

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LABOR RELATIONS BOARD**

In the Matter of Fact-Finding : Fact-Finding Report
: and
: Recommendations
Between :
North East School District : Case No. ACT 88-10-53-W
and : Date of Hearing: January 17, 2011
North East Education Association, : Date of Report: January 31, 2011
PSEA/NEA :
:

Michelle Miller-Kotula
Fact-Finder

For the North East School District:

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Background

By letter dated December 21, 2010, the Pennsylvania Labor Relations Board (PLRB), pursuant to Act 88 of 1992 (Act 88) and the Public Employer Relations Act (PERA), appointed the undersigned as Fact-Finder in the impasse between the North East School District (hereafter referred to as the “District”) and the North East Education Association (hereafter referred to as the “Association”). The Association represents a unit of 131 teachers, employed by the District, located in North East, Pennsylvania.

The parties to this Fact-Finding have an ongoing bargaining relationship and are parties to a collective bargaining agreement (hereafter referred to as the “Agreement”) which was effective by its terms from July 1, 2007 to June 30, 2010. The parties met for purposes of negotiating a successor Agreement and reached tentative agreements on several issues, but were unable to reach agreement on all issues raised during the course of bargaining. As a result, the Request for Fact-Finding was initiated.

The parties informed the Fact-Finder of tentative agreements that are referenced in this Report. In accordance with the Board’s order, the parties filed written statements of the issues in dispute with the Fact-Finder involving the following provisions of the Agreement:

Article XIV:	Wages, Salary and Other Employee Provisions
Appendix A:	Salary Schedule
Article IX:	Athletic Salaries, Extra-Curricular & Department Head Salaries
Article XI:	Vacancies and Transfers (Proposed Language)

On January 17, 2011, a formal fact-finding hearing was held in accordance with the Pennsylvania Labor Relations Act before the undersigned in the District’s Administrative offices, located in North East, Pennsylvania. During the hearing both parties were afforded a full opportunity to present testimony, examine and cross examine witnesses and introduce oral explanations and documentary evidence in support of their respective positions.

Executive Session discussions were held on January 21, 2011 and January 27, 2011. Through these discussions, this Fact-Finder was given a thorough understanding of each party’s position on the outstanding issues.

To arrive at the following recommendations, this Fact-Finder relied upon, among other things, the following criteria:

The reliable and credible testimony given, the evidence presented at the Fact-Finding Hearing and further clarifications given to questions of this Fact-Finder during Executive Session discussions.

The expired collective bargaining Agreement.

Comparisons of unresolved issues relative to the employees in this bargaining unit and how those issues related to other districts and other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classifications involved.

The interest, welfare of taxpayers, and the ability of the District to finance and administer the issues proposed.

The understanding that each individual issue has been reviewed for its relative individual merit; at the same time, each individual issue has also been reviewed with consideration given to whether or not it appropriately fits into the Agreement created through this process.

ISSUES IN DISPUTE AND RECOMMENDATIONS

Article XIV: Wages, Salary and Other Employee Provisions

Appendix A: Salary Schedule

District Position:

The District proposes the following three year offer for the salaries of professional employees:

Year 1 2010-2011	0% increase, no step movement
Year 2 2011-2012	step movement increment only (1.79%)
Year 3 2012-2013	2.76%, which includes step movement increment

It is the position of the District its proposal reflects the economic conditions of the community. The District contends it is facing limitations on available financial resources and is attempting to balance reasonable compensation consideration including benefits. The District points out because financial resources are limited and will be further restricted in the future, this proposal meets the ability of it to rely on the tax base and provide some reasonable increases. The District asserts it is necessary to request changes in other areas.

The District points out the health insurance of the expired Agreement has remained in place, without a change being imposed on the bargaining unit members and the District should be recognized for maintaining benefits. The District also states PESRS contributions could have a dramatic impact on its financial situation.

It is the District's contention while its proposal would cost approximately \$646,889, the Association's three year proposal would cost \$2,448,792. The District points out its supporting justification for the Fact-Finder to accept its proposal is contained in the financial, demographic, tax base and assessed value information submitted during the hearing.

Association Position:

The Association proposes the following increases to the salary schedule:

Increase average salary	2010-2011	3.90%
	2011-2012	3.90%
	2012-2013	3.90%

The Association points out the bargaining unit has increased from 121 to 131 members and the total payroll has increased. The Association argues its proposed salary schedules would realize attritional savings because of the high percentage of bargaining unit employees with 25 or more years of service. The Association takes the position the existing scales take 30 steps to reach the top rate.

The Association argues in the northwest region of the Commonwealth, the average salary increases for 2010-2011 is 3.74%, 2011-2012 is 3.74%, and 2012-2013 is 3.63%. It is the position of the Association the District's proposal would move the starting salaries below the averages. The Association takes the position the salary schedules around step 9 to 10 begin to lag, and by step 18 are approximately \$1900 below the average in comparison to other districts.

It is the position of the Association the District consistently underestimates the revenues it will receive during the year when formulating the budget. The Association states the District's unanticipated revenues have averaged \$479,837 over the last five years while the expenditure category has been overstated during this same time period and the District has spent \$274,931 less than anticipated. The Association argues in each of the last five years, the District ended the year with a larger general fund balance than anticipated in the annual budget.

While the Association points out the District's starting salary ranks 2nd out of the Erie County districts, the Masters step 10 level ranks 7th out of eleven. The Association recognizes the District's master's maximum rate ranks 1st out of the Erie County districts, but notes it takes thirty years to reach that level.

The Association takes the position additional rationale contained in its economic report submissions support its position.

Recommendation:

This Fact-Finder recognizes the parties have been working status quo since the expiration of this Agreement occurred on June 30, 2010. It should be noted although the District's health insurance costs have increased, the District did not request for this bargaining unit to make health insurance concessions. This Fact-Finder commends the District for not altering the health insurance and such consideration is reflected in this proposal. The Fact-Finder also points out while average increases in other districts may appear higher than what is contained in this recommendation, such increases may not be an equivalent comparison since changes to other districts' health insurance plans may have occurred and the employees were given higher increases as a trade-off. Thus, after careful review and consideration of the evidence on the record, this Fact-Finder recommends the following salary increases for each of the three years of the new collective bargaining Agreement:

- Year 1 (2010-2011)
 - Step movement increment only
 - The salary for the bargaining unit employees at the top of the scale would be increased by a \$500.00 lump sum payment but no new step would be added.

Year 2 (2011-2012) 2.5% increase (includes step movement)

Year 3 (2012-2013) 3.25% increase (includes step movement)

The calculation of these salary increases are set forth in Appendix A attached to this report. The recommendations for 2010-2011 are to be applied retroactive to the beginning of the contract year. It is recommended for the 2009-2010 School Year salary matrix in the expired Agreement to be used as the base year for salary calculations.

Article IX: Athletic Salaries, Extra-Curricular & Department Head Salaries

District Position:

The District represented the salaries for extra-curricular, coaching and department head salaries in the past years have not been increased with the same level of raises as the professional employees received. The District points out the Agreement provides for the salaries to be based on a percentage of an index figure.

Association Position:

It is the position of the Association the indexing of Athletic, Extra-Curricular and Department Heads Salaries should be set as follows:

2010-2011	\$6221
2011-2012	\$6463
2012-2013	\$6715

The Association takes the position since it has proposed a general wage increase for all bargaining unit employees of 3.9%, coaches, department heads and extra-curriculars should receive a commensurate increase. The Association points out many individuals who receive this stipend are not covered by the North East Education Association, but are community members holding other jobs.

Recommendation:

The evidence has shown in the past increases to the salaries of the positions contained in this section of the Agreement have not been applied in a manner equivalent to the percentage of increases given to the professional employees. The expired Agreement provides for the positions to be paid as a percentage of the applicable rate of an index figure. The parties have not presented any language changes for the Fact-Finder to consider related to this area of the Agreement except for the Association's proposal to increase the rate of pay. Based on the evidence that has been provided, this Fact-Finder recommends for the index salary contained in Section D of the Agreement to be adjusted as follows:

2010-2011	\$6093
2011-2012	\$6214
2012-2013	\$6350

XI: Vacancies and Transfers (Proposed Language)

District Position:

The District points out historically existing staff has been given preference for professional vacancies, but not for supplemental, non-academic activities, and this has been the prevailing situation for as long as there has been a bargaining unit. The District takes the position the effect of the Association's proposal to remove the sentence "Extracurricular and athletic positions are excluded from this paragraph" would have the effect to remove the parties' traditional distinction between professional vacancies and non-professional assignments. Thus, the District adamantly opposes the requested change.

The District believes this proposal is motivated by an arbitration award the parties received during the life of the expired Agreement, which viewed the last sentence of Article XI, Section C as controlling. The District argues it has no interest in surrendering its historical measure of control over the selection of personnel for extracurricular assignments.

It is the position of the District it has been well-served by a number of exceptional coaches drawn from the community. The District argues it is more important to continue to be able to take advantage of the talents and interests of these individuals. The District therefore requests based on the foregoing reasons, the Association's proposal should be rejected by the Fact-Finder.

Association Position:

The Association proposes for the Vacancies and Transfers language to be changed to the following:

- C. Member applicants with equal or greater qualifications shall receive a position before outside applicants. The senior member shall receive the position if his/her qualifications are equal or greater.

Extra-curricular and athletic positions are covered by the above paragraph as well.

The Association states the reason for this proposal is that it negotiates the salaries for extra-curricular and athletic positions as well as for teachers, guidance counselors, etc. The Association takes the position bargaining unit members of the District who meet or exceed the qualifications for coaching and extra-curricular positions should be afforded the same rights when applying for these positions as they are when applying for an academic position. The Association contends it is logical to afford the teachers the same rights for coaching and extra-curricular positions since seniority and being a bargaining unit member give the teachers rights over an outsider.

The Association recognizes extra-curricular activities are held often during the work day or right after, and if an individual meets or exceeds qualifications established by the District, teachers with seniority and a proven track record should be awarded a position over those less senior or individuals that are not in the bargaining unit.

The Association maintains it is not proposing to eliminate qualifications, but wants to provide teachers with a fair chance for obtaining coaching and extra-curricular positions and awarding them, if qualified, to the most senior applicant.

Recommendation:

Upon carefully reviewing the background information and relevant evidence which has been submitted regarding this issue, it becomes readily apparent the language currently contained in the Agreement pertaining to how to fill these types of positions must remain unchanged. It is therefore this Fact-Finder's recommendation that no changes should occur and the District should continue to fill these positions at its discretion.

TENTATIVE AGREEMENTS

At the fact-finding hearing the parties revealed they had reached tentative agreements concerning several issues discussed during negotiations. It is recommended for these tentative agreements to be incorporated into this report as set forth herein and be made a part of the parties' Agreement.

CONCLUSION

In conclusion, the parties are directed to review the Fact-Finding report and within ten (10) calendar days from the date of the issuance of this report to inform the Pennsylvania Labor Relations Board and each other if they accept or reject this report.

Confidentiality of the report should be maintained during the ten-day consideration period and until officially released for publication by the Board in the event of a rejection.

The Fact-Finder submits the Findings and Recommendations as set forth herein.

Michelle Miller-Kotula
Fact-Finder
Washington, Pennsylvania

Issued: January 31, 2011

APPENDIX A

North East School District 2010-2011

To Top	Steps	Bachelor	Masters
29	1	40,921	41,971
28	2	41,421	42,471
27	3	41,939	42,989
26	4	42,454	43,504
25	5	42,792	43,842
24	6	43,102	44,152
23	7	44,527	45,577
22	8	45,966	47,016
21	9	47,355	48,405
20	10	47,940	48,990
19	11	48,498	49,548
18	12	48,954	50,004
17	13	49,770	50,820
16	14	50,471	51,521
15	15	51,201	52,251
14	16	51,690	52,740
13	17	52,228	53,278
12	18	52,708	53,758
11	19	55,153	56,203
10	20	55,998	57,048
9	21	56,815	57,865
8	22	57,490	58,540
7	23	58,616	59,666
6	24	59,539	60,589
5	25	62,517	63,567
4	26	63,721	64,771
3	27	65,536	66,586
2	28	67,710	68,760
1	29	69,303	70,353
Top	30	71,433	72,695

\$500 off scale bonus to max

North East School District
2011-2012

To Top	Steps	Bachelor	Masters
29	1	41,188	43,098
28	2	41,495	43,405
27	3	41,802	43,712
26	4	42,610	44,520
25	5	43,418	45,328
24	6	44,226	46,136
23	7	45,034	46,944
22	8	45,842	47,752
21	9	46,650	48,560
20	10	47,458	49,368
19	11	48,267	50,177
18	12	49,075	50,985
17	13	49,883	51,793
16	14	50,691	52,601
15	15	51,499	53,409
14	16	52,307	54,217
13	17	53,115	55,025
12	18	53,923	55,833
11	19	54,731	56,642
10	20	55,540	57,450
9	21	56,348	58,258
8	22	57,156	59,066
7	23	57,964	59,874
6	24	58,772	60,682
5	25	60,902	62,813
4	26	63,033	64,943
3	27	65,163	67,074
2	28	67,294	69,204
1	29	69,424	71,335
Top	30	71,555	73,465

**North East School District
2012-2013**

To Top	Steps	Bachelor	Masters
29	1	42,430	44,741
28	2	42,737	45,048
27	3	43,044	45,355
26	4	43,351	45,662
25	5	43,658	45,969
24	6	44,515	46,827
23	7	45,373	47,684
22	8	46,230	48,542
21	9	47,088	49,399
20	10	47,945	50,257
19	11	48,803	51,114
18	12	49,660	51,972
17	13	50,518	52,829
16	14	51,375	53,687
15	15	52,233	54,544
14	16	53,090	55,402
13	17	53,948	56,259
12	18	54,805	57,117
11	19	55,663	57,974
10	20	56,520	58,832
9	21	57,378	59,689
8	22	58,235	60,547
7	23	59,093	61,404
6	24	59,950	62,262
5	25	62,001	64,312
4	26	64,051	66,363
3	27	66,102	68,413
2	28	68,152	70,464
1	29	70,203	72,514
Top	30	72,253	74,565