007; the budget is projected to reach \$413 million for the fiscal year 2009. Testimony of Mr. Larry Simon. This increase is the result of increasing the mill rate as well as the growth of the grand list. *Id.* Because the value of new property in the Town has increased, so has the grand list, which, in turn, has increased the Town's budget. *Id.*

b. Increase Teacher Pay in Return for Teacher Quality

The Town of Greenwich maintains the highest teacher salaries in the State of Connecticut. Board Exhibit 6, 7, 8, 9, 10, 11. Town residents have expressed their desire to recruit and retain quality, high performing teachers to educate their students and ultimately increase student performance. Testimony of Mr. William Kelly; Testimony of Mr. Larry Simon. Logically, and as evidenced through testimony at the hearing, Town residents are not willing to increase the already high teacher salaries in return for the same teacher quality and student performance that has existed in Greenwich for many years. *Id.* Consequently, a further dramatic increase in teacher salaries, as proposed by the GEA's last best offer, without the added promise of an increase in teacher quality and student performance is not justified.

However, as both Mr. Kelly and Mr. Simon testified, Town residents would support an increase in teacher salaries, and even an increase in the Town's budget, if they understood that they would receive a benefit in return. Specifically, Town residents would need to see that a performance-based compensation plan has been implemented and that such a plan has the promise of increasing teacher quality, thereby increasing student performance. Testimony of Mr. Larry Simon.

c. The Budget Process Provides Needed Flexibility

At this time, the Panel is charged with deciding a salary reopener that will establish Greenwich teacher salaries for only one year. Consequently, the Board's last best offer of a performance-based compensation system will have limited budgetary impact. Testimony of Mr. Larry Simon. Should the Board's proposal be implemented for the long-term, however, it could, over time, increase the Town's expenditures for teacher salaries as teachers rapidly move closer to the top level of the plan. However, that possibility would not be a problem for the Town. *Id.*

The most significant aspect of the Town's budgeting process is that it provides for flexibility. Testimony of Mr. Larry Simon. Over the past few years, the Town has been funding many more capital projects, which logically means that the Town has had more available funds after labor contracts have been satisfied. *Id.* Because of this phenomenon, the BET and the Town are capable of planning for any projected increase in the budget of the Board of Education. *Id.* Indeed, the BET has the ability to plan five to ten years in advance to fund an additional \$1.5 million for the Board of Education. *Id.*

The Town clearly has the financial resources and the budget flexibility to support the Board's last best offers, and to support the Board's proposed performance-based compensation plan if such plan were to be implemented long-term. In contrast, neither the Board of Education nor Town residents are willing to pay the already highly-compensated teachers in Greenwich more than an average increase unless and until those expenditures are justified by the accountability that a performance-based compensation system provides.

B. The Other Factors Also Support The Board's Last Best Offers

Connecticut General Statutes § 10-153f(c)(4) further provides as follows: The arbitrators or the single arbitrator 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 the 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 the terms of recent contract settlements or awards in collective bargaining.

Consideration of these various factors also supports the last best offers of the Board.

1. Negotiations between the parties prior to arbitration, including the offers and the range of discussion of the issues

a. Issue #1

There is an extensive history between the parties relative to the need to introduce a new teacher compensation system. Such discussions were preceded by discussions with GOSA in 2000 over performance compensation. Then, in the summer of 2002, the Board and the GEA engaged in contract negotiations for the 2003-2006 collective bargaining agreement. Testimony of Mr. William Kelly. Those negotiations resulted in Article 9(M) of the 2003-2006 collective bargaining agreement between the Board and the GEA. Testimony of Mr. William Kelly; Board Exhibit 14. That Article provides, specifically, that the parties were to appoint three members each to a committee charged with studying “the issue of modification of salary schedules, including the possible elimination of steps.” Board Exhibit 14.

While the committee was never formed, both the Board and GEA clearly understood that further research into the issue of alternative compensation systems was a worthy venture. Testimony of Mr. William Kelly. In the fall of 2004, two Board members, the GEA president and the Director of Human Resources traveled to Chicago, Illinois, to attend a conference concerning alternative compensation systems. Testimony of Mr. William Kelly. The group listened to a talk by Professor Allan Odden, a well-known researcher and proponent of performance-based compensation systems. Testimony of Mr. William Kelly; see Board Exhibits 17, 58, 59.

The next opportunity to discuss this issue arose in the summer of 2005 when the parties returned to the bargaining table to negotiate the 2006-2009 collective bargaining agreement. Testimony of Mr. William Kelly. The Board's proposals for contract change included a process, through Article 9, by which the parties could collaboratively revise the salary structure by phasing out the step system and introducing a structure that could “provide alternative career paths for teachers, with different levels of compensation based on demonstrated achievement of specified teaching competencies, and to provide leadership opportunities for teachers with specific skills and/or competencies.” Board Exhibits 15, 18, 19. In support of its proposal, the Board provided the GEA with research concerning alternative compensation systems, including an article by The Teaching Commission titled “Teaching at Risk: A Call to Action.” Board Exhibit 16. In this article, the number one recommendation by The Teaching Commission to improve teacher quality and retain quality teachers is to “transform how teachers are paid.” Board Exhibit 16 at 26. Specifically, the article recommends a competitive base pay for teachers and pay based on performance. Board Exhibit 16 at 26.

The parties eventually reached a settlement, which included new language in Article 9(N) of the 2006-2009 collective bargaining agreement whereby the parties would “engage in a good faith discussion” regarding the creation of a new salary structure. Specifically, the parties agreed to each appoint four individuals to serve on a Knowledge and Skills Based Compensation (“KSBC”) Committee by November 1, 2005. Pursuant to the collective bargaining agreement, the KSBC Committee was charged with addressing, among other things, the following: (1) the concept of a dual salary system, whereby tenured teachers would have the option of participating in a new salary structure and only non-tenured and newly hired teachers would be required to participate; and (2) whether a new system should include four levels of competency whereby movement to the next level would be based on demonstrated competency using the standards outlined in the Connecticut Common Core of Teaching. The new system was to be implemented in the 2008-2009 school year. Importantly, Article 9(N) also provided that the KSBC Committee was to report back to the parties by November 1, 2006, and that, if mutual agreement could not be reached between the Committee members regarding a new compensation system, modifications to the salary structure would be subject to a salary reopener in the summer of 2007.

The ten-member KSBC formed in November 2005 and included teachers, the GEA president, a building administrator, two Board members, and two central office administrators. Board Exhibit 27. The KSBC Committee met as a group approximately eleven times, for a total of over fifty hours, during the period from November 2005 through June 2006. Board Exhibit 27. During these meetings, the members studied numerous articles and research on alternative-based compensation systems, and specifically a salary system to compensate teachers based on their knowledge and skill level. Board Exhibit 27. Many issues were discussed collaboratively during these meetings, including the need to overcome the negative connotation associated with “merit pay,” remove any competitiveness within the system, and revise the TEPD to ensure the need to an objective, fair

evaluation system. Board Exhibit 27. The KSBC Committee eventually hired a consultant, at a cost of \$52,000, to facilitate the discussion of the Committee and the creation of a new salary structure. Testimony of Mr. William Kelly; Board Exhibit 27.

On June 16, 2006, prior to the completion of the work of the KSBC Committee, all Committee members received an e-mail from Cathy Delehanty. Board Exhibit 25. Ms. Delehanty stated the following in her e-mail: "I was upset to hear late last week that the Board has set as one of its goals, 'planning a knowledge and skills based teacher compensation plan.' This was neither discussed nor approved by the K&S Committee." Board Exhibit 25. Ms. Delehanty continued by notifying the KSBC Committee that, based on this information, the GEA "had decided to not commit any additional time to meeting as part of the K&S Committee." Board Exhibit 25.

There was no logic to the decision of the GEA, in June 2006, to pull out of the KSBC Committee because the Board had declared as a goal the creation a knowledge and skills based compensation system. As Mr. Kelly explained through his testimony, the creation of such a compensation system was not a "newsflash" for the GEA. Testimony of Mr. William Kelly. The Board and GEA had been discussing the possibility of such a plan since 2002. Testimony of Mr. William Kelly. The language in Article 9(N) of the 2006-2009 collective bargaining agreement *very specifically* details the need to form a committee to research and develop a knowledge and skills based compensation system. The decision of the GEA prematurely to terminate its participation in the KSBC Committee is indefensible, and its "excuse" was entirely disingenuous. The GEA well knew the Board's goal regarding performance-based compensation, and to state otherwise is incredible.

In any event, despite the termination of the KSBC Committee meetings, the Board and GEA appointees submitted to the parties separate reports concerning the results of the KSBC Committee. Board Exhibits 27 and 28. The Board report detailed the frustration of Board member participants in the KSBC Committee over the fact that the GEA representatives suddenly raised such strong opposition to the Committee's goals. Board Exhibit 27. In conclusion, the Board report expressed the desire to continue progress toward an alternative based compensation system.

By contrast, the report issued by the GEA expressed discontent with the idea of a performance-based compensation system, explaining that neither the GEA nor any of its members had proposed to change the existing system of compensating teachers and did not have any interest in doing so. Board Exhibit 28.

Because the KSBC Committee failed to mutually agree on a restructured compensation system, the parties entered negotiations in the summer of 2007 pursuant to the reopener clause in the 2006-2009 collective bargaining agreement. Board Exhibit 29. The Board explained from the start of the negotiations that, because of significant teacher turnover during the past ten years, the traditional salary schedule was not effective and implementation of a new system was imperative. Board Exhibit 30. The Board clarified that, while it was disheartened by the decision of the GEA to terminate participation in the KSBC Committee, it would nevertheless continue its efforts to change the teacher salary schedule and invited continued dialog from the GEA. Board Exhibit 30.

The Board proposals throughout the negotiation process mirrored the language included in Article 9(N) of the 2006-2009 contract, language that the GEA agreed to only two years earlier. Board Exhibits 30, 32, 35. In the 2007 negotiations, however, the GEA steadfastly refused to entertain any ideas to revise the salary schedule. Indeed, the GEA failed, even once, to present a counterproposal to the Board's proposed modification of the salary system. Board Exhibits 31, 33.

That brings us to the present arbitration hearing. The Board's last best offer relative to a new performance-based compensation system includes several elements identified by **both parties** in the fall of 2005 as important aspects to consider in drafting an alternative compensation system. Importantly, the Board's last best offer not only excludes tenured teachers, but it also does not require any currently-employed non-tenured teachers to participate in the new plan.

The Panel should note that, prior to the commencement of negotiations pursuant to the contract reopener, the Board of Education settled the 2007-2010 contract with GOSA. Testimony of Mr. William Kelly; Board Exhibit 49. As with the GEA, the Board proposed during negotiations with GOSA to include an element of performance pay within the contract. Testimony of Mr. William Kelly. The GOSA representatives bargained in good faith, and they proposed a group performance-based compensation plan, whereby administrators within a designated group (i.e. elementary administrators, etc.) will receive up to a 1.0% performance bonus through the achievement of certain standards. Testimony of Mr. William Kelly; Board Exhibit 49. Indeed, the Board permitted GOSA to work directly with the Deputy Superintendent to create the levels of performance by which their performance bonuses will be determined. Testimony of Mr. William Kelly; Board Exhibit 49. This performance-based incentive system is now implemented for all administrators in the Greenwich Public Schools.

Clearly, the Board does not claim to have exclusive wisdom on this important subject. As it did with GOSA, the Board remains willing to talk through the issues and find a mutual solution. However, by its reflexive negativity, the GEA has denied the Board the ability to move forward on this important issue. As a result, the Board must proceed alone by making this Last Best Offer on Issue # 1.

The Board has remained consistent since 2005 in its efforts to enhance teacher quality in the District, and it has been honest and forthright with the GEA about its view that it is necessary to modify the teacher compensation system. The public interest weighs in favor of the Board's need and desire to plan for the new generation of teachers entering the profession; competitive salaries and advancement opportunities within the salary structure are

necessary to recruit and retain high quality teachers. The Board agreed to study the issue and did so. The time for talk is over, and it is appropriate for the Panel to accept the Board's Last Best Offer.

The parties will enter contract negotiations in the summer of 2008 for the contract commencing in July 2009. In light of this extensive negotiations history, it is imperative that the Panel award the Board's Last Best Offers here. To do so will permit meaningful dialog in the upcoming negotiations between the parties concerning the scope and details of a performance-based compensation plan.

In stark contrast, an award of the GEA's last best offer will result only in further stonewalling by the GEA. These discussions have gone on for years. Despite the GEA's agreement to discuss an alternative compensation system, it has not made a single proposal for change. Significantly, the GEA's own expert testified that, had the GEA retained his services in June 2007 when negotiations between the parties began, he could have offered suggestions on ways to address concerns with the Board's proposed compensation system. Testimony of Dr. Henry Braun. Instead, the GEA hired Dr. Braun in September 2007, only weeks before arbitration, for the sole purpose of discrediting the Board's proposed system.

Given the settlement in 2005, which provided for this reopener, the GEA's actions are indefensible. It is fair and appropriate to include a performance component in compensation as a result of the reopener agreed upon for that purpose. The only way that will happen is for the Panel to accept the Board's proposal here. Such an award would not be the end of the matter, but rather accepting the Board's modest proposal here would simply result in meaningful discussion of this important issue in the upcoming negotiations. Accordingly, the Panel should award the Board's Last Best Offer on Issue # 1.

b. Issue #2

As stated many times before, the Greenwich Public Schools employs the highest-paid teachers in the State. During negotiations for the 2006-2009 contract, the Board agreed with the GEA on a GWI of 3.5% for the years 2006-2007 and 2007-2008. Testimony of Mr. William Kelly. While the Board willing reached this percentage increase in return for the GEA's agreement to discuss an alternative compensation system, it is notable that only two other boards of education in the State reached a GWI settlement of that level during the 2006-2007 negotiation season. Board Exhibit 43. Indeed, the GEA again proposes a 3.5% GWI as its last best offer for this reopener, but now refuses to review or discuss an alternative teacher compensation system.

In contrast, the Board's last best offer of a 2.8% GWI is warranted and appropriate in light of the GEA's termination of discussion regarding any alternative pay system. The Board will continue to provide competitive compensation for its teaching staff and maintain Greenwich's place at the top of the salary ladder with a 2.8% increase.

Indeed, comparing similar districts in Fairfield County, Greenwich, which already has the highest salaries, also negotiated the highest GWI during the 2006-2007 and 2007-2008 schools years. Board Exhibits 43 and 44. For example, among similar, lower Fairfield County districts, the general wage increases in settlements for 2008-2009 include New Canaan at 2.59%, Weston at 3.0%, Westport at 2.82%, and Wilton at 2.5%.⁶ The Board's last best offer of 2.8% for that same year, 2008-2009, is right on the money.

2. Interests and welfare of the employee group

a. Issue #1

Except at their option, the Board's proposed performance-based compensation plan will have absolutely no impact on current teachers. Current teachers within the Greenwich Public Schools are not included in the Board's proposal and are thus not obligated to participate. These teachers do, however, have the option of participating if they were evaluated during the 2007-2008 school year through the pilot TEPD plan. The option allows flexibility for those sincerely interested in the Board's plan, yet respects the concerns and expectations of those currently employed.

Further, in this limited one-year reopener, even those entering the new performance plan -- newly hired teachers entering one of the TEPD plan pilot schools -- face no potential harm. Indeed, those participating in the plan will receive a \$1,000 base salary increase over the current salary schedule for simply entering into the program. Thus, participants can only gain during this limited contract agreement.

If implemented over the longer term, the Board's proposed plan will benefit participants in numerous ways. First, participants have the potential to advance quickly through the proposed level system. For example, newly hired teachers who demonstrate Proficient or Exemplary status through the revised TEPD plan can be advanced to Level II as early as their third year of employment, and then to Level III the following year. In concrete terms, this means that a teacher with a master's degree can go from making \$52,205 in his or her first year, to making \$78,428 by his or her fourth year of employment. With demonstrated Exemplary skills, this same teacher has the potential, under the Board's proposed system, to make \$88,914 in his or her seventh year of employment. This salary, compared to the \$65,899 the same teacher would be making in his or her seventh year of employment under the current salary schedule, represents a dramatic benefit and weighs strongly in favor of the interest and welfare of the teachers in Greenwich. See Salary Projection Charts, Appendix B.

While the Board's proposed plan posits the potential for a teacher to decrease his or her pay after a comprehensive evaluation some years hence, this risk is limited and the Board has included safeguards to ensure its proper application. Significantly, again, this limited one-year reopener does not in any way involve the potential for a loss of pay. Further, implementation of the Board's proposal in this one-year reopener provides the parties with the added opportunity to return to the negotiating table in the summer of 2008 to bargain over the successor collective bargaining agreement, including the performance compensation component as awarded by this Panel.

The Board's performance-based compensation plan acknowledges the interest and welfare of the teachers by aiding in the recruitment and retention of quality teachers in the District and by compensating teachers for excellent performance. By providing an incentive for higher salaries that can be attained in a relatively short period of time, the Board will be better able to maintain the high level of teacher quality throughout the District. This will not only provide those entering the District with an incentive to stay, but will provide the bargaining unit as a whole with needed support.

Importantly, the opposition voiced by the GEA with regard to the interests and welfare of the employee group is groundless. First, the GEA contends that a performance-based compensation system will impair collegiality within the schools and the District as a whole. The plan designed by the Board prevents this phenomenon from occurring because the system does not amount to a zero sum game. In other words, teachers participating in the system would not be competing for one pool of money that would be awarded to only a few. Testimony of Mr. William Kelly; Testimony of Dr. J. Todd White. To the contrary, the Board is prepared to compensate equally every teacher who meets the standards outlined in the plan and the corresponding evaluation system. Because teachers will not be competing over their performance pay, they lose nothing by working cooperatively. Indeed, in Domain III, Component C, the revised TEPD plan evaluates a teacher's ability to develop and support a collaborative environment with colleagues, and to take an active role in school life. Board Exhibit 79.

The GEA further contends that, because administrators will be evaluating teachers and thus determining their base salaries, teacher salaries will be based on subjective judgment. The structure of the revised TEPD plan eliminates any possibility of subjective salary determinations. As Dr. Flanagan testified, the revised TEPD plan involves the application of a rigorous, detailed rubric that uses multiple measures, evaluates multiple aspects of teacher performance, and is applied by multiple evaluators. While some degree of professional judgment is concededly involved, subjectivity is screened-out by the strict evaluation procedures, on which administrators will receive comprehensive training and will be held accountable.

b. Issue #2

With regard to the GWI proposed by the Board, this last best offer is undoubtedly in the interest and welfare of the bargaining unit members. As explained several times, the teachers in Greenwich are already the highest paid in the state. During the most recent negotiation season, Connecticut towns settled with teacher unions for GWI averages as follows: 2.61% for 2007-2008; 2.73% for 2008-2009; and 2.81% for 2009-2010. Board Exhibit 43. Moreover, as described above, the 2.8% GWI compares favorably with similar school districts. If the Panel adopts the Board's Last Best Offer on Issue # 2, Greenwich teachers will maintain their relative position within Fairfield County.

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

a. Issue #1

Changes in the cost of living are not relevant to the implementation of a performance-based compensation plan.

b. Issue #2

Changes in the cost of living over the preceding three years support the Board's last best offer of a 2.8% GWI. Notably, the Consumer Price Index for the fiscal year 2006-2007 decreased by 1.7%, bringing the current CPI to 2.4%. While the average CPI over the past three years was 3.23%, a GWI of 2.8% for the 2008-2009 fiscal year will certainly support the current cost of living.

4. Existing conditions of employment of the employee group and those of similar groups

a. Issue #1

As explained above, the Board's last best offer on Issue # 1 will not change the existing conditions of employment for the employee group. No teacher employed before the 2008-2009 school year will be required to participate. Some non-tenure teachers will have the option of participating in the 2008-2009 school year if they meet specific requirements. Finally, teachers who will participate – newly hired teachers placed at a school that piloted the TEPD plan during the 2007-2008 school year – can only receive an increase in their base salary during this limited one-year reopener.

Larger benefits will flow to the bargaining unit with the implementation of the performance-based component to compensation. The Teacher Advancement Program supported by the National Institute for Excellence in Teaching, for example, has gained tremendous support throughout the country and is now being implemented by almost 200 schools in seventeen different states. In almost every case,⁷ the teachers themselves have voted to implement the program. Teachers approve such plans because they recognize the benefits they provide.

A significant aspect of TAP is performance-based compensation, which Dr. White described to the Panel as being an integral aspect of school reform and teacher quality enhancement. Other national organizations such as the Consortium for Policy Research in Education also now promote a move away from the traditional salary schedule and toward knowledge and skills based compensation systems. Board Exhibit 58. Such changes benefit teachers. Teachers currently entering the workforce seek competitive salaries and earlier opportunity for advancement, benefits that a performance-based compensation system provides.

Various employee groups in Connecticut have already accepted forms of performance-based compensation in an effort to compensate and recognize excellence in teaching or administration. This year, the administrators in Greenwich will receive group bonuses based on their performance in specified areas. Board Exhibit 49. Through a plan developed collaboratively between the administrators and the Board, administrators are now able to receive up to a 1.0% in additional salary based on demonstrated performance relating to, among other things, their students' test scores and implementation of various programs within their buildings. Board Exhibit 49.

Similarly, the administrators' contract in Tolland, Connecticut, includes a performance-based compensation element that bases an administrator's annual bonus on, among other things, student test scores, school relations, and program implementation. Board Exhibit 48. In Wilton, Connecticut, moreover, the collective bargaining agreement between the administrators' union and the Wilton Board of Education does not include a salary schedule. Board Exhibit 48 at Wilton Administrators' Agreement. Instead, initial salary for administrators is determined by the Board of Education based on the individual's responsibilities, job description, experience, and comparable salaries in the field and county. *Id.* Thereafter, annual salary increases are determined by, among other things, an evaluation by, and the discretion of, the Superintendent. *Id.*

b. Issue #2

Existing conditions of employment of GEA members, as well as employees in other similar groups, weigh in favor of the Board's last best offer of a 2.8% GWI for the one-year salary reopener. First, in the 2007-2008 school year, Greenwich teachers will earn more than any other teacher of comparable level of experience in the state, and at least \$1,000 more than teachers in the towns with the next highest salary levels. Board Exhibits 6, 7, 8, 9, 10, 11. As outlined above, an additional 2.8% increase over the teachers' currently high salaries is comparable to the salaries provided to teachers in similar school districts. The increase proposed by the Board will thus maintain the leading position of Greenwich teachers on salary.

5. Salaries, 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 organizations and developments in private sector wage benefits

Please note that this factor is thoroughly addressed through the discussion of the additional subordinate factors, as well as the primary factors of public interest and financial capability.

C. The GEA Arguments are Flawed and Unpersuasive.

Throughout this limited salary reopener, the GEA has attempted to discredit the Board's proposed performance-based compensation plan by raising objection after objection. However, the objections of the GEA are unfounded. Indeed, many of the arbitration materials submitted by the GEA actually support the position of the Board that the traditional salary schedule must be restructured.

1. The GEA materials support the position of the Board

Various of the articles and written testimony presented to the Panel by the GEA actually prove the Board's point: the traditional salary schedule is outdated and will not support the need for schools to recruit and retain high quality teachers. While the GEA's articles may advocate for alternative methods of achieving this goal, they repeatedly stress the importance of developing and implementing alternative methods of compensating teachers. *See, e.g.*, Association Exhibits, Peske, Heather G., "The Next Generation of Teachers: Changing Conceptions of a Career in Teaching" (Dec. 1, 2001); Harris, Debbi C., "The Promises and Pitfalls of Alternative Teacher Compensation Approaches," The Great Lakes Center for Education Research & Practice (Apr. 2007); Testimony of Linda Darling-Hammond before the United States Senate, HELP Committee (Mar. 9, 2007).

Much of the other information presented by the GEA to the contrary is significantly outdated and is unrelated to the Board's proposal.⁸ Most of these articles submitted by the GEA were written in the 1980s and relate to merit pay plans, not performance pay plans. *See, e.g.* Watts, Gary and Masters, W. Frank, "The Single Salary Schedule," National Education Association (Apr. 1985); Murnane, Richard J. and Cohen, David K., "Merit Pay and the Evaluation Problem: Why Most Merit Plans Fail and a Few Survive," Harvard Educational Review (Feb. 1986). As Dr. White testified before the Panel, "merit pay" systems often did fail in the 1980s and 1990s because the research did not exist to enable the development of a performance-based compensation system with appropriate supports and checks and balances. Testimony of Dr. J. Todd White. Today's systems are generally not "merit pay" systems that force teachers to compete over limited funds. *Id.* Today's performance-based systems are based on individual teacher performance and recognize and compensate excellence in teaching. *Id.*

The arbitration awards identified by the GEA in their exhibits further support the Board's proposal. For example, the GEA cites the arbitration award in Springfield, Massachusetts, as, apparently, evidence that the Board's last best offer is faulted. Association Exhibits at Springfield Award. However, the arbitrator in that case, which was released in October 2006, awarded the union's proposal of a system requiring teachers to undergo annually an intense evaluation process the results of which determined the teacher's placement on the salary schedule for the following year. *Id.* While the union in Springfield opposed the use of a value-added model to evaluate teacher performance, the union recognized the need to improve teacher quality and advocated for a system that compensated teachers based on their own performance. *Id.* This is exactly the intent of the Board in the present matter.

The GEA further cites an arbitration award from 1994 written by the Panel Chair. There, the union was awarded its last best offer of step movement plus GWI, over the board of education's last best offer of no step movement or GWI. Association Exhibits at Stonington Award. While that arbitration did not concern performance-based compensation, the Panel Chair in his award addressed the significance and importance of retaining experienced teachers. *Id.* As the Panel Chair explained, "a new inexperienced teacher is less valuable than a successful experienced teacher" *Id.* at 76. This is precisely the point being made by the Board in the present arbitration. The Board can no longer afford to train and mentor teachers for four, five or six years and then lose those experienced teachers to higher paying careers. The Board must allow for career movement based on knowledge and skill and pay teachers accordingly to create an incentive for them to stay in Greenwich.

2. The objections by the GEA are unfounded

The GEA has raised various objections to the Board's proposed plan, all of which are easily addressed.

First, the GEA contends that implementation of a performance-based compensation plan that works in conjunction with the revised TEPD plan is premature, as the revised TEPD plan itself is only in its pilot year. Again, this objection only serves as a delaying tactic to stymie the efforts of the Board, which efforts were agreed-to by the GEA in 2005. The time to begin the program is now. As proposed, the plan has a modest beginning; only newly hired teachers will be included for the one-year period designated by the reopener. Indeed, the influence of the evaluation plan during this limited time is negligible. While a participating teacher's evaluation at the end of the 2008-2009 school year could result in an *increase* in that teacher's salary, there is no possibility that a salary will decrease for at least three years. Moreover, the parties will have negotiated a new contract by that time, which contract may provide for modifications in the performance-based compensation plan.

The GEA also objects to the Board's proposed plan because it is an "untested system" that no other district in Connecticut applies. As an initial matter, the Board has presented clear evidence that performance-based compensation systems are being implemented in Connecticut and all over the country with successful outcomes. While long-term results from these programs have yet to be realized, research demonstrates that teachers are responding positively to the changes in their schools.

Moreover, the Board's proposed plan is fair for all participants and provides a tremendous opportunity for teachers to benefit from demonstrated proficiency. The use of multiple evaluators, multiple evaluation methods and multiple work products provide the checks and balances necessary to develop a successful program and improve teacher quality. The program can be adequately funded by the Town and future contract negotiations between the parties can serve as added security and a stage whereby concerns may be addressed. Indeed, the GEA's argument in this regard proves too much. School districts will never be able to implement alternative compensation plans and improve teacher quality if the objection of an "untested system" were validated.

Finally, the GEA argues that implementation of the Board's program will have a negative impact on current employees and the evaluation process. There is simply no basis for that claim. Current teachers are not obligated to participate. New teachers will participate, but their success (or lack thereof) under the new plan will not affect the handsome compensation already provided to the other Greenwich teachers. In short, the new compensation plan is simply an opportunity for some teachers to demonstrate proficiency and receive appropriate compensation on the basis of their performance, not simply years of experience.

Similarly, there is no basis for the GEA claim that collegiality will suffer when this performance component is introduced. Under the revised TEPD plan, collegiality and team work will be evaluated by administrators; attempts by teachers to create a competitive environment will be identified and such actions will affect such a teacher's evaluation. In any event, there would be no basis for jealousy. There are no quotas to create competition for limited dollars, and any teacher who would begrudge the opportunities afforded to teachers under the new plan can seek to participate themselves on the same basis – as Mr. Kelly testified, the Board would welcome that development. Moreover, as Dr. White testified, these plans can function well, increasing collegiality as teachers work together to meet the clearly-defined standards of a performance-based plan. There is simply no basis for the GEA's professed worries. Apparently the Board has greater confidence in the professionalism of Greenwich teachers than does the GEA.

III. CONCLUSION

The world of education is changing dramatically. As research demonstrates, young, highly educated college graduates are less likely to enter teaching than ever before and are, instead, being drawn into professions offering competitive salaries and opportunities for advancement. For schools to recruit and retain highly qualified teachers, and thereby increase student performance, boards of education must keep up with the evolving labor market.

Both the Board and the GEA recognize the need for recruiting and retaining high-quality teachers. The Board has worked tirelessly over the past five years to collaborate with the GEA to create an alternative compensation system. However, the GEA has not offered any solutions to address this need other than to ask for more of the same – higher salaries for all. However, Greenwich teachers are already the highest paid teachers in the state. Accordingly, a new approach is warranted. The time for change is here. The students of Greenwich deserve quality teachers in their classrooms, and those quality teachers deserve to be compensated on the basis of their performance. By accepting the last best offers of the Board of Education, this Panel will address an important need and will permit this important dialog to continue.

The Association's Brief

I. INTRODUCTION

The Greenwich Education Association (hereinafter referred to as the "GEA" or "Association") and the Greenwich Board of Education (hereinafter referred to as the "Board") are parties to a collective bargaining agreement dated July 1, 2006 through June 30, 2009. This agreement contains provisions to reopen specified limited items to go into effect on July 1, 2008 through June 30, 2009. The provisions specified for the reopener are as follows:

Article 9: Salaries
Article 10 (A): Program Associates
Article 10 (B): Learning Facilitators
Article 10 (H): BEST Mentors
Article 21 (D): Summer School
Appendix A: Teacher Salary Schedules
Appendix B: Coaches
Appendix C: Student Activities

Following these reopener negotiations, the parties will commence bargaining in the spring of 2008 for a complete new contract.

The parties commenced these reopener negotiations on May 29, 2007 with agreement on ground rules (Association Ex. #IV-1). There was a mutual proposal exchange on June 13, 2007 (Association Ex. #IV-2) and a subsequent negotiations session on July 16, 2007 (Association Ex. #IV-14). The parties entered into mediation with M. Jackson Webber on August 8, 2007. Prior to mediation, there had been some tentative agreements on minor issues and some additional agreements were reached in mediation, but two substantive issues remained. These issues were the general wage increase (GWI) and the Board's proposal for a pilot compensation program.

The parties entered the arbitration phase of negotiations on August 19, 2007. The advocate arbitrators were selected and agreement was reached on the neutral arbitrator. The first hearing ("bump and run") was held on September 4, 2007. The parties agreed on the two issues in dispute as presented below. Full evidentiary hearings were held on September 28, 2007 and September 29, 2007 and the parties submitted their final Last Best Offers prior to the close of the last hearing. It was agreed that post hearing briefs would be submitted via electronic transmission by noon on Friday, October 5, 2007.

II. ISSUES IN DISPUTE

The first issue deals with the Board's proposal to link its pilot program in evaluation in 2007-2008 to a pilot compensation program with a separate salary schedule for 2008-2009. The related language components from Article 9: Salaries to accomplish this pilot program in compensation are contained in the first issue:

Issue #1:

Article 9 (A) Editorial Reference to Appendix (agreed)

Article 9 (G) Placement on the salary schedule

Article 9 (M) Performance Pay Program

Appendix A-1 Salary Schedule

The second issue deals with the question of what will be the general wage increase for the various sections of the contract, identified in the reopener.

Issue #2: General Wage Increase

To establish the amounts of salary or other compensation in

*Article 10 (A),
Article 10 (B),
Appendix A,*

Appendix B,
Appendix C,

for 2008-2009 the amounts set forth for 2007-2008 shall be increase by ____ %.

If Appendix A-1 is established through these arbitration hearings, it shall be created by increasing the amounts in the proposed Schedule A-1 by the same percentage.

III. AGREED UPON LANGUAGE

Board Ex. #4 contains the agreed upon language for the reopener. Association Ex. #IV-19 summarizes the Agreements Reached prior to arbitration. Highlights of these include:

- Appendix A: Teachers' Salary Schedule.
- All teachers not on the maximum step shall advance one step for a 2.01% increment cost.
- The rate for teaching Summer School shall increase to 85% of the per diem.
- The teachers shall be paid on the same bi-weekly schedule as the town employees.
- Teachers who elect twenty-six paychecks shall use direct deposit.
- Deletion of National Board Certification stipend with the grandfathering of the one employee receiving it.
- Delete language in 9 (N) regarding the Knowledge and Skills Committee.
- Identify items to be increased by the general wage increase.
- Learning Facilitators – reduce the number of required extra days and pro-rate the stipend.
- Appendix B – Keep step movement for coaches and update positions. Delete non-indexed positions from contract.

IV. LAST BEST OFFERS

Issue #1: The Association's position is that the collective bargaining agreement should contain no contract language for the Board's proposed Performance Pay Program.

Issue #2: The Last Best Offers for the General Wage Increase are:

GEA.....3.5%

Board of Education....2.8%

V. ARGUMENTS BASED ON STATUTORY CRITERIA

A. The public interest and the financial capability of 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 irrefutable 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.

This priority factor contains two important criteria: the public interest and the financial capability of the town. The parties agree that it is in the public interest to attract the best and the brightest teachers to the Greenwich Public Schools, to pay them well, and to retain them. What is at the heart of Issue #1 is the best method to accomplish this goal.

Historically, Greenwich has been one of the wealthiest communities in the state and has been number one in teacher salaries. The district has had a traditional single salary schedule and complicated teacher evaluation plan which, according to Dr. Ellen Flanagan, Human Resources Director, already exceeds the components required by the State Board of Education (Board Ex. #82).

Teachers advance one step per year on the salary schedule based on competent performance and reach the maximum step in seventeen years on the Master's level and eighteen years on the MA+30 and higher level. The parties agree to all issues related to the wealth of Greenwich. The Board Chair, William Kelly, and the Chair of the Finance Committee, Laurence Simon, both testified as to the exceptional wealth of Greenwich (Board Ability To Pay and Association Ex. #V).

The Board has an array of "quality controls" for teachers who receive a step advance; unfortunately they have not conveyed this to the public. The board also has the ability to withhold the increment of a teacher who has not successfully performed. In fact, Article 9 (B) in the collective bargaining agreement states, "If, however, a salary increment shall be withheld from more than 10% of the teaching staff in any fiscal year, the evaluation process will be reviewed." This mechanism of withholding increment has not been used in recent memory.

The current evaluation plan (Association Ex. #XIII) contains Corrective Action Plan and Intensive Assistance Plan provisions to provide assistance for teachers who need to improve their pedagogy. Dr. Flanagan testified that the Association has worked with her in this process to ensure quality teachers in the classroom. The Board also non-renews non-tenured teachers who have not demonstrated the appropriate levels of performance. Dr. Flanagan, Director of Human Resources for the Board, testified that 8 of the 59 teachers who did not return were non-tenured teachers who resigned in the face of non-renewal.

Board member William Kelly testified that the Representative Town Meeting approved the previous teacher contract because it had the Knowledge and Skills Committee in it. This committee provision obligated the

GEA to discuss Knowledge and Skills – not to agree to the concept. Nevertheless, the Board forged ahead with this concept with complete disregard for the work of the teachers and the administration. The basic tenets of labor negotiations allows for the employee group and the employer to discuss proposals and work through differences in the collective bargaining process. Connecticut has let the nation in its approach to bargaining through the binding arbitration process. However, the decision to resolve disputes was not the result of a “gift” from the legislature. It was the result of giving up the right to strike.

In the instant case before the panel, the Board moved forward despite clear opposition, as testified to by Dr. Flanagan, at every step along the way. The Association wrote a letter (Board Ex. #25) to express its concern. Members of the committee on teacher evaluation, despite cooperation and commitment, never conceived of a plan to link what they were creating being linked to pay. However, despite all of the concerns raised, the Board allowed the perception of support through the Knowledge and Skills Committee to grow. And the Board perpetuated the myth that accountability was needed – implying there was none. Nothing could be further from the truth. The Board never spoke to defend the work of their staff. Board Chair Kelly stated it was a goal of the Board to implement a salary of \$100,000 quicker, “in seven years.” The performance based pay proposal of the Board is merely a way to pay non-tenured teachers a “bonus.” It is a method to erode the sanctity of the bargaining process with its statutory provisions. The dismissive attitude of the Board led to the imposition of their desire through the teacher evaluation process, thus being able to implement rather than negotiate.

The Board’s plan involves placement of non-tenured teachers on a performance pay chart (Schedule A-1, Board’s Last Best Offer). Depending upon where the teacher is placed and the subjective rating given to the teacher, extra salary is attained (or not). The Association can identify several teacher retention issues associated with the Board’s pilot plan proposal.

The inconsistent application of the performance based pay chart would result in the erosion of the traditional single salary schedule concept, teacher experience and education as the criteria for pay. By moving a teacher with a proficient score to the next level, the Board’s proposal results in moving a new candidate ahead of teachers with more years of service in Greenwich. That sends a message to current teachers that their work is not valued. More teachers will leave the district. The new evaluation has also become so much more complicated. Teachers would rather teach than work on their own rating system. Already this year teachers in the Pilot Program have missed a half day of teaching and being with their students to work on learning the Pilot Evaluation Program. Clearly, that is the wrong priority.

The teachers in Greenwich have been opposed to this concept since the first drafts of the pilot evaluation plan were sent to the staff for review in January and April of 2007. These drafts “resembled” the Board’s performance pay plan, and created an uproar. Approximately two hundred teachers came to an Open Forum with Dr. Sternberg on June 7, 2007 (prior to the Performance Pay Plan proposal being given to the GEA on June 13, 2007), as well as the Board meetings on August 31, September 12 and September 27, 2007. A vocal and protesting staff is clearly not in the public’s interest.

Ability to Pay

Mr. Mooney called Board of Estimate and Taxation member Mr. Laurence Simon to the stand to testify that the Board had the ability to pay. Mr. Simon described the fact that the town increased the budget from one year to the next by 3.5% and that was in addition to the increase on the net grand list for a 5.5% budget increase. He testified that was why the Board’s Performance Pay Proposal contained no quotas on the number of teachers who could receive performance incentives. If there was not enough money in the Board’s budget, they could move some around from another area of the budget. Clearly, there was enough money to accomplish the Board’s program even though the costs were open-ended and could not be determined.

The difference between the two Last Best Offers is:

Association’s.....	3.5% cost
Board’s.....	2.8% cost
Difference.....	0.7%

The difference between the two Last Best Offers has never been raised by the Board as a concern. Mr. Kelly has consistently argued that the Board wants to pay teachers more.

Mr. Simon’s testimony again supported the willingness to pay more to “good teachers” – whoever they may be and how many of them there may be.

The evidence submitted by the Board in its Ability To Pay Section is included into the last section of Board Book II. It is an understated portrayal of the ability of this town to pay. It includes the July 1, 2005 – June 30, 2006 Comprehensive Annual Report (Board Ex. #117) and the Guidelines from the Board of Estimation and Taxation for the 2008-2009 Budget (Board Ex. #116) which will fund the results of this arbitration award. As the Board of Estimation and Taxation document identifies that in the 2008-09 budget, the BET is looking at DRG B for comparable towns’ staffing projections to achieve its educational objectives (p. 3 of 9).

The Association does not believe DRG B is the appropriate group for comparison. Both the Board and Association have offered Fairfield County exhibits for financial arguments. The Association also believes the “six sisters” or original wealthy Fairfield County Towns with AENGLC’s above \$250,000 is the best comparison.

Association Ex. #V-28 demonstrates the difference in DRG B and the five other most comparable towns in terms of wealth and community expectations: New Canaan; Darien; Westport; Wilton; and Weston. These are the six towns (including Greenwich) with AENGLCs above \$250,000 per capita, all of which are located in lower Fairfield County. All six towns have Aaa bond ratings. They are the top six AENGLC's in the state for 2007-2008. This listing of the top six towns has been consistent for the past five years (Association Ex. #V-27).

The DRG B towns present a very different profile. The nineteen towns range in AENGLC from Fairfield ranked 16th at \$137,474.92 in 2007-2008, to South Windsor ranked at 73rd at \$48,181.47. The bond ratings are mixed. These towns from various counties are not comparable to the community expectations of Greenwich.

The Board's financial expert was silent on the details of the extent of Greenwich's wealth. The Board's financial exhibits do not reflect that the Board could afford both parties Last Best Offers combined. Mr. Simon would just have to affect the transfer of money from other areas, which were not defined.

The Association Ex. #V-32 shows the last ten years of AENGLC growth in Greenwich. The increases average 10.80% per year, or 156% in the ten year period (Association Ex. #V-33). Greenwich has been ranked #1 in AENGLC in the state nine times in the last ten years. Greenwich clearly outpaces the other top six towns with a \$148,000 difference between Greenwich and New Canaan (AENGLC #2) and \$334,600 between Greenwich and Wilton (AENGLC #6) (Association Ex. #V-35).

The 2006 median home value in Greenwich was \$1,768,000, with #2 New Canaan at \$1,475,000 (Association Ex. #V-37). In June, there were seventy-two houses priced between \$2 million and \$25 million (Association Ex. #V-62). The homes in Greenwich are priced beyond the earning capacities of most teachers. In "How the Richest Zip Codes Became So" from *Business Week*, April 4, 2007 is cited the example of a house in zip code 06831 (Greenwich) selling for just \$575,000. "For the Wall Street and Hedge Fund crowd who have flooded into town in recent years, a price that low is a rounding error." It is a two-bedroom, one bath house that measures 672 square feet. The article talks about how communities like Greenwich are where the rich have been replaced by the super wealthy (Association Ex. #V-90). The most interesting real estate phenomenon is that many of the houses in the real estate section do not list a price at all (Association Exs. #V-73, V-74, V-75 and V-76).

Building permits in Greenwich continue to be strong with 117 as of September, 2007 (Association Ex. #V-55).

Greenwich's Grand List climbed to \$33.3 billion dollars in February, 2007 (Association Ex. #V-45). Greenwich bucked the national real estate trends and grew between 6%-7%. This was the state's highest grand list with a ten acre waterfront estate valued at \$24.1 million listed as the most expensive residential property. Commercial assessments totaled \$4.2 billion.

The May 15, 2007 Bond Prospectus (Association Ex. #V-46) shows that the 7.50 tax rate in mills is half what it was ten years ago. Greenwich has the lowest mill rate in the state. The property tax levy continues to increase because the property values continue to increase. The ECS Town Wealth rank is #1 with \$1,824,627.22. The Board's ability to pay is uncontested and clearly more than what the Association has requested.

B. The negotiation between the parties prior to arbitration including the offers and range of discussion of the issues.

The full contract negotiations for 2006-2009 included discussion of the Knowledge and Skills Compensation proposal of the Board. The parties reached agreement on the current agreement with 2006-2007 GWI of 3.5% plus step, and 2007-2008 GWI of 3.5% plus step. The agreement contained a study committee on Knowledge and Skills Compensation from November 1, 2005 through November 1, 2006. The language is contained in Article 9(N) of the current provision (Association Ex. #III). The language states, "The members of this committee will report back to the Board and Association by November 1, 2006. If there is not unanimous agreement in the committee on a report on whether and/or how to achieve the goals above, members of the committee (individually or in smaller groups) may file separate reports with the Board and Association." During the 2005-2006 and 2006-2007 school years, the regular Teacher Evaluation Professional Development (TEPD) plan (Association Ex. #XIII) was in place. The TEPD committee, considering revision to the plan, met during the 2006-2007 school year and will continue. This was the scene as the parties drew close to these negotiations.

The Association participants ended their participation on the Knowledge and Skills Committee in June, 2006 after an implementation plan appeared when there was no GEA agreement in committee. The GEA filed its independent report at the November 16, 2006 Board meeting (Association Ex XI-2). The Teacher Evaluation committee continued its bona fide work. Dr. Flanagan testified that teachers worked very hard reading materials and doing work independently outside the committee meetings. Dr. Flanagan also testified that there was a timeline for the committee to complete its work on the Pilot Evaluation Program for the 2007-2008 school years. This is absolutely true because the Board needed to have the pilot operational so it could be linked to its performance pay compensation scheme in the following year.

The wheels were set in motion with the Association's willingness to participate as members of the Knowledge and Skills Committee. When the Board realized they could not corrupt the process by pushing the Association to capitulate to their goals, a new tactic was conceived. The Board determined it would utilize the instrument under review by the Teacher Evaluation Committee. Unbeknownst to the committee members, and protested lack of knowledge by Dr. Flanagan, the plan was to link the Board's goal of pay for performance to a new

scheme, the Teacher Evaluation Committee pilot for its revision. Had this not been true, the protestations of Dr. Flanagan in the committee newsletter (Board Ex. #84) would not have been necessary.

The teachers working on the Teacher Evaluation Committee were duped. Members of the committee should have been told of the possible intended purpose of the document upon which they were working. Dr. Flanagan testified that the Pilot Evaluation Plan document was shared with the staff electronically through a survey. Then the responses from teachers came in when the staff saw where this plan could be linked to the compensation scheme. The TEPD committee members raised these concerns at the committee's meetings on May 24 and June 6. Although Mr. Kelly testified the TEPD committee approved the pilot "some time in April", Dr. Flanagan testified that the June 2007 Evaluation Plan Newsletter (Board Ex. #84), which was issued some time in June prior to the close of school, carries a Merit Pay disclaimer stating "Performance Pay, Merit Pay, Career Ladders or any alternative compensation systems have never been discussed by the committee and is not part of the committee's charge." The information in the newsletter was true, but had omitted critical information.

The Board was definitely using the work of this committee for this purpose of linking performance to compensation and on June 13, 2007 did so in its initial proposals in the contract language reopener. Dr. Flanagan testified that a large crowd of teachers appeared at the June Board meeting to protest the evaluation plan, although not as many as appeared at the two subsequent Board meetings to protest merit pay. The timeline for the reopener negotiation is below:

- Negotiations dictate Knowledge and Skills Committee (meetings during 2005-2006)
- November 16, 2006: GEA Report to Board (Exhibit XI-2 – XI-11)
- May 29, 2007: Reopener Negotiations – first session
- June 6, 2007: Meeting with Dr. Sternberg at GHS re: evaluation plan changes
- June 13, 2007: GEA letter to Dr. Flanagan re: TEPD changes and "pilot" program
- June 13, 2007: Negotiations – Proposal Exchange
- July 16, 2007: Negotiations – Board's Merit Pay Proposal Linked to Evaluation Pilot
- July, 2007: Teacher petitions reported to Dr. Sternberg
- August 8, 2007: Mediation unsuccessful
- August 31, 2007: Board of Education meeting – Teacher protest and testimony
- September 4, 2007: First Arbitration Hearing
- September 12, 2007: First Ad in *Greenwich Time*
- September 18, 2007: Second Ad in *Greenwich Time*
- September 18, 2007: Op-Ed by Phil Abruzzi
- September 27, 2007: Board of Education Meeting Protest
- September 28, 2007: Hearing
- September 29, 2007: Hearing

After the exchange of proposals on June 13, 2007, the GEA made it clear that we would not be able to ratify an agreement that contained a performance pay provision. This was partly due to the outcry of the faculty at a meeting called an Open Forum with Dr. Sternberg the week before. The Board's initial proposal we were responding to (Association Ex. #IV-5 – #IV-13) was a comprehensive long-term commitment to link compensation to performance. It contained bonuses for portfolio scores of 3 at \$5,000 and 4 and \$8,000; it gave placement discretion for all new hires to the Superintendent; and the new four-level schedule would apply to all non-tenured teachers.

Despite all objections, the Board's comprehensive, but unworkable proposal linked the proposed Pilot Evaluation Plan to their compensation scheme. At the first session the GEA had a 6% GWI on the table and the Board had no offer.

At the July 16, 2007 session, the Board's proposal was modified to include "TEPD pilot schools Cos Cob, North Mianus, Eastern Middle School and Clark House at GHS". The Board's negotiation team made this proposal prior to the full Board approval of the TEPD Pilot Evaluation Plan on August 31, 2007. The GEA had already sent a written request on June 13, 2007, prior to receiving the Board's negotiation proposals, requesting the delay of the pilot until 2008-2009 (Association Ex. #XI-14). At this session the Board submitted a 1.5% GWI offer and the GEA modified its position to 3.5%.

The Board also entered arbitration with its first Last Best Offer (Board Book I) changed yet again. This version excluded the portfolio bonuses and other cash bonuses in the previous versions. The Board's final Last Best Offer submitted at 3:30 p.m. on Saturday, September 29, 2007 contains yet another change. But, this change makes participation in the salary component voluntary for the approximately 12 -15 teachers in the evaluation pilot who qualify. Despite the new iteration of the pay for performance scheme proposed by the Board, participating teachers are still in the evaluation pilot for 2007-2008 without the ability to opt out and will address all requirements this year.

The Association's exhibits in Section XI detail our objections to this compensation scheme. The teachers have been constant in their opposition to linking compensation to performance, especially when there is no demonstrated reason to do so. At the Friday, August 31, 2007 Board meeting four teachers and the GEA president

Cathy Delehanty testified in opposition. The text of their speeches is found in Association Ex. #XI-28 through #XI-36. It is absolutely clear that this organization has been mobilized in opposition to this concept.

C. The interest and welfare of the employee group.

There are several aspects of the welfare of the employee group that warrant discussion relative to this factor. Teachers in Greenwich deserve a fair and reliable compensation system, as well as one that protects and advances their economic welfare. Teachers believe that the current compensation system works because it allows them to focus on their teaching. The Board has not established a credible problem to be fixed or reason why the traditional compensation plan should be changed. There was a reference to teacher retention as a problem, but the Board has not met the burden of proof in this area. In fact, according to their own exhibit, the number of teachers leaving in 2007 decreased.

Both parties agree that we want to recruit and retain the best teachers for Greenwich. We disagree about how to accomplish this. Greenwich is geographically unattractive to commuters. The economic reality is that most teachers cannot afford home ownership in Greenwich. Even if salaries were raised to \$300,000, most could neither qualify for nor carry a \$1.7 million dollar house. With a down payment, the monthly mortgage plus taxes would be more than the monthly salary on the maximum step. This is not about wanting teachers to live in Greenwich – just get them here to work.

The commute to Greenwich can be one to two hours depending on traffic. Many teachers leave home early and want to leave Greenwich early to avoid traffic. Dr. Flanagan testified that most of the teachers who left went to places like Trumbull and Shelton to teach. They cited the commute as the reason why they left. A teacher leaving Greenwich to go to Trumbull or Shelton on any step (Association Ex. #VI-4) is taking a pay cut. The MA Maximum which is \$88,914 in Greenwich is \$82,135 in Trumbull and \$77,615 in Shelton. It is a quality of life issue to eliminate three to four hours of driving daily, not a matter of more money, a fact Dr. Flanagan admitted on cross examination by the Association.

The Board Ex. #12 examines resignations of teachers over the previous ten years. In 2007 there were 59 teachers who left out of 865 FTE employees. Dr. Flanagan testified that eight who resigned were non-tenured teachers facing non-renewals, plus one tenured constructive discharge. That means 50 teachers resigned. A further examination shows that 41 of them had 0-4 years experience and 16 were first year teachers. Greenwich's starting salary (Association Ex. #VI-1 through #VI-4) is number one in the state, so other factors contributed to their leaving. This loss does not equal the turnover cited by experts as problematic. Dr. Flanagan testified that there was no evidence provided as to whether the Greenwich experience of turnover was exceptional in Connecticut of the surrounding communities.

The Association's position is that the whole schedule should be increased by a uniform GWI and teachers should be guaranteed movement based on satisfactory, competent performance. We would certainly have considered decreasing the number of years to get to the maximum in the form of a salary schedule compression, but as Mr. Kelly testified, none was ever proposed.

We do not believe the Board's compensation proposal is fair, especially to teachers who are not in the pilot and have worked demonstrated proficiency and mastery in Greenwich. A math teacher with seven years of Greenwich experience will not think it is fair when a new hire with three years of experience and tenure in Massachusetts is placed above him/her on Level III which is roughly the equivalent of Step 12.

The performance based proposal is not fair to the existing staff because new hires under the Board's proposal are basically encouraged to meet with the Superintendent and cut the best deal they can. This individual deal making is antithetical to the whole collective bargaining process. We believe that rewarding the new and untested staff and placing them above teachers who have worked hard in Greenwich with good evaluations will cause an even larger retention problem. Current teachers will leave. It is also a direct attempt to undermine the Association.

It is true that under the Board's proposal a teacher who is satisfactory, but only basic, could be moved back to Level II from a higher level and face an approximate \$10,000 loss. This clearly is designed to avoid the statutory process in §10-151 and weed people out the economic way. Erode a teacher's financial base and he or she cannot afford to stay. Board witnesses never testified to this component of their program.

The fairness issue for teachers is impacted by the fact that the Board's proposal is untested, lacks reliability and validity. It can have a damaging effect on the teaching staff as a whole, as well as the careers of individual teachers. Both parties introduced expert witnesses to examine different aspects this plan.

The Board introduced Dr. J. Todd White from the National Institute for Excellence in Teaching. Dr. White is a vice-president of the Teacher Advancement Program (TAP) which is in two hundred schools nationwide. The TAP program has four required elements:

1. Multiple Career Paths
2. Ongoing Applied Professional Growth
3. Instructionally Focused Accountability
4. Performance –Based Compensation

The Board presented evidence in Exhibit #50 of the districts in TAP. There are none in Connecticut. With the exception of public charters in Philadelphia, there are none in the entire northeast. Dr. White acknowledged that many of the states listed do not have unions that collectively bargain. South Carolina, Texas and Louisiana are “meet and confer” states. Arizona and Wyoming are “right to work” states. We would acknowledge that Cincinnati and Minneapolis, large urbans with a host of economic and achievement issues, may benefit from such a program. But, there is no district presented by the Board that is similar to Greenwich – super rich, high achieving, sophisticated and in a state with a sophisticated collective bargaining process. We do not have to meet and confer. We negotiate. We have a statutory right to disagree as we bargain in good faith. Dr. White testified that individual schools voted on whether or not they wanted to participate in TAP. Greenwich teachers were never given the option of a vote or declining participation. Plus, it should be noted that teacher salaries in these states lag far behind Connecticut’s salaries, as do the levels of per capita personal income (Association Ex. #IX-48 and #IX-49). Improving salary and evaluation in South Carolina just doesn’t compare.

Of the four aspects of TAP, three have aspects that match up with what is currently occurring in Greenwich. The only piece missing from Greenwich is the performance-based compensation. Attorney Mooney, in fact, directed Dr. Ellen Flanagan, the Director of Human Resources, to compare the existing Greenwich programs to the TAP components. She stated:

1. Multiple Career Paths: Greenwich has staff development coaches who are .5 teacher and .5 coach in every building. Mentors are provided to new teachers. Learning Facilitators are used in multiple ways at each building.
2. Ongoing Applied Professional Growth: Greenwich has PLP’s – professional learning plans in which the district identifies areas to focus on through professional development.
3. Instructionally Focused Accountability: The assessment by Dr. Flanagan was that their rubrics look like our TEPD except that TAP uses peer evaluators and Greenwich does not.
4. Performance Based Compensation: What the Board is trying to achieve.

The basis of the program dealing with teacher evaluation, professional development and instructional accountability already exists in Greenwich according to the Board’s expert witness.

Dr. White also made reference to the concept of reflective practice, getting teachers to think about their instruction and what they could do better. The end of year evaluation in the current plan (Association Ex. #XIII) requires teachers to write a reflection. Reflective questioning is a part of any effective post-observation conference, as Dr. Flanagan testified. The pilot plan for evaluation just includes a sheet on reflection.

The GEA does not object to reflection. However, when reflection can be linked to a rating that impacts compensation, along with a myriad of less important but equal valued components, the basic tenets of reliability and validity are compromised. Teachers could be financially penalized for their honesty and efforts to improve their instructional practice. They do not have to be unsatisfactory; just rate them “basic”. It is not possible to retain reliability and validity through an evaluator whose duties and responsibilities would be to recommend pay for performance and simultaneously be responsible for formative and summative decisions regarding teacher evaluation.

We believe the work of Dr. White may be successful in the areas where it exists as he describes it. It is just that the TAP program is not the program for Greenwich. The Board is trying to use the aura of TAP to legitimize their ever morphing pilot. It is curious to note that the Board’s witnesses took great pains to highlight that the evaluation instrument does not mention student tests or student achievement. As the same time, their expert witness testified as to exactly the issue of linking student achievement to teacher evaluation. The Board cannot have it both ways. Evidence of student work as a criteria for measurement on its teacher evaluation document is exactly the same thing as measurement of student achievement (test scores). It doesn’t work. The biggest test would be to let the individual schools to vote to accept or reject the plan. That will never happen because the Board’s proposal is management directed with no room for objections.

Dr. Flanagan testified that the regular evaluation plan has been in place for six years. The current TEPD is based on the document entitled “Common Core of Teaching Table: A Performance Continuum 2002” (Board Ex. #80). All public school districts in the state are based on the Common Cord. This document was based on the Framework for Teaching by Charlotte Danielson (Board Ex. #84B).

The Charlotte Danielson Framework makes no connection between her framework and teaching practice to compensation. The state of Connecticut, through its “Common Core of Teaching Table: A Performance Continuum”, which is incorporated into every school district in Connecticut’s evaluation plan, makes no connections between performance and compensation. Even the Connecticut Statutes governing evaluation and the establishment of plans (§10-151b), and the Teacher Negotiations Act §10-153 are separate. That is because they were developed for separate purposes.

Dr. Flanagan testified that the Greenwich Board is trying to make the link between performance and compensation. The GEA does not reject all of the work of the State Department of Education, reject Dr. Danielson, or its own committee; we reject the link of materials intended for improvement of practice and professional development to another purpose for which it was not created: compensation. This does not support the welfare of the Greenwich teachers. It is a “smoke and mirrors” argument which does not rise to the level of consideration.

The Association entered the testimony of Dr. Henry Braun into evidence as an expert witness in the areas of statistics, test validity and performance assessment. Mr. Mooney attempted to object to Dr. Braun as he is not a licensed evaluator and had not evaluated teachers. Dr. Braun was not offered as an evaluation expert, but as a scientist expert in the reliability and validity of performance plans (Association Ex. Book II, Section 2) Dr. Braun testified as to the strengths and weaknesses of the Board's 2007-2008 Evaluation Pilot Program. The evidence also establishes Dr. Braun's credentials in the area of value based instruments utilized in districts outlined by Dr. White (Association Ex. Book II, Section III). The arbitrator in the Springfield, Massachusetts arbitration rejected the Board's proposal of value added measurement because it simply did not meet the basic standards of validity and reliability as reviewed by Dr. Braun. In Dr. Braun's article, "A Primer on Value-Added Models", he analyzed the performance based pay initiatives nationwide and found them to be lacking.

The Greenwich Board's proposal did not compensate for the components necessary for a reliable and valid measure of teacher performance. Its complex and unwieldy length, which may be impressive to some, makes the integrated reliability suspect. In fact, Dr. Flanagan confirmed that in the administrator training exercise, the administrator rating exercise, the administrator ratings varied widely. The Greenwich Board can hire every coach or consultant available and not meet the standard of validity and reliability to make critical judgments tying pay to teacher evaluation performance. Indeed, any time human subjects are used in such efforts, the need to institute basic controls for human dynamic is a challenge. Time and effort should be spent on efforts to close the achievement gap so pronounced in select school sites in Greenwich. Time should be spent in collaborative efforts to support non-tenured teachers, a reason most often cited by the more than half of the nation's teachers to leave the field. Instead, the Board wanted to impose, by circumventing the process, until exposed, a scheme where the resulting student achievement will be dubious.

The Pilot Evaluation Program with Domain I: Learning; Domain II: Teaching; and Domain III: Professional Responsibilities was assessed as comprehensive by Dr. Braun (Association Ex. #XIII). Dr. Braun testified that Domains II and III were strong, but the weaknesses occurred in Domain I: Learning, where the Engagement and Student Work aspects were vague. Specifically, he testified there is no accounting for the heterogeneity of students in terms of what they bring to the classroom situation, how they are assigned, or how they perform. There is the specific issue of isolating what the student knows based on the actions of a specific teacher's actions. The pilot is silent on the impact of Special Education students.

Dr. Braun testified that the Student Work section (p. 18) was vague as it didn't focus on the students' ability level but rather on the district's curricula. It would be possible for a below grade level student to make significant gains and still not fit the Student Work component which would give credit to the teacher.

Dr. Braun also testified that this program did not address the issue of evaluator training. Teachers are assigned evaluators, and classroom situations vary. The pilot does not address the "integrated reliability" factor. That is how evaluators will be calibrated to ensure that all teachers are being fairly and consistently assessed. This is especially true as there are no "weighting guidelines" in the pilot program. For example, does one basic rating make a lesson less than proficient? Does one basic assessment on an observation call for a basic end of year assessment? This is the lack of reliability hurting teachers based on individual evaluator's judgments. It must be noted that Dr. White cited that the biggest challenge to the effort of TAP was training. Without constant, consistent, and adequate training, the linkage from performance to pay will be lost and another new teacher will leave the profession or move to a district where such contrived efforts are not offered.

Dr. Braun testified that once the pilot programs were linked to financial consequences, the Board faces a "greater burden of reliability" and we agree. Once compensation is linked to performance and basic performance which is competent is penalized financially, the indicators of "proficient" and "master" take on a new consequence. Dr. Braun testified that based on the contract it would be understandable that teachers would perceive a lack of fairness in the pilot. We agree.

The Board has entered exhibits which attempt to show the success of performance pay on a national level as there are NO Connecticut public schools which have performance pay. There is one elementary school district, Woodstock, also represented by a Shipman and Goodwin Board attorney, which has similar Knowledge and Skills Committee language (Association Ex. #XII-26). Another contract, Southington, has an Incentive Pay Section (Association Ex. #XXXIII) which allows teachers to make voluntary applications for a stipend of \$1089 in addition to their extra salary in the area of significant pupil performance, substantial professional growth applied to teaching, and/or substantial contributions to the curriculum or professional development. This language clearly is extra pay for extra work and not based on the teacher's performance.

The Board has offered Exhibit #54 which represents the NEA's position on performance pay. The National Education Association represents public school employees in all fifty states, the Department of Defense Schools, the U.S. Virgin Islands, and Guam. Seventeen states do not have the right by statute to collectively bargain on behalf of their members. NEA policies represent all members and are very broad. Individual member states make autonomous decisions regarding the adoption of NEA policy. The best example is that many states represent certified and non-certified school personnel, including bus drivers, janitors, cafeteria workers, and administrators. The states decide. The Connecticut Education Association, the NEA affiliate, represents only Pre-K – 12 certified public school teachers, guidance counselors, social workers, and psychologists. Individual states make autonomous decisions.

Similarly, the one hundred fifty-five autonomous locals within the CEA make their own independent decisions. Several locals have agreed to stipends for National Board Certification, Health Savings Accounts, and even 0% salary increases against CEA advice. There is no penalty for doing so. Board Exhibit #27 refers to the influence of the CEA. Frankly, if CEA had that much power, we would have successfully blocked the Study Committee. It is the Greenwich teachers whom the Board cannot convince.

The Board's Last Best Offer for performance pay contains another issue to which the GEA objects: Item #2 which allows the discretion in placing new hires assigned to a school or house where the TEPD has been piloted. This would allow the Superintendent or her designee "to consider but not being limited to the factors set forth in article 9G." Article 9G governs placement of new hires for the district. The Association believes that teachers in the pilot schools should be placed on the salary schedule in accordance with the contract language used for all staff. The Board has raised no arguments specific to placement problems, nor have they offered any discussion of problems with placement.

The net effect of this proposal would allow a group of individuals at these four pilot schools to enter into individual negotiations regarding a higher placement into Level II (Step 4 plus \$1000), Level III (Step 12), or Level IV (Step 17 or 18). This negates the whole purpose of collective bargaining which is the elimination of individual deals. Currently, new teachers are placed based on contract language they do not negotiate. This plan is also designed create a cohort of teachers who are alienated from the Association which would allow them to negotiate on their own. There are no other contracts in Fairfield County (Association Ex. #XII-1 through #XII-25) which allow a group of new hires to be separated out to cut their own deals.

Teachers' Welfare

The GEA throughout these reopener negotiations is unwilling to be bought by the ruse of some teachers making \$100,000 in seven years as being good for us. The lure of \$100,000 doesn't cut it. On February 27, 2005 the *New York Times* featured an article entitled "Six Figures? Not Enough" (Association Ex. #VI-5) in which the assertion is that "Today, in many affluent cities and top professions, a salary of \$200,000 has become the new \$100,000." The Association supports raising Appendix A for all teachers. We would conceptually agree in reducing the number of steps to get to the maximum. But, we are unwilling to link our compensation to an untested, unreliable pilot evaluation with teachers not yet hired or who, based on the Board's own retention exhibit (Board Ex. #12), are most likely to leave.

The Board outlined about its efforts in providing additional incentives to assist teachers such as.:

1. Teachers bringing their children to Greenwich at 5% of the tuition rate
2. Teachers receiving tuition reimbursement for courses taken after they have taught one year, depending on funds
3. The Commuter Van
4. Pre-School/Day Care

While these features do assist teachers, they are not unique to Greenwich. For example, New Canaan offers free attendance for staff children and course tuition reimbursement. The day care/pre-school opportunities are attached to the commuting situation. To be to school on time and cope with traffic, teachers must leave their hometowns before day care facilities are open to drop off their children (typically 6:00 a.m.). Many teachers look for day care close to their work. The commuter van provides access to school from the train station at two schools. These programs are supportive and good ideas, but they are just a start. Housing will not be affordable for most teachers in Greenwich and as the commute only gets worse. Physically getting to work, in addition to salary, will continue to be a significant factor.

D. Existing conditions of employee groups and those of similar groups.

This factor examines the Greenwich teachers in comparison to their peers:

- Association Ex. #VIII-1 highlights the five teacher settlements so far in the 2007-2008 bargaining season. There are no Fairfield County comparable settlements yet this year. However, three of the five have totals higher than the Board's Last Best Offer of 4.81% total. They are Glastonbury at 5.10%; New Hartford at 6.49%; and Newington at 4.99%.
- Association Ex. #VIII-4 summarizes all settlements in Fairfield County with a county GWI of 2.93% and a total settlement of 4.96%. The Board's offer is below both.
- The six sister comparable towns also all surpass the Board's total offer of 4.81% for 2008-2009.

Darien	5.50%
New Canaan	5.30%
Weston	negotiating
Westport	5.54%
Wilton	4.87%

The Association's Last Best Offer total of 5.01% is mid-range and comparable to the six sister towns.

- Association Ex. #VIII-31 is the 2007-2008 Agreement between the Greenwich Board of Education and the Greenwich Organization of School Administrators (GOSA). GOSA received GWI's as follows: 2007-2008: 3.5%; 2008-2009: 3.5%; and 2009-2010: 3.5% (pgs. 6 and 7).
 - GOSA also agreed to a performance incentive component of an additional 1%. Each administrator receives 0.25% of the 1% as incentive. At no time can an administrator be moved back to a lower level with a loss in pay like the teachers' pilot plan. In addition, the administrator group may vote to remove the incentives program while the GEA was not given that option.
 - The Agreement contains a Memorandum of Understanding with the following clauses:
 1. By written notification to the Superintendent prior to January 1, 2009, the Greenwich Organization of School Administrators may elect to terminate the performance incentive component of salary for the 2009-2010 school year, and the increase for that year shall be a general wage increase of 3.5% on each of the salaries for the 2008-2009 school year.
 - The Board's Last Best Offer to the teachers includes no ability for the bargaining unit to end the program as afforded the administrators. The administrators have to offer no reasons for walking away from the program and suffer no financial penalties if they do. In fact, the teachers' programs contain language which projects them into perpetuity beyond the expiration date of the current contract.
 - The Memorandum of Understanding further states:
 2. At the end of the 2007-2010 contract term, the performance incentive component of salary shall terminate, and salary, including a performance incentive component, if any, shall be subject to negotiations as though the performance incentive component had not been included in the 2007-2010 collective bargaining agreement as follows:
 - a. The parties recognize the "negotiations between the parties prior to arbitration, including the offers and the range of discussion of the issues" is a statutory factor that arbitration panels must consider in accordance with Conn. Gen. Stat. § 10-153f(c)(4). The parties also recognize that there is a general presumption in negotiations and arbitration in favor of current contract language.
 - b. The parties expressly agree that the inclusion of a performance incentive component of compensation in the tentative agreement and/or any final agreement therefrom shall not be considered as part of the "negotiations between the parties prior to arbitration, including the offers and the range of discussion of the issues" in negotiations over a successor to any final agreement resulting from the tentative agreement.
 - c. The parties expressly agree that, in negotiations over a successor to any final agreement arising from the tentative agreement, there shall be no presumption in favor of language setting forth a provision for a performance incentive component of compensation based on the tentative agreement and/or any final agreement arising therefrom.
 - d. Should the tentative agreement be ratified, the performance incentive component in the final agreement and the parties' experience thereunder will be a matter of fact, and in the subsequent negotiations (including mediation and arbitration, if any) over a successor agreement, either party may present information concerning the facts related to compensation, including facts related to the performance incentive component (as well as any opinion or arguments related to such facts). However, any reference to these facts in such subsequent proceedings shall be subject to the limitations set forth in paragraphs b and c above.
 5. In reaching the tentative agreement, it is the parties' intent to assure that they can adopt a new approach to compensation without either party being advantaged or disadvantaged in negotiations over the successor agreement for having agreed to include the performance incentive component in the tentative agreement and any final agreement resulting therefrom.
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- In witness whereof, the parties have set their hands this 1 day of September, 2006.
- This language guarantees GOSA no harm in successor negotiations from including a performance incentive component in this contract. The Board's Last Best Offer on language gives the GEA no such assurances. It is clear that by arbitrating Issue #1, the Board is trying to get some language, any language, in the teachers' contract, absent any escape clauses, to use as leverage in future negotiations. The GEA has been held hostage to the Board's attempt to circumvent the negotiations' process for two years. During that time the Board has repeatedly changed the plan without adding clarity or respecting the process of collective bargaining.
 - Finally, the draft Administrators Incentive Program is to focus on "administrators discretionary time and attention on identified goals and actions so that outcomes will be achieved, and then to compensate them for their accomplishments". This fairly vague "Evaluation light" program just simply does not compare to what the Board is trying to do to the teachers' critical job through the pilot program.

- Board member William Kelly testified that the Board was pleased with the GOSA contract and that it passed through the Representative Town Meeting (RTM) by a vote of 160-4. The Board felt the 1% was “well spent.”

The Board’s strategy becomes increasingly more transparent. The GOSA agreement is being used as an example of performance pay with one bargaining unit to get leverage with another. It reinforces the GEA’s concern about how our negotiations are characterized to the RTM to support the “phantom” problem with performance. Instead of supporting the teachers, the Board’s actions show they will use any means to try to achieve what they want. The expectations for administrators in the pilot for use of discretionary time do not equal how they propose to assess and compensate teachers in the pilot and new hires after July 1, 2008.

E. Changes in the cost of living averaged over the preceding three years.

Board Ex. #40 shows the Consumer Price Index for All Urban Consumers as 3.3% in 2004; 3.4% in 2005; and 2.5% in 2006, for a 3.06% average. The Board’s next exhibit #41 shows the CPI for All Urban Consumers based on fiscal year July 1 to July 1: 7/04 – 7/05 is 3.20%; 7/05 – 7/06 is 4.10%; and 7/06 – 7/07 is 2.40%. The average per year over these three fiscal years is 3.23%. The Boards’ offer of 2.8% GWI does not keep pace with the cost of living in the wealthiest district in the state. The parties never argued the CPI data.

F. Salaries, fringe benefits and other conditions of employment prevailing in the State Labor Market including terms of recent contracts or agreements in collective bargaining or other municipal employee agreements and the terms of recent private sector contract settlement.

Association Ex. #IX-1 through #IX-8 provide data about the level of unemployment in Greenwich (3%) as compared to the Bridgeport-Stamford Labor Market, of which Greenwich is a part, at 4.2% and the state of Connecticut at 4.6%.

Association Ex. #IX -44, “Richest State Grows Richer,” highlights Connecticut as a state surpassing the Per Capita Income benchmark statistic of \$50,000. For the first time ever, during the first three months of 2007, Connecticut per capita income rose the \$52,225 for every man, woman and child in the state. The article specifically attributes the growth to the growth in “financial services and, more specifically colossal hedge fund wealth in Greenwich.” These are responsible in widening the state’s massive lead in per capita personal income, up by 3.5% in 2007. The article cites the boost as being caused by Wall Street executive bonuses which topped \$30 billion, and soaring salaries for hedge fund managers. “Tony Greenwich, in particular, is a favorite residence for those executives.”

Association Ex. #IX-82, “Lucky 13 Make Top Traders List”, more specifically discusses lucky Greenwich and Stamford traders who made the Top 100 list. These 13 traders earned more than \$6 billion in 2006. The chart in the article shows eight Greenwich residents on the list with incomes from \$1 billion to \$50 million as “minimum estimates.”

Household income in Fairfield County grew 7% from 2005 to 2006 (Association Ex. #IX-57), the top average income in the county. “The average weekly wage of 6100+ hedge fund workers exceeded \$23,000” in a U.S. Department of Labor report. The county was also highly ranked in the “Nest Egg Index” as Connecticut was the number one state for saving (Association Ex. #IX-60 and #IX-61). The article cites strong housing markets with a propensity for saving and investing, particularly in 401(K) plans and other retirement vehicles.

The Association exhibits for this criteria included articles on the positive growth of Greenwich companies, commercial real estate prices, and the economy. The GEA’s final exhibit in this section (Association Ex. #IX-99) is a document entitled How Census Income Estimates Provide Misleading Statistics on Personal Income for Connecticut Towns from the Center for Population Research at the University of Connecticut.

The premise of the report is that the state does not report actual income data from state income tax returns so that the data is available. Instead, the state uses income data from the census which understates the actual income in the six wealthiest towns and overstates the income for the poorest towns. This report repeatedly used Greenwich as an example of understated wealth; that is, the number one AENGLC’s do not accurately state wealth. For example:

The consequences of using dated income data can be dramatic as shown by this example using Greenwich. The 2003-2004 AENGLC grant used the 1990 census (1989) per person income of \$46,070 for Greenwich. The 2000 Decennial Census reports 1999 income for Greenwich at \$74,346 per person (incl. GQ) - excluding capital gains. By contrast, IRS Adjusted Gross Income data for 1999 shows Greenwich with an income of \$158,432 per person (excl. GQ) - including capital gains. This means that the **2003-2004** education grant calculations **understated** income for Greenwich by \$112,362 per person or **244%** - based on 1999 IRS AGI data. The **2005-2006** calculations will **understate** the income for Greenwich by \$84,086 per person or **113%** - based on 1999 IRS AGI data.

The ECS grant formula uses median household income in addition to per person income. Both of these income measurements create misleading statistics for extreme high- and low-income towns.

(p. 1)

Another example would examine Greenwich's 2003-2004 AENGLC calculation based on the above calculation which was \$347,636 per person. If this had been calculated using the actual IRS data, instead of the census estimate, the AENGLC would have been 14% higher or \$397,604 per person (p. 14). It is significant that Greenwich's wealth rises to even higher levels every time it is examined further.

Municipal Contracts

In Association Ex. Section VIII, we have included the salary and cover pages from other municipal bargaining units in Greenwich. These contracts contain data for the past three years and in some cases for 2008 in terms of general wage increases. There is no group with a settlement below 3%, past or present. Other relevant data includes:

- LIUNA Local 136 AFL-CIO which represents the employees at Nathaniel Witherall, Municipal Nursing Home, general wage increase effective July 1, 2008 is 3.25%.
- Local 456 IBT which represents the LPN's, CAN's, and Maintenance Mechanics at Nathaniel Witherall. General wage increase effective July 1, 2008 is 3.25%.
- Local 1042, International Association of Fire Fighters, AFL-CIO, July 1, 2004 – June 30, 2009. July 1, 2008 schedule is a 3.25% increase.

There are two other contracts with relevant provisions to our discussion. The agreement between the Town of Greenwich and The Silver Shield Association, Inc. (police) from July 1, 2004 – June 30, 2008 (Association Ex. #VIII-36) has, in Article XXI, an Educational Incentive Allowance where police receive additional salary stipends based on coursework in related areas. The stipends range from \$250 through \$1400 per year. There are no minimum grades or pre-approval requirements. The contract between the Town of Greenwich and Local 1042, International Association of Fire Fighters, AFL-CIO, July 1, 2004 – June 30, 2009 has, in Article XVIII, provisions for similar educational incentive allowances based on coursework where incentives range from \$400 - \$1500 (Association Ex. #VIII-33). It is ironic that these incentives are the same as what has been argued as so objectionable for teachers.

Arguments

Issue #2 – the General Wage Increase.

The Board's offer of 2.8% is below any Greenwich municipal settlement since 2005-2006 and forward. It is clear that the low-balling of the Board's offer is to send an intentional message to the teachers that even though the Board has the money, they will punish teachers for not agreeing to their language proposal. The threat is transparent.

The second aspect of the Board's offer of 2.8% is that it is part of a strategy move on salary. They have shown by their limited exhibits on ability to pay and the existing conditions of employment of the employee group and those of similar groups. They have completely omitted the statutory factor of the salaries, fringe benefits, and other conditions of employment prevailing in the state labor market. We do not believe that either a win for one party or a loss on Issue #2, the GWI, should impact the decision on Issue#1 which must stand on its own merits or lack thereof.

Issue #1

Both parties have submitted exhibits regarding the evils and merits of performance pay. The Association Exhibit Book II is a collection of articles and awards designed to provide the panel with information. In the Background section we provide support for the single salary schedule – not because it is something we don't want to change, but because it is an effective way to deal with compensation.

The "Promises and Pitfalls of Alternative Teacher Compensation Approached" by Debbi Harris provides for the positive and negative aspects of three types of systems: the single salary schedule; the performance based compensation system; and an outcomes based compensation system. The article allows for the creation of hybrid systems which is what the Board has proposed. That is the system based on student outcomes (Domain I) and teacher performance (Domain II and Domain III) of the pilot evaluation. This is where the testimony of Dr. Braun is critical regarding the lack of reliability and validity in the contract of the plan and evaluator training. This is critical to the fairness concept.

Further, on p. 30, Harris states "Teacher 'buy-in' is essential if the compensation programs are to succeed." This is a theme recurring in article presented by both sides and the testimony of Dr. J. Todd White.

Section II Merit Pay presents articles which support the Association's position that there should be no pilot. We do not believe that financial incentives should be linked to student outcomes and performance. In so much as we have presented article from national experts such as Dr. Linda Darling-Hammond, Dr. Jeffrey Pfeffer, Alfie Kohn, Dr. Mumane and Dr. Braun, the Board has presented its articles on foundations, charter schools, large urban districts where it may work.

One thing becomes eminently clear. We will not answer the great national debate on this matter in this award. The issue is very narrow: Should this pilot plan be awarded now? To answer this, the GEA has already presented evidence on all of the statutory factors in §10-153. But, in the history of negotiations certain aspects of

behavior on the Board's part which the Association believes were intentionally duplicitous to accomplish their performance pay goal.

The Board has Exhibit #22, "The Work of the Knowledge and Skills Committee" which outlines the work of the committee created by the language in Section 9N of the 2006-2009 agreement. As previously argued, the GEA's obligation was to consider "whether" a program would exist under specific guidelines. Then the Board hired Thoughtbridge, a private consulting company headed by Dr. Irma Tyler-Wood (formerly of the Harvard Negotiations Project). Dr. Tyler-Wood is an expert in Interest Based Bargaining, having developed much of the materials used in IBB with Roger Fisher, author of Getting to Yes. The Board spent \$40,845 (Board Ex. #22, p. 16) on the consultants alone.

In the document "Diagnostic Report and Recommendations to the Greenwich Schools Negotiation Team and the Greenwich Education Association Negotiations team Knowledge and Skills Based Compensation System Negotiations," it becomes clear that the Board was using IBB facilitation to try to get the teachers to negotiate to performance based compensation. The comments in the document are attributed to the person or side making the comment. It is clear the teachers consistently raise issues of trust and fairness. The GEA's position is accurately addressed on p. 17. One of the biggest issues was and continues to be trust. The Association president, Cathy Delehanty, sent an email on June 16, 2006 (Board Ex. #25) describing the reasons why the GEA stopped participation. Ms. Delehanty then sent an update to the membership on June 19, 2006 (Board Ex. #26). This exhibit has the name of the teacher "Paul Hunter" on the upper left hand corner. Paul Hunter is a GEA Building Rep who left for Europe on June 13, 2006. How the document ended up as a Board exhibit only reinforces the lack of trust the GEA has for the Board.

The Association's report on their withdrawal from Knowledge and Skills is Association Ex. #XI-2 and Board Ex. #28. The document is dated November 16, 2006 as the GEA was directed to submit it by November 8, 2006 to be included in the Board packet for the Board meeting on November 16, 2006. Ms. Delehanty submitted the report at the meeting. Board Ex. #27 is a document from Mary Capwell, former Deputy Superintendent, and Dr. Ellen Flanagan about the Knowledge and Skills Based Compensation Committee. The document is dated December 6, 2006. This brief is the first time the Association has seen this report. It is a summary from the administrative perspective as to how the committee was going. This report details the committee meetings and concerns being raised by the GEA members.

- November 16, 2005 – acknowledged challenges, including a divided committee
- December 5, 2005 – hiring a third party professional facilitator was raised by the administration. "Once again questions were raised by the GEA members about the purpose of the initiative and how committee members would best inform different constituencies" (p. 6).
- January 19, 2006 – "In response to the frequently asked question from GEA members about the purpose of the committee, all members received a copy of Article 9 of the new GEA contract..." (p. 8).
- Additional meeting dates were held on April 11, 2006; May 15, 2006; May 22 and 23, 2006 presentations to the faculty; and June 9, 2007. Then the GEA withdrew.

Conclusions and Recommendations

At the first meeting of the KSBC committee, it was clear that the GEA members were uncertain about the goals of the initiative and distrusted the process. They expressed their skepticism about the initiative and their view that there was little benefit to the conversation of alternative ways to compensate teachers. Despite constant acknowledgement of their concerns and reassurances that the intent of this project was not to harm, but to increase the pay of outstanding teachers, GEA members could not get past their strong views in opposition to any new compensation system.

Literally every meeting began with a resurgence of doubts and fears on the part of GEA members. Interestingly, some of the issues expressed by the GEA members around the enormous challenge of a new compensation system were shared and affirmed by the administration. However, no matter how much the administration tried to alleviate their concerns, GEA members continued to respond passively to the process.

Throughout the months of meetings, administration and Board members felt that the GEA "representatives" did not truly represent their entire constituency. Indeed, off-line conversations with teachers who expressed strong interest in a performance-based pay plan confirmed this. However, even when this fact was brought to GEA committee members, there was no apparent effort made to broaden the GEA representation on the committee to include such viewpoints.

It is clear from this document that the Board just did not want to hear disagreement with their plans. Also, the administration and Board members tried to subvert the committee by going directly to teachers to undermine the GEA. We clearly have reason for distrust.

Finally, the Association's last article in Book II is from the Consortium for Policy Research in Education (CPRE) which produced many of the Board's pro articles. The article "The Varieties of Knowledge and Skill Based Pay Design: A Comparison of Seven New Pay Systems for K-12 Teachers" by Anthony Milanowski examines the seven places where Knowledge and Skill based pay exist. Table 1 (p.11) identifies the site, the motivation, the champions and the labor management relations. Most programs had support and existed in a cooperative environment or had no union.

Table 2 (p. 13) describes the collective bargaining process; Type of Teacher Participation and the Method of Knowledge Skills identification. None of the programs (Cincinnati, Coventry, Douglas County, Limon, Manitowoc Robbinsdale, or Vaughn) were developed through traditional, adversarial collective bargaining. Several were accomplished through Interest Based Bargaining which is what the Board attempted to do with Thoughtbridge.

The author also states:

Because knowledge and skill-based pay programs are new and quite rare in the K-12 sector, it is not yet possible to obtain definitive evidence about the success of these programs in influencing instructional capacity or in improving student achievement. It is not known whether they are effective in achieving their aims, nor do we yet know all of the difficulties and unintended consequences they may have.

(p. 1).

The Greenwich teachers have shown through their proposals and actions that they do not want the institution of Knowledge-based compensation, even in a pilot form. There is no credible problem to be solved. The evidence shows that once it exists in a pilot form the Board has no intention of making it go away and in fact will try to expand the program. The Board's proposal is untested, unreliable and has not demonstrated validity.

The Board's proposal relies on subjective decisions of administrators who are not adequately trained or monitored. This program does not exist in any other public school in Connecticut; it is no comparable to the Greenwich municipal contracts, including the administrators. The Board has dealt with the teachers in a duplicitous manner which should not be rewarded. The Board has not met its burden the statutory criteria to effect the change, nor win on salary. Therefore, the Association looks to the panel to award the Association's position on both issues.

V. Panel Discussion and Award on the Disputed Issues

Issue 1 Discussion

The parties submitted considerable evidence on the performance pay issue, both documentary and testimonial. As can be seen from the briefs, both parties have comprehensively argued the issue. The panel members have studied the full record and considered all arguments in the briefs. While this discussion written by the panel Chair is quite short in comparison to the briefs, it is informed by the full record and the briefs.

The selection of the Association's last best offer constitutes a majority decision by two of the three members of the arbitration panel (the Chair and the Association Appointed Member). The Board Appointed Panel Member has submitted a written dissent which is appended hereto and is issued as the final section of this arbitration award.

The Board is the party seeking to change current language. The change it proposes would create a fundamentally different approach to salary compensation for Greenwich teachers who are under the proposed performance pay "pilot" program. While the number of locations and teachers initially affected would be small, it cannot be denied that (for the affected employees) the performance based compensation program would constitute a fundamental change in an existing substantial benefit and essentially would eliminate an existing substantial benefit

commonly received by similar groups of employees (teachers) and many other types of employee groups in the state labor market.

Thus the burden is squarely on the Board to prove by evidence and persuade the arbitration panel that its proposed change is justified under the statutory factors. *

Public Interest

This is the first statutory factor and arbitration panels are required to accord it priority consideration. It also is the statutory factor which the Board has emphasized most in its arguments.

The problem with this statutory factor is that the public interest most often is defined in the “eye of the beholder.” That is why there are fierce debates at all levels of government on a seemingly endless array of public policy issues. We live in a representative democracy. Interest arbitration is an inherently undemocratic institution. Arbitrators should be very cautious that the “public interest” strongly and clearly supports a change when the primary basis for awarding the change is the public interest statutory factor. Otherwise, arbitrators risk imposing their personal social policy views upon parties.

The public interest can be defined to some extent by actions taken by relevant institutions with broad governmental authority. Education policy, especially labor relations policy in the public sector education workplace, is largely defined at the state government level. This source offers no support, either by the legislative, executive or judicial branch, for the notion that performance pay systems are favored by public policy in the Connecticut education workplace.

* See generally J. Larry Foy, “State of Connecticut and SEBAC January 31, 2000 Interest Arbitration Award: The Future of Negotiation and Arbitration of Domestic Partnership Benefits for Local Government Employees in Connecticut.” *Connecticut Bar Association Labor and Employment Law Quarterly*, Vol. 6, Issue 2, Spring/Summer 2000.

At the federal level there is some support as the Board argues. There are at least federal grant programs supportive of such systems. However, these programs do not rise to a level from which one can reliably conclude that there is an across the board national public policy favoring performance based compensation systems in the public education workplace.

There is evidence to reasonably conclude that such a national public policy exists for districts where teacher salaries are low, the quality of incumbent teachers is mediocre and there is difficulty attracting and retaining good teachers. Greenwich teacher salaries are not low. They are the highest in Connecticut, by both the benchmark BA-1 and maximum level salaries. Connecticut, as a state, has among the highest paid teachers in the United States. The record does not show that the quality of incumbent teachers in Greenwich is mediocre. The record does not show that Greenwich has difficulty attracting well qualified teacher applicants for teaching vacancies. The Board did identify a problem wherein a significant number of teachers leave Greenwich in the first few years after gaining tenure. However, as the Association points out in its brief, there was no comparative evidence to show this is more of a problem in Greenwich than in other Connecticut school districts. The reason people leave Greenwich at that point in their careers also was not reliably demonstrated. Certainly it was not proven that a substantial number of these teachers leave because they lack the opportunity for larger raises that might result from a performance based compensation system. It is at least as likely that some teachers leave Greenwich early because the Greenwich teacher salary schedule requires seventeen (17) or eighteen (18) years to reach the maximum salaries. This is at least four (4) years longer than the typical Connecticut school district.

It is true that there is a general, but important, federal government public policy that the effectiveness of public education in the United States needs to improve substantially. Whether the Board's proposed performance based compensation program would accomplish this in Greenwich is a debatable

proposition. It might do so. It might not. The Board's proposed program is tied into the new Teacher Evaluation program. As an evaluation tool, that program seems a solid device to improve teaching quality. It is a brand new program in Greenwich and for now is implemented on a limited pilot basis and is subject to further modification by the Board in the future. The issue before the arbitration panel is not the evaluation program. Instead, the question at hand is the tying of salary levels to the ratings teachers receive under the evaluation program. It simply is not proven that doing so would improve the quality of teaching or the education of children in this particular highly paid and prestigious school district.

The panel has read the many and lengthy articles on performance based compensation that were submitted as evidence by both parties. These were written by bona fide experts in the field. Many were published and sponsored by not-for-profit organizations. As impressive as many of the articles are, it is clear that performance based compensation systems are "in their infancy" in terms of implementation (in public schools). There was little evidence showing long term improvement in student performance as the result of linking teacher compensation to teacher performance. Certainly it seems to the panel Chair that such a link would seem logical depending upon the relevant circumstances of the particular school district. However, that notion is quite different than concluding that the "public interest" clearly supports a change to such a system at this time and in this place (Greenwich).

Certainly performance based teacher compensation systems are by no means contrary to the public interest. Furthermore, a case can be made that such systems might improve student learning and therefore serve the public interest. The Board has made the best case the evidence permits. But the evidence does not rise to the level of proving that the public interest statutory factor clearly and strongly supports moving to such a system as proposed by the Board.

The Financial Capability of the Town

This is the other “priority” statutory factor.

The town of Greenwich has a very strong financial capability. Indeed, it is fair to say that Greenwich’s financial capability is extraordinary compared to other Connecticut towns and municipalities throughout the United States. This is not contested.

The Board argues that the town’s strong financial capability ensures that a performance based compensation program would not be undermined by occasional financial exigencies/pressures on Greenwich taxpayers. In other words, compensation would be driven by quality of performance; evaluators would not be pressured to give teachers lower than deserved ratings because of town financial problems. The panel Chair agrees that Greenwich would be far less susceptible to such corruption of the evaluation rating process than most other towns. On the other hand, Greenwich’s financial capability also would enable it to utilize other methods to address possible problems with the salary schedule. Such as why it takes so many steps to reach the maximum compared to the vast majority of other Connecticut school districts? Also, the maximum salaries proposed in the Board’s Appendix A-1 provide no additional measure of compensation once teachers reach maximum despite getting the highest possible evaluation ratings.

The financial capability statutory factor really does not bear directly upon the question of performance based compensation. It may do so indirectly but, to the extent it does, its effect does not really militate clearly in one direction.

(A) The Negotiations Between the Parties Prior to Arbitration, Including the Offers and Range of Discussion of the Issues

The parties spent considerable time on evidence and argument which they though pertinent to this statutory factor. There clearly are some mutual hard feelings that have been generated with both sides feeling ill-used by the other.

In negotiations for the current contract the Association did agree to form a joint committee with the Board to research and consider a knowledge and skills based compensation system. This was called the Knowledge and Skills Based Compensation (KSBC) Committee. The commitment was two fold: (1) to “engage in a good faith discussion” about the creation of a new salary structure and (2) if these discussions did not produce agreement, to engage in salary reopener negotiations for the third year of the contract (2008-2009).

The KSBC operated vigorously and did much work. The Association’s participation in said committee met its commitment to “engage in good faith discussion.” However, in June, 2007 when the time for reopener negotiations came, the Association abruptly communicated that it did not want to move to a knowledge and skills based or performance based compensation system and ceased participation in the KSBC. The salary reopener negotiations went forward with the Board consistently proposing movement to some form of a performance based system at least on a pilot basis. The Association just a consistently refused to agree to any such system.

The Board argues that in light of the Board’s longstanding openly stated desire for a performance based pay system, the creation of the KSBC Committee and the considerable work it did, and the provision for the instant reopener negotiations, it is patently unreasonable for the Association to propose absolutely nothing in the way of performance based pay. * According to the Board, the Association now has shown that it will stonewall any Board effort along those lines and the arbitration panel must award the Board’s last best offer because

* In its brief, the Board colorfully refers to the Association’s attitude as “reflexive negativity.”

doing so is the only way the Association will engage in meaningful dialog when a successor contract is negotiated a year from now.

The problem with the Board's reasoning here is that the Association did not previously commit that it ultimately would agree (in either KSBC Committee discussions or in negotiations) to a performance based pay system. Thus, in the reopener negotiations which are the subject of this arbitration, the Association was under no obligation to propose or agree to changing the current salary schedule compensation system. Additionally and significantly, the performance based compensation program in the Board's last best offer is modest only in the sense that it initially affects a small number of teachers in a few schools. In substance, the Board's proposed program is extremely ambitious. Awarding the Board's last best offer might cause the Association to engage in "meaningful dialogue" in future negotiations over performance based compensation. However, the dialogue would not necessarily be "meaningful" in the sense that the Board desires. Instead, it more likely would be a dialogue of heated and acrimonious long term collective bargaining/public relations warfare with the Association's goal being to greatly weaken or kill the performance compensation program.

In sum, statutory factor (A) does not favor either party's last best offer over the other's.

(B) The Interests and Welfare of the Employee Group

The Board's performance based compensation system would move some teachers more quickly toward the maximum salary. As the Board explains, the potential opportunity for additional salary could be very substantial during the years of accelerated movement. For the teachers who benefit, the Board's proposal would of course benefit their interests and welfare. There is no way to know how many employees or what percentage of employees under the performance based compensation system actually would benefit.

On the other hand, even for the unknown number of employees who would benefit as described above, the Board's performance based system would create risk of moving backwards on the salary schedule depending upon their future performance rating. Here again, there is no way to know how many employees would be negatively affected during the time before they reach maximum. This negative effect would be harmful to the interest and welfare of affected employees.

Additionally, depending upon an employee's performance rating, he/she might never reach the maximum salary under the Board's performance based compensation system. These ratings are: Unsatisfactory, Basic, Proficient, and Exemplary. To reach maximum, a teacher must be rated Exemplary. I have studied the detailed descriptions of "Proficient" and "Exemplary" (the two highest ratings) under the Pilot Evaluation Program. Under these descriptions, a teacher who reaches a "Proficient" rating seems to a strong and effective educator. Under the current salary schedule system, I have no doubt that Greenwich teachers who are of the quality denoted by "Proficient" now move steadily forward and achieve the maximum salary. Under the Board's plan, such a teacher might never reach maximum. This does not benefit the interests and welfare of employees.

Furthermore, once a teacher does reach maximum under the Board's performance based compensation system (Level IV) he/she will be removed from maximum and placed on a lower salary level (Level III) if he/she fails to consistently be rated "Exemplary." A rating of "Proficient" is not only insufficient to reach maximum, it is insufficient for remaining at maximum. Under the Board's proposed Appendix A-1 salary schedule, a move down from Level IV to Level III brings a pay reduction of about \$10,000. This does not benefit the interests and welfare of employees.

It should be noted that the Board's concept of a maximum salary as expressed in its proposed Appendix A-1 envisions no increased maximum salary level in return for requiring consistent "Exemplary" evaluation ratings. The Board's new maximum (Level IV) in its proposed Appendix A-1 is the same salary that now exists at the maximum in the current contract. These maximums would then receive the same percentage general wage increase awarded to all the salaries under Issue 2. Thus, the Board's Issue 1 last best offer makes the achievement of maximum more difficult but provides no additional compensation to the maximum in exchange for this increased difficulty.

On balance, it must be concluded that statutory factor (B) supports the Association's last best offer.

(C) Changes In The Cost of Living Averaged Over the Preceding Three Years

This statutory factor is more relevant to Issue 2 (GWI) than to Issue 1 (Performance Pay).

Statutory factor (C) does not clearly support either party's last best offer over the other's.

(D) The Existing Conditions of Employment of the Employee Group and Those of Similar Groups

This is one of the two "comparison" statutory factors.* They appear (although not in identical language) in all three of Connecticut's public sector interest arbitration statutes (Teachers, Municipal Employees, and State Employees). In a 2000 article I acknowledged this and discussed the accepted way in which arbitrators apply these statutory factors:

* The other comparison factor is factor (E) infra.

These two factors traditionally have weighed heavily in the decision making of interest arbitrators (not only in Connecticut, but in most jurisdictions). These factors rely upon objective evidence and reasonable parties readily understand and accept that they constitute equitable yardsticks. Accordingly, interest arbitrators rarely (1) *add a substantial new benefit* which is uncommon among "similar groups of employees" and/or employees "in the labor market," or (2) *eliminate an existing substantial benefit* which is common among "similar groups of employees" and/or employees "in the labor market". In such circumstances substantial change ordinarily is expected to result from mutual agreement between the parties in bilateral negotiations. It has become well known, understood and accepted by experienced interest arbitrators and other labor relations professionals that interest arbitration is *not* the proper vehicle for frontier breaking substantial change, regardless of whether the change is progressive or reactionary in nature.* Important labor relations public policy considerations undergird such thinking.

The heavy emphasis which interest arbitrators place upon the comparison statutory factors has created a level of predictability that contributes significantly to the salutary fact that, in Connecticut, the vast majority of successor contract disputes are resolved through bilateral agreements (especially under the MERA and TNA). The party proposing a substantial change not strongly supported by the comparison evidence knows the likelihood of achieving the change through interest arbitration is remote and often will either withdraw the proposal or offer the other party a quid pro quo sufficiently valuable to cause an agreement to be reached. If arbitration awards were not reasonably susceptible to reliable prediction, arbitration would become an exercise in gambling wherein individual parties more often would be willing to "roll the dice" by forcing arbitration in an effort to score dramatic change.** The result of this would be fewer settlements and more arbitration proceedings and awards. This might advance the financial interests of arbitrators, but would thwart the public policy preferring and encouraging voluntary settlements over imposed arbitral resolutions.

* It similarly is well known and understood that when one party proposes to change a current contract provision, while the other party proposes no change, the party proposing the change bears the burden of proving that its proposed change is justified by the evidence and statutory factors.

**Similarly, when the comparison evidence strongly supports a change, the party resisting the change knows it is exposed to losing in arbitration and often will either agree to the change in whole or in part (in exchange for consideration) or offer the other party a quid pro quo sufficiently

valuable to cause withdrawal of the proposed change. This is unlikely to happen if it is unclear that arbitrators will place heavy reliance upon the comparison statutory factors. Again the result would be higher utilization of arbitration and fewer voluntary settlements.

J. Larry Foy, *CBA Labor and Employment Law Quarterly*, article previously cited in this Discussion

The foregoing was not advocacy for a change in how Connecticut arbitrators apply the comparison statutory factors. It was simply recognition of the existing arbitral perspective. There have been no relevant changes made to the statutory factors by the state legislature since that article was published in 2000 and I know of no change in the perspective of Connecticut interest arbitrators.

In the instant case, the comparison evidence pertinent to factor (D) overwhelmingly supports the Association's last best offer to keep the traditional step salary schedule in place. Every municipal teacher bargaining unit in Connecticut has such a system in place. None has a performance based compensation system which vaguely resembles that proposed by the Board. Indeed, even as an add on to the traditional salary schedule, extra payment for performance reasons is practically non-existent among Connecticut's municipal teacher bargaining units.

The Board has presented witness testimony and many exhibits showing that performance based compensation systems have been accepted in various public school districts within the United States. It is true that such examples exist and there are more of them in recent years. However, the number of schools and districts having such systems in place remain a small minority at this time. There is something of a trend toward such systems, but it cannot yet be known how much it will grow or in how many districts it will take hold over the long term.

Statutory factor (D) militates strongly in favor of the Association's last best offer.

(E) The Salaries, 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 Developments in Private Sector Wages and Benefits

This is the other comparison statutory factor. It encompasses a broader look in terms of types of employee groups than factor (D), but is more strictly limited geographically to the Connecticut labor market.

Public school administrator bargaining units arguably could be considered under statutory factor (D) or (E). Regardless of which factor school administrator units are slotted into they provide no support for the Board's specific performance pay proposal. The Greenwich administrators unit recently negotiated a form of performance pay, but it bears no resemblance to what the Board is proposing for the teachers. The Association's brief does a full and accurate job of comparing the administrators' performance pay agreement to the Board's last best offer for the teachers. Only a minority of other Connecticut public school administrator bargaining units have some component of performance pay and it is a small minority. There is no convincing evidence of any recent significant increase in the numbers of such units negotiating such provisions. Additionally, the units that do have a performance pay component have much more modest programs than that being proposed here by the Board for the teachers.

In the Connecticut public sector generally, there is no evidence that local or state public employees commonly have performance-based pay programs for non-managerial level employees.

That leaves the private sector in the Connecticut labor market. Unquestionably, performance based pay systems are more common in the private

sector. Among some professional/occupation groups such systems are the norm in the private sector (although there is a wide variety of specific types of programs). In others, such systems are less usual. In private sector employee groups covered by collective bargaining agreements, performance based pay systems are rare.

This statutory factor militates more in favor of the Association's last best offer than the Board's but with less strength than was the case under factor (D).

Award on Issue 1

For the reasons discussed above and based upon the statutory factors set forth on page 9 supra of this award:

The Association's last best offer is selected on Issue 1.

The Association appointed panel member concurs with the selection of the Association's last best offer based upon the same statutory factors cited above.

The Board appointed panel member dissents from the selection of Association's last best offer based upon the same statutory factors cited above. (See Dissenting Opinion Attached)

Issue 2 Discussion

This issue concerns the general wage increase (GWI) to be provided to the referenced salaries including Appendix A for 2008-09. That is the year covered by this reopener and is the third year of a three (3) year contract. In each of the first two years of the contract, the GWIs were 3.5%. The Association proposes another 3.5% GWI for the third year. The Board proposes a 2.8% GWI for that year.

The GWI is the percentage by which the salaries listed on the salary schedule are increased. It does not include the cost to the Board of providing step movement (annual increment) to employees not yet at maximum. The parties have calculated the additional cost to the Board of providing step movement at 2.01% of the teacher salary account. Thus, the parties' last best offers would generate an overall cost to the Board as follows:

Board	Association
2.80 % GWI	3.50% GWI
<u>+ 2.01% increment cost</u>	<u>+ 2.01% increment cost</u>
4.81% Total Cost	5.51% Total Cost

Although I cite these total cost numbers, they are of much less significance than the GWI percentage. It is only the GWI that determine the salaries listed on the salary schedule. When one compares the rate at which negotiated/arbitrated teacher salary levels are increasing in other school districts, it is the GWI which determines that rate of increase, not the combined-cost total of GWI plus increment.

The most comparable school districts to Greenwich are those in the Fairfield County towns. The lower Fairfield County towns have the highest wealth rankings in the state (except Stamford and Norwalk) and pay the highest teacher salaries in the state. Thus it would be appropriate to give the greatest weight to these towns. As is well detailed in the briefs, Greenwich has the highest wealth ranking and pays the highest teacher salaries. Regardless of which party's last best offer is selected, Greenwich will continue to have the highest teacher salaries.

Financial Capability

As noted above, Greenwich has the highest wealth ranking of Connecticut municipalities. Its ability to pay is extraordinary. It could easily afford either party's last best offer and more. While the financial capability statutory factor is required to be given priority consideration, that does not mean that arbitration panels must require a town to pay whatever the union wishes simply because the town can afford it. The last best offer selected must be justified by the statutory factors viewed as a whole.

Public Interest

This statutory factor has no significance for the GWI issue in this case. The "public interest" does not militate in anyway for one party's GWI percentage versus the other party's GWI percentage.

(A) Negotiations Prior to Arbitration

The parties have given evidence of the GWI offers made during the reopener negotiations. There is nothing remarkable or particularly significant arising from that evidence.

What is significant is that this is a reopener for the last year of a three year contract. For that reason, it is highly appropriate to consider the GWI last best offers in

the context of the GWIs that were agreed to for the last two years and consider what the three year GWI average would be in Greenwich if one party's last best offer versus the other's is selected. If the Union's last best offer is selected, the Greenwich teachers will have received a 3.5% GWI average over the three years of the Contract (in fact, 3.5% in each year). If the Board's last best offer is selected, the Greenwich teachers will have received a 3.266% GWI average over the three years of the Contract ($3.5\% + 3.5\% + 2.8\% = 9.8 \div 3 = 3.266\%$)

To evaluate the significance of a 3.5% GWI three year average versus a 3.266% GWI three year average will require consideration of the remaining statutory factors.

(B) Interests and Welfare of the Employee Group

Application of this factor is straight forward. Larger pay increases (GWIs) better serve the interests and welfare of the employee group than do lower pay increases.

(C) Changes in the Cost of Living Averaged Over the Preceding Three Years

Both parties calculate the average CPI over the past three years at 3.23%. Although the three years covered by the Contract cover different years, there is no reason to believe that an average 3.266% GWI over the three years of the Contract is insufficient to cover cost of living increases. The CPI evidence simply does not support a 3.5% average GWI for these three years. Accordingly, statutory factor (C) supports the Board's last best offer.

(D) The Existing Conditions of Employment of the Employee Group and Those of Similar Groups

As stated earlier, Greenwich teacher salaries are the highest in Connecticut and will remain so regardless of which party's last best offer is selected. Whether one looks at Fairfield County as a whole or just the wealthiest towns in the county, the Board's

proposed GWI of 2.8% is much closer to the average GWI than is the Association's 3.5%.*

The Association argues that the total cost percentages should be utilized and not just GWI comparisons. According to the Association, the Darien/ New Canaan/ Westport/ Wilton total cost average is 5.30%. The Association notes that the total cost of its last best offer would be 5.51%, while the Board's would be 4.81%. That is true. However, the GWI to GWI comparison is the more important one. By that measure a 2.8% GWI for 2008-09 is, as the Board puts it, "right on the money" and is even more so since it results in a three year GWI average of 3.266% for Greenwich teachers and comfortable maintenance of their number one salary ranking.

In sum, factor (D) strongly supports the Board's last best offer.

(E) The Salaries, 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 Developments in Private Sector Wages and Benefits

The Association has cited Town of Greenwich MERA bargaining units and the Board's School Administrators' bargaining unit to support its GWI last best offer of 3.5% for teachers. The School Administrators' unit did receive 3.5% GWIs in three years, plus a negotiated additional amount for a form of performance pay. The Association cites three Greenwich MERA units that will receive a 3.25% GWI in 2008-09. The Association also argues that "[t]here is no group [in Greenwich] with a settlement below 3%, past or present." What the Association does not argue and which its Greenwich MERA evidence does not demonstrate is that a 3.266% GWI average over the three years of the Contract is substandard. One year of a three year contract cannot simply be viewed in isolation from the other years of the same contract.

* The Association puts the 2008-09 Fairfield County GWI average at 2.93%. The Board places the 2008-09 New Canaan/Weston/Westport/Wilton GWI average at 2.727%.

The Greenwich School Administrators contract is the only group which definitely is shown to have received a 3.5% GWI for three years. That is insufficient to tilt this statutory factor for the Association.

When considered as a whole, the statutory factors justify selection of the Board's last best offer.

Award on Issue 2

For the reasons discussed above and based upon the statutory factors set forth on page 9 supra of this award:

The Board's last best offer is selected on Issue 2.

The Board appointed panel member concurs with the selection of the Board's last best offer based upon the same statutory factors cited above.

The Association appointed panel member dissents from the selection of Board's last best offer based upon the same statutory factors cited above.

VII. Agreed Language

The following pages before the Panel Signature Page constitute the parties' Agreed Language for the new contract.

Board Ex. #4 contains the agreed upon language for the reopener. Association Ex. #IV-19 summarizes the Agreements Reached prior to arbitration. Highlights of these include:

- Appendix A: Teachers' Salary Schedule.
All teachers not on the maximum step shall advance one step for a 2.01% increment cost.
- The rate for teaching Summer School shall increase to 85% of the per diem.
- The teachers shall be paid on the same bi-weekly schedule as the town employees.
- Teachers who elect twenty-six paychecks shall use direct deposit.
- Deletion of National Board Certification stipend with the grandfathering of the one employee receiving it.
- Delete language in 9 (N) regarding the Knowledge and Skills Committee.
- Identify items to be increased by the general wage increase.
- Learning Facilitators – reduce the number of required extra days and pro-rate the stipend.
- Appendix B – Keep step movement for coaches and update positions.
Delete non-indexed positions from contract.

Arbitration Panel Signature Page

Greenwich Board of Education

-and-

Greenwich Education Association

CGS Section 10-153f Interest Arbitration Award
(Reopener under July 1, 2006 to June 30, 2009 Contract)

J. Larry Foy, Esq.
Panel Chair

John Romanow, Esq.
Board Appointed Panel Member
(Dissenting where indicated herein)

John M. Gesmonde, Esq.
Association Appointed Panel Member
(Dissenting where indicated herein)

Dissenting Opinion of Arbitrator Romanow on Issue # 1- Performance Pay Pilot Program

The Priority Factors of the Public Interest and the Financial Capability Should Be Dispositive of this Issue.

The Public Interest

It is somewhat shocking that the opinion of the majority, in disposing of this issue, barely alludes to the nature of the Board's proposal which is a *pilot* program that will affect only new employees and a few volunteers who meet specific criteria. It is also inexplicable that in giving such short shrift to the Board's proposal for a pilot program, the majority does not even mention the extensive testimony of the nationally renowned expert witness, Dr. J. Todd White who testified in support of the importance of Performance Based Pay in attracting a new generation of teachers. Ultimately, that is what the pilot program is designed and intended to do. The panel majority dismisses the voluminous evidence in support of Performance Based Compensation by saying that these systems are "in their infancy" and that "...there was little evidence showing long term improvement in student performance as the result of linking teacher compensation to teacher performance". This conclusion of the panel majority makes it clear that it has misconstrued the nature and intent of the Board's proposal in important respects. First and foremost, the entire opinion of the majority ignores the very nature of a pilot program. Its very purpose is to experiment. The stated view of the panel majority notwithstanding, the Board has not proposed to change the system of compensation for Greenwich teachers. In fact, not a single current employee in the Greenwich school system will be required to participate in this Pilot program. Not one!! The current compensation system remains in effect.

The literature in the record makes it clear that complacency is not an option for the American public education system. Perhaps the most compelling report in evidence in this regard is the report of the Teaching Commission entitled "Teaching at Risk- A Call to Action" (Board Exhibit # 16). The Commission is Chaired by Louis V. Gerstner, Jr., the former Chairman of IBM. *"The Teaching Commission seeks to raise student performance by transforming the way in which America's public school teachers are recruited and retained."* Coincidentally, this is the same purpose of the Board's proposal for this pilot program, as testified to by Board witnesses.

"Broadening and strengthening the pool of people who are attracted to and remain in teaching will require paying salaries that come closer to what talented college graduates can earn in other professions."

The problem is systemic.

"Today's pay structure, a "single salary schedule" that bases pay increases on years of experience and number of education credits and degrees, was established in the 1920s to ensure fair and equal treatment for all. Sadly, this outmoded salary structure has not changed much in the past 80 years. As the number and type of lucrative job opportunities

expanded over time, particularly following the civil rights and women's rights movements, a plethora of attractive jobs opened up for groups who had once gravitated in large numbers toward teaching. As a result, many talented college graduates moved into other professions. This gradual but dramatic shift in the makeup of the teacher population should not be surprising given a salary structure that fails to reward excellent teaching."

Connecticut is a home rule state. As such, we should look to local government officials, elected and appointed, who are charged with carrying out the mission of government and perforce the will of the taxpayers to determine what is in the public interest of the citizens of Greenwich. In this case, there is un rebutted testimony by Board witnesses that the Board's pilot program as proposed is supported by the entire Town leadership, including the Board of Selectmen, The Board of Estimate and Taxation, the Labor Contracts Committee of the RTM and the Board of Education.

While the ruling of the majority is not a surprise, it certainly does not sound a death knell for the introduction of well thought out performance pay proposals in future teacher negotiations in Greenwich or elsewhere in the State.

***"Pay for performance is not going away. State standards-based education reforms, No child Left Behind and budget pressures will continue to focus on improved student learning, high quality teachers and teacher pay... We can expect to see many middle-of-the -road variations. No single approach has emerged as the best, so we can look for more experimentation with different alternative salary structures. More knowledge about what works and what doesn't will accumulate-if states and school districts encourage and then allow their innovations to be researched."** (Experimenting with Teacher Compensation, Bd Exhibit #17)*

The Greenwich Board of Education has sought to exercise leadership in this important and evolving area of Performance Pay. An extraordinary opportunity is being offered to the Greenwich teachers to be in the forefront of addressing the challenges facing the teaching profession in the 21st Century. Although extensive efforts have been made to draw the teachers into the discussion in a most collegial way, this award rewards the institutional recalcitrance of the teachers Union.

Financial Capability

Because the panel majority fails to conclude that the Board's proposal is in the Public Interest, it follows that it fails to understand the unique importance of the financial strength of the Town of Greenwich to implement this important educational compensation innovation. Dr. White's testimony made clear the difference between the old fashioned merit pay concepts and the new generation of performance pay plans. The key element as articulated by Dr. White is that teachers under a merit pay system are competing against each other for a limited pool of money. That is not the case with a true Performance Pay system and is not the case with the plan proposed by the Board. Perhaps, not all communities will be in the position as Greenwich is to offer a true Performance Pay Plan without any limitation on how many individuals can qualify for

the performance pay. If such a plan does take hold in Greenwich, there may be pressure on other communities, at least in Fairfield County, to offer similar plans to compete in the market place to hire the best and the brightest into the teaching profession. In short, because Greenwich can afford to underwrite such a plan, it allows it to exercise leadership and be in the vanguard in transforming the way in which public school teachers are recruited and retained.

The Subordinate Factors Negotiations Prior to Arbitration

The Board at all times prior to and continuing to this date has sought meaningful input, discussion, cooperation and negotiations on not only the Performance Pay concept but also the revised evaluation process currently being piloted in the school system. If the Board should be faulted for anything it is for its naiveté in thinking that by providing GWI's that were higher than might otherwise have been required , it would ensure the continued cooperation of the Union in the subsequent conversations on these topics. Ultimately if Performance Pay is recognized to be in the public interest, the parties will have to negotiate bilaterally to address the future needs of the Greenwich public schools. Continuing to sit on the sidelines should not be a strategy that gets rewarded in the future.

The Interests and Welfare of the Employee Group

The opinion of the majority on this standard is erroneous because it fails to limit its review to the pilot program that is the subject of this issue. No one currently in the employee group is affected in anyway by this proposal. The concern that the Panel Chair raises about someone moving backwards on the salary schedule is so remote that it was not even raised as an objection to the plan by the Union. Certainly, if this is a concern in the future, it can be addressed by the parties in future negotiations as it will not possibly affect anyone for at least nine years. Beyond that, as proposed, the only teachers in the bargaining unit that would be required to participate in the Plan are new teachers who may make an informed and intelligent decision to be on an accelerated pay schedule and run the risk of never attaining top pay, or achieving it at some future time and regressing. That is the type of compensation system they will find in most other professions.

The Existing conditions of Employment of the Employee Group...

While the majority opinion is of course correct in its analysis of the great weight to be given to prevailing conditions, it's reliance on this factor is misplaced. The opinion states "...the comparison evidence...overwhelmingly supports the Association's last best offer to keep the traditional salary schedule in place. Every municipal teacher bargaining unit in Connecticut has such a system in place."

In fact, the Association's last best offer on this issue is "No Provision". The parties have agreed to continue the traditional salary step schedule in place and unchanged, except for adding the GWI. If the Board was proposing to eliminate the current plan and force the incumbents onto the Performance Pay Plan, I would agree that such a proposal should not be awarded at the present time. That is not the case since this pilot program does not change the status quo regarding the existing conditions of employment for the employee group.

Conclusion

For all of the reasons articulated above and based on the entire record in this case, the priority factors of the Public Interest and the Financial Capability of the municipal employer weigh heavily in favor of awarding the Board's proposal on Issue #1. When considered in light of these priority factors, there is insufficient reason in any of the subordinate factors, taken together, to override the award of the Board's proposal based on the priority factors.