

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LABOR RELATIONS BOARD**

In the Matter of Impasse Between the

PINE GROVE AREA SCHOOL DISTRICT,

"Public Employer,"

-and-

PINE GROVE AREA EDUCATION ASSOCIATION,

"Association."

REPORT
AND
RECOMMENDATIONS

Case No. ACT 88-15-15-E

Before
Robert C. Gifford, Esq.
Fact Finder

Appearances:

For the District:

The District did not participate in the hearing
Jeffrey Sultanik, Esq. – on the District's correspondence to the Fact-Finder Fox Rothschild

For the Association:

Steven J. Cholish, UniServ Representative Pennsylvania State Education
Association

Pursuant to Act 88 of 1992 ["Act 88"] and the Public Employee Relations Act ["PERA"], I was appointed by the Pennsylvania Labor Relations Board ["PLRB" or "Board"] on April 10, 2015, as the Fact Finder in the impasse between the Pine Grove Area School District [the "Employer" or "District"] and the Pine Grove Area Education Association [the "Association"], a unit comprised of approximately 135 professional employees. The Association presented an early bird proposal to the District in July 2014, but the parties did not reach an agreement. They met on their own and, on one occasion, with the assistance of a mediator. On April 9, 2015, the Association requested fact finding.

On April 10, 2015, I contacted the parties to schedule the proceedings in this matter. On April 13, 2015, Counsel for the District formally notified me that the District would not participate in the proceedings. On April 17, 2015, the Association submitted a written statement of the issues. [See 34 Pa. Code Chapter 95, § 95.62]. On April 21, 2015, I notified the parties that a hearing was scheduled for April 29, 2015. [Id. at § 95.61(e)]. On April 29, 2015, the hearing was held in Pine Grove, Pennsylvania in the District's conference room at which time the parties were afforded the opportunity to present testimony, examine and cross-examine witnesses, introduce documentary evidence, and argue orally in support of their respective positions on the remaining, unresolved issues. [Id at § 95.63(b)]. The District neither attended the hearing nor presented evidence for my review. The Association presented the District with a copy of its evidentiary booklet subsequent to the hearing.

ISSUES

The Association's written statement of the issues indicated that there were in excess of 30 issues at impasse, some of which may have sub-issues: personal leave, number of work days, substitute shortages, trade days, retirement bonus, elementary specials cancelled, reimbursement for unused sick days, using sick days for maternity – 2 week paid maternity leave, early retirement incentive, compaction, starting salary, salary increase, insurance, professional development, well defined disciplinary procedures for students, reduction in force procedures, guaranteed prep time, uniform observation process across buildings, notification of teaching assignment, class size, survey of administrators, transparency, start and end dates of contract, IEP writing stipend, coaches, per diems and hourly rates, index rate, facilitator pay and selection, mentor pay and selection, extracurricular selection process, selection process for lunch duty

people in high school, archery club, posting vacancies, and PGAVA stipend. Although each issue may be discussed separately or with similar issues as a package, the impact of the issues in their entirety was given careful consideration.

DISCUSSION AND RECOMMENDATIONS

The Fact-Finder's role is not to assess blame for the breakdown in the parties' negotiations. The Fact-Finder's obligation is to issue a recommendation with respect to the parties' outstanding issues based upon reliable and credible evidence that is presented [Id. at § 95.63(a) & (c)]. I have thoroughly analyzed all of the evidence presented at the hearing, including the Association's supporting rationale for each issue. ***To the extent an issue is not specifically addressed or incorporated by reference herein I recommend the status quo.***

The table of contents for the Association's evidentiary booklet indicates that the booklet is divided into 12 separate sections. The first section includes the current collective bargaining agreement. The second section includes the Association's "early bird" proposal. The next eight (8) sections include the Association's proposals and supporting rationale for Article II – Term of Agreement; Article III – Wages & Salary (Salary & Additional Instruction); Article IV – Non-Athletic Extra-Curricular and Co-Curricular Compensation; Article V – Other Employee Benefits: Payment of Credits; Article VI – Leave (Sick Leave, Maternity/Child Rearing Leave, Additional Leaves); Article VII – Retirement Bonus & Incentive; Article VIII – Trade Days; and New Language. The section that follows in the booklet includes a financial analysis of the District. The last section, "Miscellaneous", includes demographics. The Association also included publications addressing performance-based compensation/school performance profiles scores.

Many of the issues presented by the Association are primarily monetary in nature. Generally speaking, school districts around the Commonwealth are faced with flat or reduced state subsidies, increased pension and health insurance costs, and the limitations of the Act 1 Index. As to this District, the Association presented a financial analysis of the District over five (5) years from 2010 to 2014. [See Assn. Tab 12]. The Association's analysis shows that the District is well-managed. For instance, over the five (5) year period the District has improved its operating position each year and by an average of \$1,124,429. The District has also been able to maintain appropriable fund balance levels that significantly exceed the recommended levels of 5%-10%: 14.34% (\$1.878 million) for 2010; 24.48% (\$2.095 million) for 2011; 18.33% (\$998,299) for 2012; 33.59% (\$1.337 million) for 2013; and 40.52% (\$2.888 million) for 2014. The Association's analysis shows that the District has maintained its financial viability notwithstanding the fact that the millage rate of 38.9 has not increased since 2010 when it was 37.9. The analysis also shows that the District has kept the change in its millage rate well below the annual Act 1 index since 2010:

	Change in Millage Rate	Act 1 Index
2010:	0.0%	5.6%
2011:	2.6%	4.0%
2012:	0.0%	2.0%
2013:	0.0%	2.4%
2014:	0.0%	2.4%

The Association indicates that household taxes during the 2013-2014 school year represented 34.35% of the District's total revenues.

The Association also presented a salary comparison of the starting and career salaries received by professional units in other school districts either within I.U. #29/Schuylkill County and/or contiguous to the District. [See Assn. Tab 4]. In sum, the evidence shows that this bargaining unit is neither the highest nor lowest paid among the bargaining units that have collective bargaining agreements in place for the 2014-2015 school year.

Tentative Agreements

The record does not include evidence that suggests or shows that the parties reached tentative agreements during their negotiations.

Term of Agreement

The parties' collective bargaining agreement has a duration of September 1, 2011 to August 31, 2015.

The Association's Proposal

The Association seeks a four (4) year term effective from September 1, 2015 through August 31, 2019 "to prevent a rapid return to the bargaining table and provide a term of stability of peace between labor and management." [Association Tab 4].

Salary/Salary Schedule

The Current Provision

The parties agreed to reduce the number of steps in the salary guide from 40 steps in 2011-2012 to 28 steps in 2014-2015. Step advancement in 2014-2015 took place at the beginning of the school year. The salary schedule for base year 2014-2015 is as follows:

To								
Top	Steps	1	2	3	4	5	6	7
27	1	38,499	39,149	39,899	40,599	41,299	41,999	42,699
26	2	39,499	40,149	40,899	41,599	42,299	42,999	43,699
25	3	40,599	41,249	41,999	42,699	43,399	44,099	44,799
24	4	41,699	42,349	43,099	43,799	44,499	45,199	45,899
23	5	43,099	43,749	44,499	45,199	45,899	46,599	47,299
22	6	44,499	45,149	45,899	46,599	47,299	47,999	48,699
21	7	45,899	46,549	47,299	47,999	48,699	49,399	50,099
20	8	47,699	48,349	49,099	49,799	50,499	51,199	51,899
19	9	49,549	50,199	50,949	51,649	52,349	53,049	53,749
18	10	51,499	52,099	52,849	53,549	54,249	54,949	55,649
17	11	52,499	53,149	53,899	54,599	55,299	55,999	56,699
16	12	54,899	55,549	56,299	56,999	57,699	58,399	59,099
15	13	57,199	57,849	58,599	59,299	59,999	60,699	61,399
14	14	58,018	58,668	59,418	60,118	60,818	61,518	62,218
13	15	59,957	60,607	61,357	62,057	62,757	63,457	64,157
12	16	61,082	62,452	63,202	63,902	64,602	65,302	66,002
11	17	62,264	62,914	63,664	64,364	65,064	65,764	66,464
10	18	62,911	63,561	64,311	65,011	65,711	66,411	67,111
9	19	63,558	64,208	64,958	65,658	66,358	67,058	67,758
8	20	64,375	65,025	65,775	66,475	67,175	67,875	68,575
7	21	65,025	65,675	66,425	67,125	67,825	68,525	69,225
6	22	65,674	66,324	67,074	67,774	68,474	69,174	69,874
5	23	66,525	67,175	67,925	68,625	69,325	70,025	70,725
4	24	67,375	68,025	68,775	69,475	70,175	70,875	71,575
3	25	67,917	68,567	69,317	70,017	70,717	71,417	72,117
2	26	68,597	69,247	69,997	70,697	71,397	72,097	72,797
1	27	69,393	70,043	70,793	71,493	72,193	72,893	73,593
Top	28	69,804	70,454	71,204	71,904	72,604	73,304	74,004

Step 1, Column 1 is the starting rate - \$38,499. Step 28, Column 3 is the career rate - \$71,204. The cost difference between steps ranges from \$411 (moving from Step 27 to Top Step) to \$2,400 (moving from Step 11 to Step 12). The difference between columns 1 and 2 is \$650 (except for Step 16 - \$1,370), between columns 2 and 3 is \$750, 3 and 4 - \$700, 4 and 5 - \$700, 5 and 6 - \$700, and 6 and 7 - \$700.

During the proceedings, the Association indicated that it received a copy of the 2014-2015 salary matrix from the District on April 21, 2015:

To	Steps	1	2	3	4	5	6	7	Total
27	1	10.00	3.00	2.00	0.00	0.00	0.00	0.00	15.00
26	2	9.00	4.00	5.00	0.00	1.00	0.00	0.00	19.00
25	3	2.00	1.00	3.00	0.00	0.00	0.00	0.00	6.00
24	4	2.00	4.00	4.00	1.00	0.00	0.00	0.00	11.00
23	5	1.00	6.00	7.00	0.00	0.00	1.00	0.00	15.00
22	6	1.00	5.00	11.00	1.00	0.00	0.00	0.00	18.00
21	7	0.00	1.00	1.00	0.00	0.00	0.00	0.00	2.00
20	8	0.00	3.00	2.00	1.00	0.00	0.00	0.00	6.00
19	9	0.00	0.00	2.00	1.00	0.00	0.00	0.00	3.00
18	10	1.00	1.00	1.00	1.00	0.00	0.00	0.00	4.00
17	11	0.00	1.00	1.00	2.00	1.00	0.00	0.00	5.00
16	12	1.00	0.00	1.00	0.00	0.00	0.00	0.00	2.00
15	13	0.00	1.00	3.00	0.00	0.00	0.00	0.00	4.00
14	14	0.00	1.00	3.00	1.00	0.00	0.00	0.00	5.00
13	15	0.00	2.00	1.00	0.00	0.00	0.00	0.00	3.00
12	16	0.00	1.00	0.00	0.00	0.00	0.00	0.00	1.00
11	17	0.00	1.00	3.00	0.00	0.00	0.00	0.00	4.00
10	18	0.00	0.00	3.00	0.00	0.00	0.00	0.00	3.00
9	19	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
8	20	0.00	2.00	0.00	0.00	0.00	0.00	0.00	2.00
7	21	0.00	0.00	2.00	0.00	0.00	0.00	0.00	2.00
6	22	0.00	0.00	1.00	0.00	0.00	0.00	0.00	1.00
5	23	0.00	1.00	0.00	0.00	0.00	1.00	0.00	2.00
4	24	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3	25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2	26	0.00	0.00	1.00	0.00	0.00	0.00	0.00	1.00
1	27	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Top	28	0.00	0.00	0.00	1.00	0.00	0.00	0.00	1.00
Total		27.00	38.00	57.00	9.00	2.00	2.00	0.00	135.00

Based upon the above, the total base payroll for the bargaining unit in 2014- 2015 is \$6,512,767. The average salary is \$48,243.

The Association's Proposal

The Association seeks to maintain a 28 step salary schedule for the duration of the successor agreement. The Association proposes schedules that increase total payroll by three percent (3%) each year. The Association indicates that its proposal is "reasonable and affordable to the district as shown in the presentation of the district's finances." [Assn. Tab 4]. Based upon the Association's proposal, the starting salary and career rate would increase as follows:

	Starting Salary	Career Rate
2014-2015	\$ 38,499	\$ 71,204
2015-2016	\$ 39,344	\$ 71,359
2016-2017	\$ 40,256	\$ 71,481
2017-2018	\$ 41,214	\$ 71,649
2018-2019	\$ 42,447	\$ 71,792

The Association indicates that the District has signaled a desire to implement merit pay in lieu of or in conjunction with a salary schedule. Although the District did not participate in the proceedings, and there are no proposals from the District in this record, the Association has set forth its opposition to merit pay “especially with no proposed guidelines for its implementation”. [Assn. Tab 4].

Article III, Section B, Paragraph 3: Additional Instruction

Article III.B.3 provides for an hourly rate of not less than \$25.00 for certain services performed by teachers.

The Association’s Proposal

The Association seeks to increase the hourly rate to not less than \$35.00. The Association indicates that this rate “reflects the average per diem rate based on the district’s average teacher salary.” [Assn. Tab 4].

Article IV: Non-Athletic Extra-Curricular and Co-Curricular Activities. C. Compensation

This section provides a compensation index for non-athletic extracurricular and co-curricular activities. The index base for the 2014-2015 school year is \$5,400.

The Association’s Proposal

The Association seeks to increase the index base to \$5,665 for 2015-2016; \$5,835 for 2016-2017; \$6,010 for 2017-2018; and \$6,190 for 2018-2019. The Association indicates that “[t]he amounts reflect an approximate 3.0% per year....” [Assn. Tab 5].

Article V: Other Employee Benefits, Section J: Payment of Credits, Paragraph 2: Graduate Credits

This section provides for a maximum aggregate amount that the District shall be responsible for tuition reimbursement. The limit was increased from \$60,000 in 2011-2012 to \$90,000 in 2014-2015 in annual increments of \$10,000.

The Association’s Proposal

The Association seeks to increase the maximum aggregate amount to \$100,000 for the life of the successor agreement in order to avoid the devaluing of this benefit for the District’s young faculty as the cost of higher education continues to increase. [See Assn. Tab 6].

Article VI: Leaves, Section A: Sick Leave

This section provides:

Bargaining unit members will be paid at the rate of twenty-five dollars (\$25) for each unused sick leave day upon retirement from the school district. The bargaining unit member may choose to place such funds into the district escrow account at the rate of thirty dollars (\$30) for each unused sick leave day upon retirement from the school district.

The Association's Proposal

The Association seeks to increase the rates to \$25 and \$50 respectively in order to “promote being at work to provide quality instruction”. [Assn. Tab 7].

Article VI: Leaves, Section E. Maternity Leave/Child Rearing Leave

This section provides:

All Bargaining Unit members who become pregnant or who are otherwise qualified hereunder are hereby granted a maternity/child rearing leave for a reasonable time.

1. Period of leave – The date of beginning and of termination of the leave shall be at the election of the Bargaining Unit member. It is recommended that the Bargaining Unit member terminate his/her leave and return to work at the beginning of a marking period. Generally, it shall not exceed one year, unless by special permission of the Board of School Directors after consideration of the circumstances. The Bargaining Unit member shall provide the Superintendent with as much notice of the beginning and ending of such leave as can reasonably be expected so that there is a minimum of detriment to the education of the children and a consideration of fairness to substitute employees and the administrators.
2. Eligibility – Any bargaining Unit member of the School District shall be eligible for this leave on the basis of either pregnancy of the natural mother or immediate adoption of an infant by a member of the Bargaining Unit. (An infant shall be defined as a child who has not reached two years of age).
3. Benefits while on leave – While on maternity/child rearing Leave as herein defined, the Bargaining Unit member is entitled to sick leave for disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery there from, according to guidelines by the Equal Employment Opportunity Commission, Part 1604.10 issued under the Civil Rights Act of 1964.
4. Return from Maternity/Child Rearing Leave – Upon application by the Bargaining Unit member on such leave to return to employment following such reasonable Maternity/Child Rearing Leave, the school shall offer the job held before going on leave or a substantially equivalent position. To the extent applicable, this regulation shall be administered in a reasonable consistent way with other leaves of absence as provided under the laws of the State of Pennsylvania.
5. Miscellaneous – The School Board may require that requests for sick leave while on Maternity/Child Rearing Leave be supported by a physician's statement.

The Association's Proposal

The Association indicates that “the current practice requires teachers to exhaust all paid sick and personal leave before moving to an unpaid Child Rearing Leave. The Association proposes to add the following to Section E:

While on Maternity/Child Rearing Leave, a bargaining unit member may opt to (in part or in full) take unpaid leave for the duration of the absence rather than exhausting all accrued sick leave. [Assn. Tab 7].

The Association provides the following rationale in support of its position:

In referring to Article VI, Section E of the current collective bargaining agreement, the current practice for Child Rearing Leave conflicts with the clear, unequivocal language of the current collective bargaining agreement. The Association is proposing to add the option to exhaust all paid sick and personal leave, but also allow for a teacher on Child Rearing Leave to take the time unpaid and maintain their accrued sick leave. [Assn. Tab 7].

Article VIII, Hours of Work and Other Conditions of Employment, Section A, 6: Trade Off Days

This section provides:

Seven (7) Preparation periods lost for coverage of other staff members duties = One (1) trade off day. Restriction for use of the trade off day will include no use on in-service days and prior approval by the superintendent before and after holidays. Bargaining unit members shall have the right to carry over unused trade days or their accumulation of periods lost towards earning a trade day to a total accumulation of no more than two days and annual use restricted to one day.

The Association's Proposal

The Association proposes to amend Section A.6 to read as follows:

Seven (7) Preparation periods lost for coverage of other staff members duties = One (1) trade off day. Bargaining Unit Members may accrue and carry over four (4) trade days from one school year to another. Upon request, Bargaining Unit Members may be reimbursed at the current substitute rate for trade days. *(Remove restrictions on use.)* [Assn. Tab 10].

The Association provides the following rationale for its proposal:

This reflects current practice to prevent excess trade days being used by Bargaining Unit Members. Excess days are being accrued due to substitute shortages, among other reasons. This will promote members to be present for instructional time rather than using trade days. The cost to district is neutral due to the district having to pay the substitute teacher at the same rate. [**Id.**]

Based upon the all of the foregoing, and the entire record, I make the following recommendations.

Term of Agreement/Salary/Salary Schedule

The Association presented salary comparisons from 2014-2015 through 2018-2019. There is little comparison to draw from after the 2015-2016 school year because as of the date of the fact-finding hearing only a few of the other bargaining units had executed collective bargaining agreements for 2016-2017 and 2017-2018. In light of this and the unique circumstances of this matter, I recommend a term of one (1) year, effective from September 1, 2015 through August 31, 2016. I also recommend a freeze of the current salary schedule for 2015-2016 with step advancement of one (1) step to take place at the beginning of the school year. I have taken into consideration the fact that the cap on the employees' premium share on their health insurance will not be altered for the 2015-2016 school year. [**See** Article V.A.1.c of the 2011-2015 Agreement].

Article III, Section B, Paragraph 3: Additional Instruction

I recommend that the minimum hourly rate be increased by 2.5%.

Article IV: Non-Athletic Extra-Curricular and Co-Curricular Activities. C. Compensation

I recommend that the index bases be increased by 2.5%.

Article V: Other Employee Benefits, Section J: Payment of Credits, Paragraph 2: Graduate Credits

I recommend that the limit be increased by 2.5%.

Article VI: Leaves, Section A: Sick Leave

I recommend that the rates be increased by 2.5%.

Article VI: Leaves, Section E. Maternity Leave/Child Rearing Leave

I recommend the inclusion of the Association's proposal as a new Section E:

While on Maternity/Child Rearing Leave, a bargaining unit member may opt to (in part or in full) take

unpaid leave for the duration of the absence rather than exhausting all accrued sick leave.

As to the issue of merit pay, I reiterate the fact that the issue has not been formally raised during the proceedings. However, I am not aware of any other professional bargaining unit in a school district within the Commonwealth that actively includes merit pay in their collective bargaining agreement.

SUMMARY

My recommendations have been rendered in accordance with the unique circumstances presented in this matter. I direct the parties' attention to my cover letter which outlines their responsibilities to notify the PLRB of their acceptance or rejection of this Recommendation.

Dated: May 20, 2015
State College, Pennsylvania

Robert C. Gifford