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| <p>IN THE MATTER OF FACT FINDING BETWEEN:</p> <p>JEFFCO EDUCATION SUPPORT PROFESSIONALS ASSOCIATION</p> <p>and</p> <p>JEFFERSON COUNTY SCHOOL DISTRICT</p> | |
| <p>Craig Blake, #46623 Jeffco Public Schools 1829 Denver W. Dr. Bldg. #27 Golden, CO 80401 303-982-6633 (office) 303-982-6545 (fax) Craig.Blake@jeffco.k12.co.us <i>Attorney for Jeffco Public Schools</i></p> | |
| <p>MOTION FOR ARBITRATION TO BE HELD IN CLOSED SESSION</p> | |

Jeffco Public Schools (“District”) hereby requests that the fact-finding arbitration between it and the Jeffco Education Support Professionals Association (“JESPA”) scheduled to occur on February 23 and 24, 2021 be held in closed session.

A. The Collective Bargaining Agreement Prescribes Closed Session Fact Finding

- a. The JESPA Collective Bargaining Agreement (“CBA”) provides some guidance and procedures for fact-finding. The applicable article reads that the “fact finder will have the authority to hold meetings, make procedural rules, and set the dates and times for meetings, *which will be conducted in closed sessions*, except as required by law.” JESPA CBA Art. 3-6-2, emphasis added.

B. Colorado Open Meetings Law Does Not Apply to Fact Finding Arbitration

- a. Statute delineates a number of circumstances under which certain meetings must be held in public:
 - i. “Any meeting of a board of education at which a collective bargaining agreement is discussed shall be open to the public and any notice required by section 24-6-402 (2)(c), C.R.S., shall be given prior to the meeting.” C.R.S. § 22-32-109.4.(4).
 - ii. “All meetings of two or more members of any state public body at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.” C.R.S. § 24-6-402(2)(a).
 - iii. “All meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at

which any formal action may be taken are declared to be public meetings open to the public at all times.” C.R.S. § 24-6-402(2)(b).

- b. None of these circumstances apply to the upcoming fact finding arbitration.
 - i. The statute defines a “meeting” as “any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication.” The arbitration is not a meeting under this definition, as it is not intended as a gathering to “discuss” public business or anything else. Much like a grievance, the arbitration is a process by which each party has an opportunity to advocate for their respective positions before a neutral body, but will be holding no discussions.
 - ii. The Board of Education will not be discussing a collective bargaining agreement as they will not be present. Neither will anyone be holding any discussions or bargaining on any topic, as mentioned above.
 - iii. No members of a state or local public body will be discussing public business or taking any formal action.
 - iv. No formal action will or can be taken at the arbitration. Indeed, the CBA expressly states that the fact finder’s “(f)indings of fact and recommendations are non-binding on the Board of Education.” JESPA CBA Art. 3-6-2. Not only are the findings and recommendations non-binding, but no one will be present at the arbitration with authority to take any immediate, formal action based thereon.

Wherefore, the District requests that the fact-finding arbitration scheduled to occur on February 23 and 24, 2021 be held in closed session consistent with the dictates of the CBA.

DATED THIS 17th day of February 2021.

Respectfully Submitted,

/s/ Craig Blake

Craig Blake, #46623
Attorney for Jeffco Public Schools