

FACT FINDING REPORT

**UPPER MERION SCHOOL DISTRICT/
INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 384
ACT 88-11-21-E**

HEARING DATE: OCTOBER 20, 2011

REPORT DATE: OCTOBER 31, 2011

**FOR THE UNION:
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UPPER MERION AREA SCHOOL DISTRICT/ INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 384

On September 20, 2011, the Pennsylvania Labor Relations Board, (PLRB), pursuant to Act 88 of 1982 (Act 88) and the Public Employee Relations Act (PERA) appointed the undersigned as Fact Finder in the matter between the Upper Merion Area School District, hereinafter referred to as the District or the Board, and the International Brotherhood of Teamsters, Local 384, hereinafter referred to as the Union.

This report contains recommendations for resolution of the outstanding issues and constitutes the settlement proposal upon which the parties are now required to act, as directed by the statute and PLRB regulations. Pursuant to statutory authority, this report will be released to the public if not accepted. A vote to accept the report does not constitute agreement with, or endorsement of, the rationales contained herein, but rather represent only an agreement to resolve the issues by adopting the recommendations. **The parties are directed to review the report and within ten days of its issuance, notify the PLRB of their decision to accept or reject the recommendations. Acceptance must be full and unqualified. Failure to respond will be considered a rejection. In case of rejection, the PLRB will release the report to the public.**

Upper Merion School District has a student population of 3,780 drawn from the municipalities of Bridgeport Boro, Upper Merion Township, and West Conshohocken Borough. It has approximately 595 full time employees. The 305 members of the teaching staff are represented by the Upper Merion Area Educational Association (PSEA). Non teaching staff (drivers, custodians, and maintenance and food service personnel) is members of the Teamsters Union.

The District operates 4 elementary schools, a middle school, and a high school. Information in data submitted by the District states students are transported to these 6 schools and 79 private and charter schools. There are 252 bus runs and 619 potential stops. It has 57 buses and 11 vans.

Local 384, which as noted represents the drivers, is, according to its website, the second largest local in Pennsylvania, representing over 4800 employees. In testimony, Matthew Condron, Treasurer and Business Agent of the Local, stated the Union had contracts with 24 school districts.

The contract between the parties expired on June 30, 2011. According to a document submitted by the District, the initial bargaining session for a new contract took place on January 11, 2011. On January 28, 2011 both parties submitted their initial proposals. As stated in this document "The Board's proposal sought wage concessions from the Teamsters in order for in-house labor to be economically competitive with outside transportation proposals" Initially, the District proposed a wage rate of \$18.00 per hour, current hrly wage \$26.72. The Union offered 4% wages increase. Over the next negotiation sessions, the District shared with the Union information on the vendor's proposals, and the parties modified their initial offerings. Currently,

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the District is proposing \$20.00 per hr. in the first year; the Union zero increase. There are other issues which will be discussed later.

Documents entitled "Summary of Transportation Proposals" (I-p41 & 42) submitted by the District show the cost of the proposals of two companies responding to the District's request for proposals. The proposals for keeping the bus fleet in house show the District total at \$16,399,522; the Union \$19,649,160, bidder A \$18,326,144, bidder B \$17,040,847. The District bid is based on its 8/25 proposal, the Union's 5/17, bidder A

5/16, bidder B 4/12. All assume equal cost in maintaining the fleet in house, so the entire difference is based on labor cost.

The cost figures for “sell fleet” are, respectively, \$16,399,522--\$19,649,160--\$18,064,634--\$15,293,253. The bidder proposals show a cost reduction to the District because they reflect the sale of the District buses for \$1,175,375 to bidder A (II-p142) and \$1,048,160 from bidder B (II-p166).

This is a lot of numbers, but the significant one for purposes of this report is the one showing the District and the Union to be \$3.3 million apart; the Union proposal on wages about 35% higher than the Districts.

The Board maintains its proposals are in response to its duty of “fiscal responsibility”.

In support of this contention, the Board submitted a copy of a report by Moody’s Investor Services. (I-p131) Moody’s advises the District’s bond rating is an “Aa2 rating with negative outlook”. Previously, it had moved the rating from Aa1 to Aa2. The strengths of the District were a “Large tax base with above-average wealth levels—Low debt burden”. The weaknesses were “Significant decrease in reserves limiting financial flexibility—Recent history of structural imbalance.”

The District recently raised its property taxes by 8%. Act 1 has limited the tax increases to 1.4%, and now 1.7%, because certain exemptions under the Act are no longer available. It has also had to face several successful appeals by taxpayers from their assessment, including a very large one for Glaxo. A financial projection (I-270) shows a budget deficit in 2010-2011 of (\$1,122,984). 2011-2012 shows a projected \$908,623 on the plus side, but the years out to 2014-2015 show increasing deficits of from two to seven million dollars. The fund balances in 2010-11-12 are in the million dollar range, but fall into the minus side in 2012, with an estimate deficit in 2014-2015 of over 15 million dollars.

In addition to the restrictions on its ability raise taxes, the recent rejection of a bond proposal by the voters has caused more concern. Pension costs are to go from 8.65% in 2011 to 12.15%, 16.65%, and 21.20% in the following years. In a memorandum from the District’s attorney to the Unions attorney (I-65), he writes: “The Board is now comfortable with the process of outsourcing should the District’s latest offer not be acceptable....I do not anticipate our offer to me modified moving forward.”

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The Union response, other than the financial response of their offer, asks: why us?. In his remarks, Mr. Condron, Secretary/Treasurer of IBT Local 384, offered that the Union did not cause the PSERS difficulties. If the projections of returns and contributions were miscalculated, it was not the Teamsters making that analysis. He faulted the District for not being more aggressive in its bond offering. (I-142 gives voter turnout, about 16%) He opined that the financial crisis was temporary, and the District should consider that it would pass. Other employees were equally passionate in their concern over the requested changes in the contract.

The District has made a compelling argument that it must look for ways to bring its revenue and expenses into balance. One can also appreciate the Union’s passionate response to a proposed 25% cut in their hourly rate, significant changes in language, increases in health care contribution, and other benefit reductions: all items achieved through the collective bargaining process. The sides are very far apart, and no fine tuning of the offers will resolve the matter.

The question for the Union is how much of a concession is it willing to make to save jobs. Given the statements by the bidders as to potential wages and relations with the Union, the members may not be willing to make such concessions. For the District, how much of the current financial crisis should fall on the 57 members of the union who live and pay taxes in the District is an issue.

It appears I have several options. I can accept the Union proposal, which is not unreasonable and would settle a lot of disputed contracts, and the zero proposal is in keeping with other contracts in the District. However, it does not approach the cost saving goals of the District. I could recommend the District's proposal which addresses the financial concern of the District, but it has zero chance of being accepted by the Union. I could recommend the acceptance of one of the bid proposals. I doubt I have the authority to do this, and it would probably engender a hostile response from the other party which could further delay the process. Or I could recommend a compromise settlement which might be accepted by both parties or rejected by either. Whether accepted or rejected, this process could move forward.

I will make some recommendations for a settlement while understanding that such a compromise may be beyond the reach of both parties. Health Care and Wages were the open issues listed by the Union; all other contract provisions were to remain as-is. Other issues discussed below were considered open by the District.

RECOMMENDATIONS:

Term: First year, 2011-2012, effective with the first payroll after ratification. Then, 7/1/2012 to 6/30/2015. This is effectively a 3 ½ year deal. I think this length offers hope that the economic conditions will improve, and some of the wage impact on the employees can be rectified at that time.

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Wages: The District submitted data showing bus driver rates in twelve Montgomery county school districts. (II-p79-80).

Colonial	19.69	Hatboro-Horsham	20.12	Lower Merion	22.34
Methacton	24.63	North Penn	23.14	Springfield	26.41
U. Moreland	22.20	Wissahickon	22.29	Abington	20.81
Norristown	26.00	Upper Dublin	22.00		

The unweighted average rate is \$22.69. The District is proposing \$20 per hr. for bus drivers, with a .50 per hr increase in each of the next 4 years. The Teamsters are freezing the rate at 26.72 for the first two years, and proposing 3%, 2.5%, and 3% in next 3 years. A document (II-p129) shows First Student with a billable hrly rate for bus drivers in first year of 37.23. First Student is said to have agreed to pay the current contract for the drivers. It currently has contracts with some Montgomery county districts. The 37.23 is approximately 39% above the 26.72 rate, so it could include the fringe benefits offered and its profit. It shows an increase in pay for the bus drivers over the 5 years, but it also shows a movement to a group called the "Plymouth Meeting Bus Drivers" (50 bus drivers to 30, Plymouth bus drivers 7 to 26) whose billing rate is about \$9 per hour less than the grandfathered bus drivers. Durham shows a billable rate of 30.30. This is about 13% above the 26.72 rate, or about 33% above the District's proposed \$20 per hr. Durham has expressed an interest in working with IBT 384. (II-p166) I am not privy to what is actually included in these proposed billable rates, I am just conjecturing at this point. I am recommending:

Drivers:

2011-2012-----\$23.00

2012-2013-----\$23.50

2013-2014-----\$24.00

2014-2015-----Wage Reopener

New Hires: Present language.

The wage reopener is proposed in hopes that certain changes in health care and improvement in the economic climate will benefit both parties.

Health Care: I recognize that the Union proposal on health care is part of a package that included the wage freeze. But in the interest of finding cost savings acceptable to both parties, I am recommending the following:

	2011-12	2012-13	2013-14	2014-15
PC7	11%	12%	Buy-Up	Remove
PC215	9%	10%	12%	14%
HMO	3%	6%	10%	12%
C1F101	0%	3%	6%	8%
C2F101	0%	2%	4%	6%

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Reduction in Overtime Opportunities and limitation of Overtime to FLSA provisions:

The District proposal requires the specific approval of the Transportation Supervisor before drivers may participate in any additional runs via a round robin which would cause them to work more than 40 hours per week.

I recommend this proposal be adopted.

Reduction in paid holidays for current and future employees, full and part time

I recommend present language.

Personal day limitations

The District proposal limits the use of personal days on snow days unless the personal day was requested at least 5 days prior to the snow event. I do not recall any discussion of this, and it does not appear to have a significant cost effect.

I recommend present language

New hire part time employee eligibility for health care.

While this proposal would undoubtedly save the District money, I believe additional discussion would be necessary to determine its impact on the hiring, morale and retention of new hires.

I recommend present language.

Proposal to subcontract washing, cleaning and repairing of buses.

The District wants to subcontract the listed duties plus "similar summer tasks". I assume if the fleet is subcontracted, these duties will be performed by the contractor. Failing this, if the District can save some money which will save the rest of the jobs, there may be merit in this proposal.

I recommend the District proposal be adopted.

Discontinuation of Letter of Intent to maintain a specific number of full time positions:

Presently, the District is required to maintain 7 full time positions. It proposes to grandfather employees hired into these positions prior to 7/1/2011, but discontinue the letter after that time.

As the present employees leave the District's employment, they will be replaced by part time or casual employees.

I assume the letter was part of a bargained package, but it does restrict the District's ability to manage its workforce, and, consequently, could result in costs affecting the budget.

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I recommend the District proposal be adopted.

Definition of Full Time and Part-time employee;

The District proposes to amend the definition of FTE to one working 37.5 hours per week and to define a PTE as anyone working less than that. The present PTE's would be "grandfathered". I do not see a similar provision for FTE's. Since I accepted the District's recommendation regarding conformance with FLSA overtime requirements, I believe this change will just confuse things as to overtime requirements as far as present FTE's.

I recommend the language if all present employees is "grandfathered".

Designation of central run and food service run to another bargaining unit

The District has eliminated language in two places dealing with the round robin and these runs. It appears the District proposal simplifies matters by removing the matter from the CBA. However, the language must be in the CBA for some reason unknown to me, so I am inclined to leave the language alone.

I recommend present language.

This constitutes the entire fact finding report.