

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LABOR RELATIONS BOARD

IN THE MATTER OF THE FACT FINDING BETWEEN

Methacton School District :
: **CASE # ACT 88-11-13-E**
and :
:
Teamsters Local Union 384 :

FACT FINDING REPORT AND RECOMMENDATION

APPOINTMENT: April 8, 2011

REPORT DATE: May 18, 2011

FACT FINDER: Timothy J Brown, Esquire

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Introduction

On April 8, 2011, 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 Methacton School District (the District) and Teamsters Local Union 384 (the Union).

Bargaining and Fact Finding History

The Union represents a unit of Food Service Workers, Transportation Workers, and Custodial-Maintenance employees employed by the District. The District and Association are party to a Collective Bargaining Agreement effective by its terms from July 1, 2007 until June 30, 2011. (Referred to herein as the Agreement) The parties met for purposes of negotiating a successor agreement on six occasions in early 2011. The parties reached tentative agreements on only a few issues and were unable to reach agreement on the several remaining outstanding issues. As a consequence, the Fact Finding herein was initiated. On April 14, 2011 the representatives of the parties and the Fact Finder agreed upon a schedule for the submission of initial supporting statements, materials and rebuttal statements and materials by the parties to the Fact Finder, and a final meeting of the representatives and Fact Finder. In such manner the parties were given the opportunity to present the Fact Finder written positions, explanations, argument and documentary evidence relating to each outstanding issue between the parties.

This Report contains "recommendations" for resolution of all outstanding issues and constitutes the settlement proposal upon which the parties are now required to act, as directed by 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.**

Introduction and Issues

In December 2010 the District informed the Union that due to financial losses sustained in food service in recent years and a projected food-service-related loss of \$385,000 in the 2010-2011 fiscal year, the District was considering subcontracting its food service. According to the District, it is projected to have an overall budget shortfall of \$3,703,186 for fiscal 2011-2012 and believes it can save \$373,148 in the coming year by subcontracting out the District's food service. With this in mind, in its latest bargaining proposal, the District proposed two different packages of contract proposals to the Union. The first package contained proposals should the Union agree to permit the District to subcontract food service (Option A). The second package contained proposals should the Union not agree to permit such subcontracting (Option B). As a consequence, in the following sections, the language offered by the District is identified as being in "(Option A)", "(Option B)" or "(Option A & B)".

The Union asserts that according to its review of District finances the District, with an A1 bond rating, projected \$600,000 surplus this school year and a \$3 million unreserved fund, is relatively healthy financially. The District has recently granted administrative employees salary increases and agreed upon collective bargaining terms for other District employees that include wage increases, and, the Union maintains, the extreme concessions sought by the District here are unjustified by the circumstances.

Based upon representations made by the parties to the Fact Finder, the following issues are unresolved between the parties:

1. Duration of Agreement
2. Right to Sub contract food service
3. Discharge and Discipline
4. Grievance Procedure
5. Personal Leave

6. Holidays
7. Benefit Eligibility
8. Medical Insurance
9. Prescription Drug Insurance
10. Dental Insurance
11. Vision Care
12. Probationary Employees
13. Seniority
14. Transportation Provisions
15. Wages
16. Unpaid Leave
17. Vacation
18. Medical Allowance
19. 403B Matching Funds
20. Funeral Leave
21. Miscellaneous Conditions of Employment
22. Life Insurance
23. Retirement Benefit
24. Hours of Work
25. Tuition Reimbursement
26. Extreme and Sever Weather Conditions
27. Job Preservation

After careful consideration of the arguments and careful study of the extensive submissions on the issues by the parties, the follow recommendations are offered:

1) Duration of the Agreement (Option A & B)

The Employer proposes the Agreement be effective from the Date of ratification to June 30, 2013 with no retroactivity. The Union seeks a four year term with retroactivity.

Recommendation

Considering the positions of the parties; the uncertainty of economic and political times; the desire to have some certainty for purposes of planning; and recognizing the need of the District to focus on its primary job of educating, I recommend a three year agreement with retroactivity.

2) Right to Subcontract Food service (Option A)

The District proposes language providing that: "The Union agrees to permit the District to subcontract food service."

In support of its proposal the District asserts that there is a real need to address the financial losses associated with the food service over recent years -increasing from \$200,000.00 in 2007-2008 to a projected \$385,000.00 in 2010-2011. By subcontracting food service the District would be in a better position to minimize other economic changes resulting from the impact of the Governor's budget and general economic circumstances. In this regard, the District maintains, the subcontracting of the food service would potentially reduce the impact of two significant drivers of cost increases from the District budget for the employees involved; PSERS and healthcare premiums. Six other districts in the county have contracted out their food service, the District asserted, and four have shown a profit.

The Union argues that the food service budget is minuscule compared to the overall District budget of \$96,104,954 and that the District's claim of poverty is exaggerated. The District is not in the business of food service and does not "lose money" in the private sector or for-profit sense, the Union asserted. If that were the standard everything the District does would be "losing money" by paying the Superintendent, administrators and teachers. The District's proposal is extreme and not justified by the circumstances, the Union maintains.

Recommendation

The subcontracting out of bargaining unit work is an extreme and serious matter and I do not recommend the changes relating to subcontracting of unit work proposed by the District. Based upon the record presented, I am not satisfied that District would have any assurance that the terminations of District employees and contracting out of food service work would result in savings of such significance as to warrant the disruption subcontracting would have on the District, its students, bargaining unit employees, other District employees and the community as a whole.

3) Discharge and Discipline (Options A & B)

The District proposes to eliminate Paragraph 5 of Article 14 Discharge and Discipline. That Paragraph currently provides:

5. If an employee who has received reprimands receives no further reprimands for a period of one (1) year from the date of his/her last reprimand, such previously received reprimands shall not be considered in assessing the employee's liability or eligibility for suspension but may be considered as part of the employee's overall work record in discharge proceedings.

The District supports its proposal by asserting that the arbitrary time period of one year established by the paragraph is detrimental to its obligation to provide an orderly and safe work environment for its employees and is counterproductive to the progressive discipline model; in some cases forcing the District to supersede progressive discipline should an incident occur warranting suspension.

The Union is against removal of the reckoning period for discipline and proposes that the language of Article 14, Discharge and Discipline, be changed to provide that the first step of discipline be a counseling rather than a verbal warning. Most employees would reform their conduct based upon such a counseling, the Union asserts, rather than a verbal warning which stays on the employee's record.

Recommendation

I do not recommend any changes to the Discipline and Discharge language of the Agreement. If employees are going to reform, as the Union argues, those that do after receiving a verbal warning should have nothing to fear. Such is particularly the case where the warning will expire after one year of no further discipline; a process I am recommending continue. Contrary to the assertion of the District, I humbly suggest that the expiration of discipline after a period of good conduct is supported by the core values underlying progressive discipline. Employees, like their superiors, can learn from their mistakes. When such occurs, particularly where the mistakes are relatively minor and not repeated, the reformation should be rewarded. The employee and his or her managers should be congratulated and all encouraged to move forward in a positive manner. To hold mistakes over the heads of employees for unlimited time, even where employees have reformed their conduct and the very purpose of discipline has been realized, is draconian.

4) Grievance Procedure (Options A & B)

The District Proposes to modify Article 15 Grievance Procedure, Step III, 4. to state as follows:

4. Days when ~~schools and~~ offices are closed shall be excluded from the computation of time limitations under the grievance and arbitration procedures of this Agreement.

In support of this proposal the District explains that it provides bus services to non District private and parochial schools on days when the District's schools are closed. This change in language would eliminate potential confusion and clarify that the timeline for the computation of time under the Article is based upon when District offices are open.

The Union asserts that the District's proposal would result in an unfair shortening of the time for employees to file grievances. There are a significant number of days when schools are closed and offices are not, and to count days when employees are not working would prejudice employees.

Recommendation

I am persuaded by the fairness argument proffered by the Union and do not recommend the changes proposed by the District.

5) Personal Leave (Options A & B)

The District proposes to modify Paragraph 2 c. of Article 17, Personal Leave, by adding language as follows:

2. Those employees who have completed five (5) years of service in the District may take a forth day without deduction of salary, provided that a reason is given by the employee and approved by the Director of Human Resources and Community Services. The following provisions are applicable:

c. No personal leave may be used during the first five (5) student days of the last fifteen (15) student days of a school year, or on a day when a District in-service program is scheduled. ***For District bus drivers: If the driver has scheduled a non-public bus run, the calendar of the nonpublic school as it relates to the start of school and end of school will be used in calculating this time.*** An exception for special circumstances may be granted only by the Superintendent, whose decision in this matter shall be final and not subject to the grievance procedure.

The District asserts that the addition of this language would establish equity among drivers.

The Union proposes to increase personal days by one at 10 years and two after 15 years and allow employees to use the leave during the last 15 days of the school year. The Union argues that there is little support for the District's fear that employees will use their days during the last part of the school year.

Recommendation

Under the circumstances of the District providing services to non district students, I recommend the changes to paragraph c proposed by the District on the basis of the equities involved. Because of the financial challenges facing the District and need to improve efficiency and reduce administrative time, I do not recommend the changed proposed by the Union.

6) Holidays (Options A & B)

The District proposes to modify Paragraph 4 c. of Article 22 Holidays, by adding language as follows:

4. Employees who are eligible for holidays shall be paid their regular straight time daily rate of pay for each holiday as per the above provisions provided:

c. Such employees work the scheduled District workday immediately preceding and the scheduled work day immediately following the holiday, unless an excuse acceptable to the Employer is presented. ***For District Bus Drivers: If the Driver has selected a non-public bus run, that calendar will be used in calculating this time.***

The District asserts that the addition of this language would establish equity among drivers.

The Union asserts that the District's proposal would result in chaos and confusion for drivers as they will be operating on differing calendars.

The Union proposes to add Martin Luther King Day as a paid holiday (as it is a holiday in many other districts); require double time for employee who are required to work on a holiday and require that part-time and temporary employee receive pay for Independence day if they work on the day before and the day after the holiday.

Recommendation

Under the circumstances of the District providing services to non district students, I recommend the changes proposed by the District on the basis of the equities involved. Because of the financial challenges facing the District, I do not recommend the addition of another holiday or expansion of eligibility for the Independence Day holiday.

7) Benefit Eligibility (Option A)

The District proposes changes in Article 28 Benefit Eligibility under both of its packages. For Option A the District proposes the following:

Article 28 - Benefit Eligibility

1. For purposes of eligibility for all benefit provisions of this Agreement full-time employee shall mean an employee whose regularly assigned work schedule is set by the Employer at ~~thirty (30)~~ **thirty-five (35)** or more hours per week.
2. A part-time employee is an employee whose regularly assigned work schedule is set by the Employer less than ~~thirty (30)~~ **thirty-five (35)** or more hours per week.
 - a. Employees at less than twenty (20) hours per week are not eligible for district paid benefits with the exception of those employees that were hired prior to July 1, 2008 **who will be eligible for single coverage only. District paid benefits include medical, prescription, dental vision, life insurance, retirement benefits and tuition reimbursement.**

Benefit Computation Guide

1. Full-time employees shall pay ~~10%~~ **11% in 2011-12 and 12% in 2012-13** of the premium for all benefit programs (Comprehensive Hospitalization, Dental, Prescription, and Vision programs), except for the alternate medical plan which shall involve a buy-up from the core district share.
2. Part-time employees shall pay ~~15%~~ **the percentage** of the premium **as outlined in the description of tiers below** for all benefit programs (Comprehensive Hospitalization, Dental, Prescription, and Vision Programs), except for the alternate medical plan which shall involve a buy-up from the core district share. **Employees will be categorized based on an Employee's regularly assigned work schedule set by the Employer.**

2011-2012 School Year:

- Tier 1 - Full Time - 11%**
- Tier 2 - 30-35 hours -24%**
- Tier 3 - 25-30 hours -38%**
- Tier 4 - 20-25 hours -50%**
- Tier 5 - < 20hours -50% Single coverage only**

2012-2013 School Year:

- Tier 1 - Full Time - 12%**
- Tier 2 - 30-35 hours -25%**

- Tier 3 - 25-30 hours -39%**
- Tier 4 - 20-25 hours -50%**
- Tier 5 - < 20hours -50% Single coverage only**

Benefit Eligibility (Option B)

In its Option B the District Proposes:

Article 28 - Benefit Eligibility

1. For purposes of eligibility for all benefit provisions of this Agreement full-time employee shall mean an employee whose regularly assigned work schedule is set by the Employer at ~~thirty (30)~~ **thirty-five (35)** or more hours per week.

2. A part-time employee is an employee whose regularly assigned work schedule is set by the Employer less than ~~thirty (30)~~ **thirty-five (35)** or more hours per week.

a. Employees at less than twenty (20) hours per week are not eligible for district paid benefits. ~~with the exception of those employees that were hired prior to July 1, 2008.~~

Benefit Computation Guide

1. Full-time employees shall pay ~~10%~~ **15% in 2011-12 and 17.5% in 2012-13** of the premium for all benefit programs (Comprehensive Hospitalization, Dental, Prescription, and Vision programs), except for the alternate medical plan which shall involve a buy-up from the core district share.

2. Part-time employees shall pay ~~15%~~ **the percentage** of the premium **as outlined in the description of tiers below** for all benefit programs (Comprehensive Hospitalization, Dental, Prescription, and Vision Programs), except for the alternate medical plan which shall involve a buy-up from the core district share. **Employees will be categorized based on an Employee's regularly assigned work schedule set by the Employer.**

2011-2012 School Year:

- Tier 1 - Full Time - 15%**
- Tier 2 - 30-35 hours -30%**
- Tier 3 - 25-30 hours -45%**
- Tier 4 - 20-25 hours -50% Single coverage only**
- Tier 5 - < 20hours -100%**

2012-2013 School Year:

- Tier 1 - Full Time -17.5%**
- Tier 2 - 30-35 hours -32.5%**
- Tier 3 - 25-30 hours -47.5%**
- Tier 4 - 20-25 hours -50% Single coverage only**
- Tier 5 - < 20hours -100%**

The District seeks to reduce its benefit costs by increasing the hours necessary for eligibility levels and by removing language that protects certain part-time employee with coverage. Health care benefit costs have risen more than 10% in seven of the last ten years and almost 10% in other years. The current eligibility rules result in some employees receiving benefit values in excess to the values of their salary. The language proposed would recognize employees who truly work full-time hours. The proposal would result in the reclassification of 16 employees who are now full-time to part-time status and eliminate the grandfathering of benefits for 13 employees who work less than 20 hours per week. Because Option B does not allow the District to realize savings from contracting of food service, additional savings would be needed in the area of benefit eligibility as reflected by this proposal.

The Union asserts that the District's proposals would effectively remove healthcare as a benefit for many employees as, consistent with most school districts, only a few work more than 30 hours per week. Moreover, the Union adds, the District is seeking to increase employee contributions to such a harsh level as to make coverage unaffordable.

Recommendation

I am sympathetic to the Union's argument about the impact of changes in benefit eligibility criteria and also recognize that within the context of current economic realities the District has legitimate interests in attempting to control the cost of benefits it provides employees. As a result, considering the overall circumstances, I recommend that certain cost saving and sharing changes be made, but do not recommend the overall package proposed by the District.

The District's observation that the value of wages the District pays many bargaining unit employees who work twenty or fewer hours per week is much less than the cost the District pays for the benefits of those employees is enlightening, and I am convinced that it would not be inconsistent with considerations of fairness to require employees who work twenty hours a week or less to contribute significantly more toward their benefits than employees who must work many more hours per week. However, I am not persuaded as to the value of the complicated scales for eligibility and contributions proposed by the District. I make the following recommendations:

Full-time employees

I do not recommend changing the definition of full time from 30 to 35 hours per week. If other bargaining units and District Administrators have been asked to increase their benefit contributions by one or two percent per year, there is no good reason for not applying such increase to bargaining unit employees. As a result, I recommend that full-time employees - defined as those scheduled to work for thirty or more hours per week - pay 12% of the premiums for all benefits programs for the 2011-2012 school year, 14% of the premiums for all benefits programs for the 2012-2013 school year and 15% of the premiums for all benefits programs for the 2013-2014 school year.

Part-time Employees

I recommend part-time employees be subject to different premium requirements depending upon whether they are scheduled more than twenty hours per week or less than twenty hours per week. For employees scheduled for more than twenty but less than 30 hours per week, I recommend that they be required to pay 15% of the premiums for all benefits programs for the 2011-2012 school year, 17% of the premiums for all benefits programs for the 2012-2013 school year and 18% of the premiums for all benefits programs for the 2013-2014 school year.

For employees scheduled to work twenty or fewer hours per week and hired **after** July 1, 2008, I do not recommend any change to current language stating that they are not eligible for paid benefits.

For employees scheduled to work twenty or fewer hours per week and hired **before** July 1, 2008 I recommend that they pay the same Part-Time premium share rates of 15%, 17% and 18% for the respective years of the agreement; but for single coverage only. Should such employees wish to receive additional coverage for employee and child, employee and children, employee and spouse or family, they will be required to pay an additional 20%; 25% and 30% of the costs of premiums for such coverage over and above the single cost for the respective three years of the agreement.

8) Medical Insurance (Option A)

In the event the Union accepts the District's proposal relating to subcontracting food service, the District proposes the following language relating to Article 29, Comprehensive Medical Insurance:

1. For the term of this Agreement effective July 1, ~~2007~~ **2011**, the District shall pay the appropriate premium (alternate percentage to that provided b employees as above) for each eligible, active employee, who may elect to participate in the above program, subject to the procedures and operating guidelines of the carrier.

3. Coverage shall be provided through the programs specifically and jointly approved in writing by the parties to this Agreement **or comparable or better plans.**

10. In lieu of coverage under this program, employees may choose/select an alternative payment to be payable as scheduled by the Employer during the month of November. (The choice of this alternative will be handled on an annual basis. Changes will be permitted during the year only when special circumstances of the employee require a change.) **This annual payment shall be made should the employee opting out of all the following: medical, prescription, dental and vision programs. Should an employee start or leave in the middle of the year, this amount will be prorated.**

- a. Full-time employees (Tier 1) shall receive \$1,300 \$1,600 per year.
- b. Part-time employees shall receive \$625 the following amounts per year:

Tier 2 - \$1,200

Tier 3 - \$ 950

Tier 4 - \$ 800

Tier 5 - Not Eligible

Tiers are as defined in Article 28.

12. The following plans will be in effect for the life of this agreement effective July 1, 2008 2011:

Core plan: ~~Personal Choice 10/20/70~~ **Keystone C1F101**

Alternate plan: ~~Personal Choice 10~~ **Personal Choice 10/20/70**

~~The inpatient hospital co-payment for the Personal Choice Plan of \$75 per day up to a maximum of \$375 per IBC guidelines will be reimbursed by the District upon the submission of an invoice from the serving hospital.~~

Medical Insurance (Option B)

In its Option B the District Proposes:

Article 29, Comprehensive Medical Insurance

1. For the term of this Agreement effective July 1, ~~2007~~ **2011**, the District shall pay the appropriate premium (alternate percentage to that provided b employees as above) for each eligible, active employee, who may elect to participate in the above program, subject to the procedures and operating guidelines of the carrier.

3. Coverage shall be provided through the programs specifically and jointly approved in writing by the parties to this Agreement **or comparable or better plans.**

10. In lieu of coverage under this program, employees may choose/select an alternative payment to be payable as scheduled by the Employer during the month of November. (The choice of this alternative will be handled on an annual basis. Changes will be permitted during the year only when special circumstances of the employee require a change.) **This annual payment shall be made should the employee opting out of all the following: medical, prescription, dental and vision programs. Should an employee start or leave in the middle of the year, this amount will be prorated.**

- c. Full-time employees (Tier 1) shall receive \$1,300 \$1,600 per year.
 - d. ~~Part-time employees shall receive \$625 per year.~~
12. The following plans will be in effect for the life of this agreement effective July 1, 2008 2011:

Core plan: ~~Personal Choice 10/20/70~~ **Keystone C1F101**
Alternate plan: ~~Personal Choice 10~~ **Personal Choice 10/20/70**

~~The inpatient hospital co-payment for the Personal Choice Plan of \$75 per day up to a maximum of \$375 per IBC guidelines will be reimbursed by the District upon the submission of an invoice from the serving hospital.~~

The District maintains that its proposal allows the District to save approximately 20% in its premium costs for the first year of the agreement while continuing to provide employees a quality medical plan and gives the District needed flexibility to shop for cost effective medical coverage, provides full-time employees more money should they opt out and.

The Union seeks to keep the premium co pays at the same level as in the current agreement; 10% for full-time employees and 15% for part time employees, and continue the provision that employees working less than 20 hours per week hired after July 1, 2008 are not entitled to benefits. Other represented employees in the District are paying 10% for the 2010-2011 school year, 11% for the 2011-2012 school year and 12% for the 2012-2013 school year. The Union also proposes to increase the cash out option for full-time employee to \$2,500 and part-time employees to \$1,300 as incentive to increase the cost savings to the District for employees' gaining coverage elsewhere.

Recommendation in regard to Benefit Eligibility and Major Medical

For cost reasons, I recommend the changes in core and alternative plans proposed by the District and the elimination of language relating to reimbursement for inpatient hospital co-payment.

For reasons proffered by the Union relating to ambiguity, I do not recommend the Employer's proposed change to Article 29, Paragraph 3 permitting the District to provide "comparable" coverage. Such language opens the door to confusion and disagreement between the parties as to what is a "comparable" or a "better" plan. However, considering the nature of the insurance industry the District's desire for flexibility and the ability to shop for less expensive coverage in the future is sound. As a result, I recommend that instead of the language of the District's paragraph 3 proposal, the following language be adopted by the parties;

- 3. Coverage shall be provided through the programs specifically and jointly approved in writing by the parties to this Agreement **or substantially equal or better plans**

I also recommend the paragraph 10 buy-out language offered by the District requiring buy out of all benefits and pro rata payments for mid year actions. As for the buy out amounts themselves, I agree that they are an opportunity for a win-win for the District and employees and should be substantial enough to constitute a reasonable incentive. To that end, I recommend that the amounts be increased to \$2,000 for full-time employees and \$1,000 for less than full-time employees.

9) Prescription Drug Insurance (Option A)

In its Option A the District proposes the following Article 30 language:

The same provisions and guidelines shall apply to this program as to that of "Comprehensive Medical insurance" above. ~~with The exception that no cash alternative shall~~ **include** ~~be available for~~ this program

The Prescription Plan in effect as of July 1, ~~2008~~ **2011** will be the \$10-20-35 Select Drug Formulary Plan.

Prescription Drug Insurance (Option B)

In its Option B the District proposes the following Article 30 language:

The same provisions and guidelines shall apply to this program as to that of "Comprehensive Medical insurance" above with the exception that no cash alternative shall be available for this program

The Prescription Plan in effect as of July 1, ~~2008~~ **2011** will be the \$10-20-35 Select Drug Formulary Plan.

The District states that in the case of either Option A or Option B its proposed changes are editorial and the Union agrees. I recommend the District's option B proposal.

10) Dental Insurance (Options A & B)

The District offers language changes to Article 31, Dental Insurance, to conform the language of the Article to the language of its proposal relating to Article 29, Section 10 providing for opt-out payments. The proposed modified language would state:

The same provisions and guidelines shall apply to this program as to that of the "Comprehensive Medical insurance" above with the following exceptions:

1. Coverage shall be equal to or better that the Independence Blue Cross, Pennsylvania Blue Shield Dental Plan: Basic Program, Supplementary Benefits, and Orthodontics.

2. ~~No~~ **The** cash alternative shall ~~be available for~~ **include** this program.

The Union seeks to increase dental benefit from \$1,000 to \$1,500; a modest increase, it asserts, given the expense of dentistry.

Recommendations

I recommend the District's proposal but, for financial reasons, do not recommend the Union's proposal.

11) Vision Care (Options A & B)

The District offers language changes to Article 32, Vision Care, to conform the language of the Article to the language of its proposal relating to Article 29, Section 10 providing for opt-out payments. The proposed modified language would state:

The same provisions and guidelines shall apply to this program as to that of the "Comprehensive Medical insurance" above with the following exceptions:

1. Coverage shall be equal to or better than the Vision Benefits of American program currently provided by the District.

2. ~~No~~ **The** cash alternative shall ~~be available for~~ **include** this program.

The Union takes no position

Recommendations

I recommend the District's proposal but, for financial reasons, do not recommend the Union's proposal.

12) Probationary Employees (Options A & B)

The District proposes to increase the probationary period contained in Article 42 for employees as follows:

1. An employee shall be a probationary employee until he or she has worked for the Employer for at least ~~thirty (30)~~ **sixty (60)** working days **excluding summer recess for the ten (10) month employees.**

According to the District the members of the bargaining unit perform some of the more complex and dangerous jobs in the District and the District believes more time is needed to evaluate the ability of new employees to perform such tasks.

The Union disagrees that more time is necessary to evaluate new employees

Recommendation

I recommend that the probationary period be retained at thirty working days but that language be added to the paragraph providing that if the District believes it needs to extend the period beyond thirty days it may request an extension of the probation period for an additional 30 days from the Union and that the Union will not unreasonably deny the request.

13) Seniority (Options A & B)

The District proposes to add language to Article 43 Seniority, Section 5 Vacancies, Paragraph g as follows:

5. Vacancies

g. Any present employee so appointed to a vacant position shall be given a thirty (30) day trial period. In the event that employee does not meet the standards of performance set forth by the Employer or the person wishes to return to his or her former position, he or she shall have the right to said former position. In the event that the Union considers the removal of an employee to be arbitrary or capricious, it shall have the right to submit the issue of whether the Employer's action was arbitrary or capricious to the grievance procedure. **An employee may not move to a new position more than twice in any school year.**

Transportation provision: A bus driver who bids on and receives a new run will not be eligible for this provision. They will stay in the new run that they choose to accept.

The District asserts that the current system of unlimited transfers is onerous, difficult to administer and does not permit the district to best staff its positions. This is particularly so in the Transportation Department where transfers create a "revolving door" of bus drivers creating instability for students and their parents.

The Union asserts that the District is seeking to unfairly limit the ability of employees to transfer to vacant positions and is degrading employee seniority

Recommendation

I reject both the District's proposal in regard to Seniority and Transportation Provisions and similarly reject the Union's proposals relating to such issues. I do not conclude that the proposals of either party are better or worse than that of the other. However, I am cognizant of the significant challenges bus route scheduling presents to the District's administration and the importance of seniority, scheduling and route selection to involved employees. I believe the myriad details raised by the proposals of the parties on seniority and Transportation Provisions, lend themselves to focused efforts by the parties to jointly work out mutual resolutions of the issues; efforts that should be made outside of the context of bargaining for a successor agreement.

14) Transportation Provisions (options A & B)

The District proposes to modify Article 40, Transportation Provisions, as follows:

Bus Driver Bidding Procedure

New/Vacated Bid Assignments

1. New runs, which are created after the selection process has been completed for a given school year, shall be posted for at least five (5) days before becoming available for assignment. ***The following procedures shall be in effect for all permanent routes that become available after the start of school year up through May 1. Positions after May 1 will be assigned by the Transportation Supervisor to a casual driver for the remainder of the school year. Permanent positions will include positions available due to retirements, resignations, terminations, position changes to another department or newly created positions.***

a. After the posting period ends, drivers shall have two (2) days to bid for such runs according to the current practice of the Employer. Once awarded the run, the bidding driver shall be permitted to ride with the current driver for one (1) day at the discretion of the Employer.

b. If the new run is a regular AM and/or PM assignment, it shall be bid only as a replacement for the bidder's current regular Am and/or PM assignment.

c. If the new run is a mid-day or regular/permanent activity run and all drivers on the seniority list have previously secured such a run, said run shall be bid only as a replacement for the bidder's current mid-day or regular/permanent activity assignment.

d. A driver shall change assignments only once during the year before May 1 of the school year at the employee's request if going from part-time to full-time status or additional increase hour change not less than five hours.

e. Drivers will not be permitted to change routes if such a change creates a conflict with the driver's other work assignments (Mid-Days).

f. A driver will not be permitted to change if the new assignment is deemed not to be in the best interest of the District as determined by the Transportation Supervisor.

Mid-Day, Late and Incidental Run Assignments (Daily Open Runs - DOR)

4. No driver may sign up for an additional assignment that will result in a work week that will exceed forty (40) hours without approval from the Supervisor of Transportation.

Rotation Procedure for TRIP Assignment Selection

7. Emergency trips (weekdays & premium) will be rotated by seniority. ***Emergency trips are defined as trips that are received by the Transportation Office five (5) days or less of the scheduled departure date.***

8. Holiday trips will be charged as premium trips so long as the affected employee is being paid the time and one half rate. If the employee is not being paid time and one half, the trip will be charged as a regular trip. ***The drivers must work their scheduled shift the last day before and the first day after the date of the premium trip for credit for it.***

14. Drivers shall be permitted to substitute an incidental run to replace their AM/PM and mid-day assignment previously chosen as their regular run

when said driver is scheduled for his/her turn on the rotation list, i.e., weekday trip boars, and the incidental run will exceed the time of said driver's previously chosen AM/PM and mid-day assignment, if the Transportation Department has advance notification of the existence of the incidental run for a period of a least three (3) days.

- a. In such case the overnight, incident trip, mid-day or replacement shall be scheduled according to the regular rotation as outlines above.
- b. Drivers who have accepted trip assignments and fail to report for said assignments or are unavailable for said assignments, shall be considered to have completed such assignments for purposes of seniority rotation. **They also will be skipped on the next trip rotation.**

The District asserts that its proposed changes in Article 49 are necessary to provided administrative consistence and reduce stress on students, parents and administrative staff. Restrictions on bidding would avoid the repeated snowball effect from a single senior driver bidding on an open run and other drivers successively bidding on routes down the seniority list as they become open. Changes in drivers on routes are particularly problematic in terms of addressing behavioral problems on bus routes and providing services to special needs students. The District's proposals on trips are needed to manage overtime and comply with proposed Pennsylvania DOT guidelines.

The Union strongly objects to the District's proposals and maintains that the District is seeking to effectively eliminate seniority rights among drivers as well as the rights of drivers to bid on routes and receive over-time.

The Union proposes to increase from one half to two hours drivers are paid for writing out route directions as such more accurately reflects the time needed to accomplish the task. The Union also proposes to define incidental runs as any run other than a regular, mid-day or late run.

Recommendations

See my recommendations stated in (13) above.

In regard to the District's statement relating to potential changes in DOT regulations, I recommend that the parties agree that should the Commonwealth issue new guidelines for bus drivers that the parties will comply with such.

As for the Union's proposal to increase the amount of paid time for writing directions, I reject the proposal, but recommend that the parties jointly study and attempt to resolve the issue. If employees are spending more than 30 minutes of time on the task the law requires that they be paid for their time. Similarly, the District has a legitimate interest in not paying for time not spent working.

15) Wages

In its Option A the District proposes no wage increase in the First year of its proposed two year agreement with the Head Custodian for Arcola/Skyview receiving the same hourly rate as the Head Custodian for the High school, and that all unit employees receiving a 1% wage increase for the 2012-2013 school year.

In its Option B the District would give no wage increase in the second year of the Agreement.

The Union seeks a 6% wage increase for each year of a four year agreement and that the Head Custodian for Arcola/Skyview receive the same hourly rate as the Head Custodian for the High school.

The District maintains that unit wages are above the county average, the wages sought by the Union are in conflict with what is requested of other groups and that the

District's budget situation dictates a conservative approach to increasing expenditures. The District's proposal is consistent with that reality.

The Union asserts that other District employees are receiving increases averaging between 3% and 4% and that retroactivity is necessary as an incentive for the District to bargain fairly and come to an agreement with the Union.

Recommendation

I regard to wages, I recommend:

1) That the Head Custodian for Arcola/Skyview receiving the same hourly rate as the Head Custodian for the High school.

2) That, as set forth in detail in Appendix A showing the "100% rates" of the various bargaining unit positions, bargaining unit employees receive the following percentage increase in wages for the respective three years of the agreement:

2011-2012	2012-2013	2013-2014
0%	3%	4%

16) Unpaid Leave

The Union proposes to increase excused unpaid leave to cover all benefits from 30 to 90 days. The Union asserts this is a cost savings to the District because when employees utilize the leave they are not paid.

The District argues that there is no basis for the Union's demand.

Recommendation

I do not recommend the Union's proposal.

17) Vacation

The Union proposes to increase vacation days by one day for each year of service over 20 years up to 25 years as a reward to long term employees.

Recommendation

For financial reasons, I do not recommend the Union's proposal.

18) Medical Allowance

The Union proposes a \$1,000 medical allowance to help offset increases in medical insurance premiums.

Recommendation

For financial reasons, I do not recommend the Union's proposal.

19) 403(B) Match

The Union seeks a match from the District to encourage employee participation.

Recommendation

For financial reasons, I do not recommend the Union's proposal.

20) Funeral Leave

The Union proposes increases from 3 to 5 days for immediate family and from 1 to 2 days for extended family, and asserts that the current time is not sufficient for employees to attend funerals and grieve.

Recommendation

For financial reasons, I do not recommend the Union's proposal.

21) Miscellaneous Conditions of Employment

The Union proposes three changes to Article 48, Miscellaneous Conditions of Employment. First, the Union seeks to change the period for an employee to be eligible for the higher rate when the employee is required to perform a higher rated job on a temporary basis. The current language provides for pay at the higher rate after three days in the position. The Union proposes to reduce the qualification period for the higher rate to one day to address unfair circumstances where employees are assigned a higher rated position for a week and receive the higher rate for only two days. Second, the Union requests a cash allowance for shoes and coats to compensate employees required to work in adverse conditions and are currently required to use their personal gear. Third, the Union seeks to increase the stipend for maintenance tools from \$400 to \$1,000 to compensate for increases in the costs of tools.

Recommendations

For financial reasons, I do not recommend the Union's proposals relating to cash allowance for shoes and coats and the stipend for tools.

As for the Union's proposal on employee's receiving the higher rate of pay for temporary assignment to a higher rated position, I reject the Union's proposal but recommend that agreement language be added to provide that; "in the event an employee is assigned to a higher rated position for a week or longer the employee will be paid at the higher rate."

22) Life Insurance

The Union proposes to raise the coverage amount for life insurance in Article 33 from \$40,000 to \$50,000 for full-time employees and from \$25,000 to \$35,000 for part-time employees.

Recommendation

For financial reasons, I do not recommend the Union's proposal.

23) Retirement Benefit

The Union proposes to reduce the vesting period required for retirement eligibility from ten years of service to five years of service; increase the rate for buy back of unused sick leave from \$45.00 per day to \$65.00, and increase the maximum days that may be bought back upon retirement from 120 to 150. These change would protect employee retirement and provide incentive for good attendance, the Union maintains.

Recommendation

For financial reasons, I do not recommend the Union's proposal.

24) Hours of Work

The Union proposes changes to Article 45 to increase from one and one half to two hours guaranteed for drivers who report for assignments, starting and ending of all runs established by the Supervisor of Transportation and that drivers may request reconsideration of times and the Supervisor must respond to the request within five days.

The Union argues that the increase in guaranteed time more accurately reflects the time expended by drivers in reporting to work as scheduled and the requirement of a response within five days addresses the current practice of ignoring employee requests.

Recommendation

For financial reasons, I do not recommend the Union's proposal.

25) Tuition Reimbursement

The Union proposes to add tuition reimbursement for part-time employees so that such employees may have the opportunity to better themselves.

Recommendation

For financial reasons, I do not recommend the Union's proposal.

26) Extreme Weather and Premium Pay During Snow Days

The Union proposes that, as a matter of safety, employees be sent home after five hours work during snow emergencies.

The Union proposes that employees involved in snow removal be paid at time and one half for working when other District employees are not working because schools and offices are closed.

Recommendation

For financial reasons, I do not recommend the Union's proposal.

27) Job Preservation

Due to the volatile and uncertain economic climate the District also proposes to eliminate the terms of the Job Preservation Memorandum of Agreement between the parties. In doing so, the District maintains, it will gain flexibility to meet the needs of the District. The Memorandum currently provides, in relevant part:

No one who is not a member of the Bargaining Unit represented by Teamsters Local 384 shall perform work in the District, which has been usually performed solely by bargaining Unit members of Teamsters Local 384. Such persons shall not be used to displace any Bargaining Unit member.

For purposes of preserving work and job opportunities for the Bargaining Unit, the District agrees that no work or services of the kind, nature or type, presently performed solely by Bargaining Unit members will be subcontracted, transferred, leased, assigned or conveyed in whole or in part to any other group, person or non Bargaining Unit employee.

The Union strongly opposes the elimination of the memorandum. Job security is one of the foremost concerns of employees and the Union gained the protection of the Memorandum by prior difficult and hard bargaining.

Recommendation

Subcontracting of bargaining unit work is anathema to the basic policies and goals underlying the right of employees to collectively bargain. By agreeing to permit subcontracting, and depending upon future circumstances, the Union could effectively be bargaining away its jobs. However, there are occasions when times become so challenging and desperate that subcontracting may be an alternative that both parties would want to consider to promote or protect their mutual or parallel interests. However, at the present time I am not convinced that economic challenges are so desperate as to warrant my recommending that District's proposal, and reject the District's proposal.

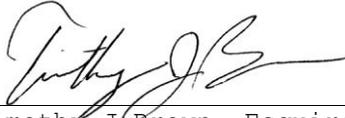
Other Matters

Besides matters already subject to agreement by the parties, I recommend that all other proposed changes to the Agreement not the subject of recommendations for change herein remain as is.

Please note

that the cover letter to this Report and Recommendation summarizes the responsibilities of the parties to notify the PLRB of their acceptance or rejections of this Recommendation and should be given careful attention.

Dated: May 18, 2011



Timothy J. Brown, Esquire
P.O. Box 332
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**Act 88-10-13-E FACT FINDING REPORT
APPENDIX- SALARY SCHEDULES**

2011-2012 / 2012-2013 / 2012-2014
0% 3% 4%

The following are the 100% rates for identified positions for the school years indicated:

Facilities Department

	2011-2012	2012-2013	2012-2014
Custodian	\$22.26	\$22.93	\$23.85
Head Custodian /Elementary	\$23.94	\$24.66	\$25.65
Head Custodian /High School	\$25.97	\$26.75	\$27.82
Head Custodian /Upper Elementary School	\$25.97	\$26.75	\$27.82
Head Custodian /Intermediate School	\$25.97	\$26.75	\$27.82
Maintenance Mechanic	\$27.69	\$28.52	\$29.66
Grounds Crew Foreperson	\$23.94	\$24.66	\$25.65
Utility Groundsperson	\$22.44	\$23.11	\$24.03
Courier	\$23.84	\$24.56	\$25.54
Warehouse/Inventory Specialist	\$25.14	\$25.89	\$26.93
Master Mechanic	\$29.05	\$29.92	\$31.12
Preventive Maintenance Specialist	\$25.14	\$25.89	\$26.93

Food Service Department

	2011-2012	2012-2013	2012-2014
Cook	\$18.57	\$19.13	\$19.90
Assistant Cook or Baker	\$17.95	\$18.49	\$19.23
General; Helper	\$17.30	\$17.82	\$18.53

Transportation Department

	2011-2012	2012-2013	2012-2014
Bus Drivers	\$24.63	\$25.37	\$26.38
Operations Assistant	\$26.59	\$27.39	\$28.49
Dispatcher/Bus driver	\$25.60	\$26.37	\$27.42
Bus Washer	\$22.11	\$22.77	\$23.68