

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA LABOR RELATIONS BOARD**

In the Matter of an Impasse	(	
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	(	Before
	(	
Between	(	Jennie K. Bullard, Esquire
	(	Fact Finder
	(	
Ligonier Valley School District	(	
“Employer”	(	
	(	
and	(	
	(	
Ligonier Valley Education Association	(	
“Association”	(	

**FACT FINDING REPORT AND RECOMMENDATIONS**

**APPEARANCES:**

**For the Employer -Ligonier Valley School District:**

Carl P. Beard, Esquire, Labor Counsel  
Andrews and Beard

Christine Oldham, Superintendent, Ligonier Valley School District  
Donald Irwin, Business Manager, Ligonier Valley School District

Jim Cunkelman, School Board Member  
Irv Tantlinger, School Board Member

**For the Association - Ligonier Valley Education Association:**

Kathy Bish Bell, Pennsylvania State Education Association (PSEA)  
Eric Elliott, PSEA Research

Amy Salay, Ligonier Valley Education Association  
Linda Payne, Ligonier Valley Education Association  
Donna Lamont, Ligonier Valley Education Association

**Observers**

Corinne Kenna, Ligonier Valley Education Association  
Adam Petalino, Ligonier Valley Education Association  
Matt McNickle, Ligonier Valley Education Association  
Michelle Stonebraker, PSEA

**INTRODUCTION**

Pursuant to Act 88 of 1992 (“Act 88”) and the Public School Employe Relations Act (“PERA”), the undersigned was appointed by the Pennsylvania Labor Relations Board (“PLRB or “Board”) effective June 19, 2013, as the Fact Finder in an impasse between the Ligonier Valley School District (“Employer”) and the Ligonier Valley Education Association (“Association”), a unit comprised of professional employees.

The Ligonier Valley School District is set in the Laurel Highlands located in the Southeastern portion of Westmoreland County approximately 50 miles east of the city of Pittsburgh. The District is comprised of the municipalities of Bolivar Borough, Cook Township, Fairfield Township, Laurel Mountain Borough, Ligonier Borough, Ligonier Township, New Florence Borough, Seward Borough and St. Clair Township. According to the District’s Webpage, the District currently serves approximately 1700 students from the previously mentioned nine (9) municipalities. The Pennsylvania State Education Association (PSEA) is the exclusive bargaining representative of the 128 member Bargaining Unit.

## **BARGAINING AND FACT FINDING HISTORY**

The parties' Collective Bargaining Agreement expired effective June 30, 2012. The parties commenced negotiations beginning on January 10, 2012 and met on an almost monthly basis until May 22, 2013. State Mediator, Melanie Archangelo, was appointed by the Pennsylvania Bureau of Mediation to assist the parties and was present in many of these bargaining sessions. In spite of these frequently held negotiating sessions, the parties were unable to resolve a large number of issues. The Association filed a request for the appointment of a Fact-Finder on June 11, 2013.

Prior to the date of the formal fact-finding hearing both parties provided various iterations of the statement of issues to the Fact-Finder and actively communicated with each other in a continuing effort to narrow the issues and resolve hearing related matters. On July 9, 2013, a formal fact-finding hearing was held at the Administration building of the Ligonier Valley School District located at 339 W. Main Street in Ligonier, Pennsylvania. At that time the parties were provided with the opportunity to present testimony, introduce documentary evidence, and argue in support of their respective positions on the unresolved issues.

Prior to the commencement of the formal fact-finding hearing, the parties continued their efforts to resolve outstanding issues and in doing so tentatively agreed to several previously unresolved matters and presented them as Tentative Agreements at the time of the formal hearing.

**TENTATIVE AGREEMENTS** presented were:

1. Grievance Procedure;
2. Bereavement Leave;
3. Teachers Retiring;
4. Summer School, Adult Education, Homebound Instruction, Sections a. and b.
5. School Work Year
6. Job Security (New Article)

### **OUTSTANDING ISSUES:**

The following issues remained for presentation at the fact-finding:

1. Article 7 (d) - Teaching Hours and Teaching Load (d)
2. Article 8 - Supplemental Contracts
3. Article 9 - Summer School, Adult Education, Homebound Instruction, (Section f)
4. Article – 19 Teacher Evaluation
5. Article 35 - Absorbing other Assignments
6. Article 40 - Duration of Agreement
7. Exhibit A - Supplemental Contracts
8. Exhibit B - Salary Schedules with Retroactivity
9. Exhibit B - Other Member Benefits - Health Care
10. Dress Code (removed from discussion by the District)

**DISCUSSION AND RECOMMENDATIONS:** After an analysis of the extensive information provided at the hearing, this Fact-Finder makes the following observations derived from that information and provides a Report of Recommendations. The Issues addressed below are presented in the same general order as they appear in the current Collective Bargaining Agreement. The Fact-Finder offers this Report taking into consideration:

- Testimony and credible supportive evidence presented at the fact finding hearing;
- Comparisons with similar provisions provided in similar relevant Districts;
- The interest and welfare of the taxpayer and the District 's ability to finance and administer proposed issues;
- The lawful authority of this employer and,
- Stipulations of the parties.

This Report will set forth recommendations for remaining issues which will constitute the settlement proposal upon which the parties are now required to act as directed by applicable statutes and PLRB regulations.

A vote to accept this Report does not constitute agreement with or an endorsement of the rationale expressed by the Fact Finder with regard to a particular issue, but rather represents only an agreement to resolve the issues by adopting the Report's recommendations. The parties are hereby directed to review the report and within ten (10) days of its issuance, notify the PLRB of their respective decisions to accept or reject the recommendations set forth herein. The parties are also advised that pursuant to statutory authority, this Report will be released to the public if not accepted.

## **OUTSTANDING ISSUES:**

### **Issue 1 - Article 7: Teaching Hours and Teaching Load (d)**

The current contract language reads as follows:

d. "Teaching Duties: The teaching load will provide for no less than 450 minutes of preparation time for all teachers over a period of ten (10) instructional days. Preparation time will not be scheduled in blocks fewer than 20 minutes, based on current scheduling models. The Bargaining Unit and District reserve the right to modify time and/or conditions if scheduling models are changed."

#### **The Association's Position**

The Association is requesting that an additional 10 minutes of preparation time be added to each block while keeping the total of 450 minutes for each ten (10) instructional days. Preparation time will not be scheduled in blocks fewer than 30 minutes; and one (1) preparation period of 30 minutes or more must be scheduled during each student instructional day to be used exclusively for teacher planning that is uninterrupted by meetings or assignments related to the supervision of students.

The Association supports its position by pointing out a myriad of additional duties that have been added to the teacher's day since the inception of the last contract. The Association enumerates only a few of these additional duties as the implementation of inclusion for special education students, additional surveys and questionnaires that are necessary in the instruction of students, differentiated instruction requirements, tutorials for state-wide testing requirements and meetings with parents. In addition, teachers are expected to prepare for many of the specialized programs currently provided in the District. The Association did not request that the allocation of 450 minutes be expanded but requested that the District provide an additional 10 minutes to each block of preparation time.

#### **The District's Position**

According to documentation provided by the Association prior to the formal fact finding hearing, the Association asserts that the District had proposed to reduce the current 20 minutes of preparation from 20 to 15 minutes per block. However, at the fact finding hearing the District proposed that the current language as stated above in Article 7(d) be maintained at the current 20 minutes per block.

The District stated that it understands the problems encountered by the significant increase in federal and state mandates because additional duties and requirements have been added to administrator's workdays also. It cites the major problem with the Association's request is one of scheduling logistics. The elementary school is on a six (6) day rotation and if the District would acquiesce to the Association's request, it would mean that at least two (2) of the District's grades (kindergarten and first grade) would not have teacher coverage. To provide coverage for the Association's request would mandate that the District hire extra personnel dedicated to just covering the various teachers' need for additional prep time. The District does not have the funds to hire an extra teacher at this time.

Superintendent Oldham provided information that reported that K- 5 teachers generally have 35 minutes first thing in the morning before the students arrive, K -2 teachers have 45 minutes of prep time every 5 of 6 days, grades 3 – 5 teachers have 35 – 45 minutes each day, and teachers in grades 6- 8 have a block of 57 minutes each day. She also stated that most of the teachers are currently exceeding the 450 minutes of prep time citing that K – 1 teachers receive 480 minutes and 2 - 5 teachers have 510 minutes. The Association did not refute her testimony.

The District also provided data with prep time information for adjacent school districts, i.e., Derry Area, Greater Latrobe, United, Blairsville-Saltsburg, Ferndale, Greater Johnstown, Westmont Hilltop, Mt. Pleasant, North Star, Somerset and Connemaugh Township but cautioned that it is difficult to compare districts because every district has differing way of scheduling classes.

In addition the District argues that the Association's request that the planning time be uninterrupted by meetings cannot be accommodated at this time.

**Discussion and Recommendation** – Anyone who is currently working in the academic arena knows and understands that the proliferation of Federal and State mandates have placed an increasing burden on teaching staff as well as administrative staff. It should be acknowledged that the Association presented a compelling argument but although the Association's proposal was understandable it was basically anecdotal. Their argument would have been better served if data outlining specific incident reporting had been provided as it is unclear as to how often teachers are deprived of prep time. To the contrary, the District's argument was supported by testimony provided by Superintendent Oldham and was not rebutted by the Association.

There is little doubt that the workload will continue to increase. The Association is encouraged to document on a weekly basis the increased workload so that both the Association and the District can be armed with statistical data that will permit the parties to re-look at the scheduling and personnel allocation process for the future.

**Recommendation** – It is recommended that the language of Article 7 (d) remain as stated in the current Collective Bargaining Agreement.

## **Issue 2 - Article 8: Supplemental Contracts**

The current contract language reads as follows:

8. Supplemental Contracts: Teacher participation in extracurricular activities which extend beyond the regularly scheduled in-school day shall be voluntary and shall be compensated according to the annexed Exhibit A, attached hereto, and made a part hereof. The School Board reserves the right to determine which positions and programs will be deemed necessary.

### **The Association's Position**

The Association agrees with the language of the current Agreement but proposes to add the following provision: "In the event of a vacancy, any qualified Bargaining Unit member will be given preference for hiring over other applicants."

The Association said it was concerned that problems could arise if the District filled vacancies from outside the Bargaining Unit and questioned why the District would not fill a vacancy with a qualified Bargaining Unit member. In support of hiring Bargaining Unit members for supplemental positions, the Association argues that Bargaining Unit members are trained in those skills needed to positively influence students in the areas of behavior, work-ethic, and social skills and hypothesized that a non-bargaining Unit applicant may be skilled in the extra-curricular areas for which they are applying but may not have the attributes to address the social and emotional needs of the students as a whole. The Association cited a recent example wherein an experienced coach from the recently merged Laurel Valley High School applied for a supplemental coaching contract. He was not chosen for the coaching contract and a non-Bargaining Unit person was chosen even though the teacher had been considered qualified in the past. The Association expressed concern that the District would develop qualifications for supplemental positions that would be specifically designed to deny these supplemental contracts to Bargaining Unit members.

### **The District's Position**

The District denied that it would go out of its way to avoid hiring a Bargaining Unit member just because they were a Bargaining Unit member. The District argues that choosing people to fill supplemental contracts is an inherent managerial right and further the District's goal is to always hire the most qualified person to fill vacancies regardless of whether the chosen applicant is a member of the Bargaining Unit or not. Mr. Beard, the District's solicitor, mentioned that there had been an arbitration decision that supported the District's position in a similar matter in another District but did not provide the citation for that arbitration. As an example, the District argued that if Arnold Palmer were "in his hay day and came down from Latrobe" and sought out the supplemental contract in golfing, under the Association's proposal, he would be precluded from being assigned that position. For that reason, the District is opposed to placing the Association's restriction in the language of the contract.

**Discussion and Recommendation** - Although the Association cited this one instance that actually occurred recently, this is potentially a future problem for the Association and it appears that this is a concern that the "proverbial camel's nose will get under the tent" and by doing so the District will be encouraged to pursue applicants outside of the Bargaining Unit even when qualified applicants are available within the Bargaining Unit. The Association sees this one prior instance indicative of a possible future problem.

No data was provided by either party regarding practices in other adjoining school districts and there was no argument from the District that they have been unable to find an adequate selection of qualified applicants from the Bargaining Unit in the past. I can see why the District is concerned about being locked into having to take a Bargaining Unit member just because the language is in the contract. Apparently the District has never had a problem finding qualified applicants from the Bargaining Unit in the past. The Association is not requesting that a person be hired for a supplemental contract just because they are a member of the Bargaining Unit.

These supplemental contracts are important to the teaching staff because they are an extension of their professional careers, they provide supplemental income and an opportunity to connect with students in a non-academic environment and are generally paid as income and in that way are factored into the retirement benefits.

**Recommendation** - It is recommended that the following language be added to Article 8 as follows: “In the event of a vacancy, any qualified Bargaining Unit member who applies for a vacancy will be considered for that vacancy prior to any consideration of non-Bargaining Unit applicants. In all instances the person placed in the vacant position shall be the **most qualified** person.”

### **Issue 3 - Article 9: Summer School, Adult education, Homebound Instruction, Section f**

The current contract language reads as follows:

f. Members of the Bargaining Unit who are requested by the Administration to attend meetings or perform professional duties, other than provided in this agreement, will be compensated as per Article 9 for the required meeting or duty time.

#### **The Association’s Position**

The Association is requesting that when a Bargaining Unit member is requested to perform work for the School District not covered elsewhere in the Agreement, beyond the normal workday, that additional work will be compensated at the employee’s per-diem rate, prorated hourly. The Association notes that both the Association and the District are in agreement with adding “and/or extension of Professional Duties” to the title of Article 9. but there is no clarification as to what the remuneration will be for these duties.

The basis for this request is that in general, professionals are not provided time during the school day to prepare the extensive documentation for IEP meetings, re-evaluation meetings, after school conferences and after school conferences with parents. The Association argues that this duty time should not be paid the rate as outlined in Article 9 but instead should be paid at the employee’s per diem rate, prorated hourly.

Further, if Bargaining Unit members are provided with compensatory time as compensation, the result is a loss of already scarce planning time and often Bargaining Unit Members are unable to avail themselves of compensatory time

#### **The District’s Position**

The District adamantly argues that it cannot possibly afford to compensate teachers on a per diem/hourly rate. In addition, the District stated that it cannot provide compensatory time off at the discretion of the Bargaining Unit member and in support of that contention cited the District’s critical lack of substitute teachers.

The District believes that the writing of IEPs or GIEPs is an inherent part of the special education teacher and/or gifted teacher’s duties. In addition, the District avers that the class load numbers for special education teachers is extremely reasonable and should not be considered an undue hardship.

Superintendent Oldham provided a listing of class loads for each special education teacher and commented that class load does not necessarily mean work load.

The District further argues that the matter of compensation is already provided for in Article 9. This method of compensation was negotiated previously and was agreed to by the parties and should remain in place.

**Discussion and Recommendation** - There is a remedy already included in the CBA for those persons who find themselves working outside of the workday. If a teacher is requested to work past the regular workday or finds themselves working late to conduct IEP meetings or meeting with parents, the remedy is compensatory time or being paid at the home bound rate. Paying an affected teacher at a per diem hourly rate will not solve the time problem or provide the extra time needed for these duties related to their teaching assignment.

**Recommendation** - If a teacher is required by their supervisor or the District to conduct work outside of their regular work day hours, the teacher will be compensated according to the provisions of Article 9.

### **Issue 4 - Article 19: Teacher Evaluation**

The current contract language reads as follows:

19. Teacher Evaluation – The Bargaining Unit recognizes the use of forms mandated by the Commonwealth of Pennsylvania as the vehicle for staff evaluation. Optional PDE-approved forms may also be utilized, see Appendix. No member of the Bargaining Unit currently involved in a program of improvement shall be entitled to a transfer under any provision of this contract unless recommended by the superintendent and approved by the Board of Education.

## **The Association's Position**

The Association's proposal seeks to add an Evaluation Committee to assist the transition to the new system and also proposes time restrictions on the observation process.

- a. Observations: Formal observations to be used as the primary basis for the evaluation of any member of the Bargaining Unit shall be scheduled in advance under mutual agreement with the Bargaining unit member and the member's direct administrator. All formal evaluations shall be preceded by a scheduled pre-observation meeting between the member to be observed and his/her direct administrator and shall be followed by a scheduled post-observation meeting. No observations for teacher evaluation will be held during the first 5 student days, during the last 5 student days of the school year, nor any holiday or holiday break.
- b. Teacher Evaluation Committee: a committee consisting of the Association President, 2 other Association members appointed by the Association President, and 3 administrators will be established to develop district wide measures, as well as, elective measures for the evaluation system. This committee will help develop reasonable timelines and language dealing with all aspects of the evaluation system as per the attachment to February 11, 2013, presentation to District.

The Association expressed concern that certain times during the school year are not amenable to a positive observation environment such as the days at the beginning and ending of the academic year and the days before and after a holiday. The rationale for this argument is based on their experience that students are not as likely to pay attention to instruction during those periods. The Association is concerned that this student inattention will negatively affect a teacher's evaluation. The Association is particularly concerned and expressed their concerns that the District would use these vulnerable days to "target" teachers for some non-academic reason.

## **The District's Position**

The District is not proposing any changes to the current agreement and argues that the Association's concerns are premature. The Pennsylvania General Legislature passed Act 82 of 1202 to become effective July 1, 2012. This Act contains major revisions to the rating system of teachers and provides that certain provisions beginning in 2013 – 2014, shall control the evaluation of professional and temporary professional employees.

Section 1123 outlines pertinent changes of the new rating instrument as follows:

- (i) No later than June 30, 2013 the Department shall develop, issue and publish in the Pennsylvania Bulletin a rating tool for professional employees and temporary employees serving as classroom teachers that is consistent with this subsection and includes the weights given to multiple measures of student performance contained in clause (1)(ii).
- (ii) Following publication, the rating tool developed under this subsection shall be used in the rating of all professional employees and temporary professional employees serving as classroom teachers.

In addition, the District cites Section (m) of 1123 which states, "No collective bargaining agreement negotiated by a school district and an exclusive representative of the employees in accordance with the act known as the "Public Employee Relations Act," after the effective date of this subsection shall provide for a rating system other than as provided for in this section. A provision in any agreement or contract in effect on the effective date of this subsection that provides for a rating system in conflict with this section shall be discontinued in any new or renewed agreement or contract or during the period of status quo following and expired contract."

The District argues that there is nothing in the recently enacted teacher evaluation rules that states that observations cannot be held during the first or last five days or the day before or after a holiday. The District also avers that it has not had a practice of observing professional staff during these time periods. Further, the Superintendent noted that she was aware of the observation in question that occurred the day before the Halloween break and asserts that the teacher being observed was ultimately rated as satisfactory. The District does not want language inserted in the Collective Bargaining Agreement that ties their managerial hands and that may also be in violation of the new sections of the School Code.

As far as the Association's request for a Teacher Evaluation Committee as proposed in the Associations' proposal, the District once again states that this proposal is premature since the Department of Education has not even finished the new rules and forms as yet. The District clearly does not see the need for a teacher Evaluation Committee that may in fact cause problems and interfere with the evaluation process.

The District provided comparative tables with some neighboring districts, Derry Area, Greater Latrobe, United, Blairsville-Saltsburg, Ferndale, Greater Johnstown, Westmont Hilltop, Mt. Pleasant, North Star, Somerset and Connemaugh Township. The only District

with restrictive language in the CBA regarding teacher evaluations is Derry Area. Derry Area has language which prohibits formal visitations within the first and final two weeks of school.

**Discussion and Recommendation** - While it is certainly true that the Department of Education has not as yet promulgated the new rules and forms, it is very understandable that the members of the Association are fearful of how these new rules will be implemented and it is also very understandable that members would be concerned about the timing of observations. Quite frankly, I cannot imagine that any administrator would have the time or the inclination to conduct any observation during the days at the beginning or ending of a school year. Even though the District does not want language in the contract that states when observations can be made, any administrator who decides for whatever reason to observe a teacher the day before or after a holiday is courting a grievance whether it is in the contract or not. Conditions in the work place over which a teacher has no control can always be argued as a “mitigating” circumstance and can be considered by any arbitrator in the upholding of a grievance. In addition, I cannot imagine that the Pennsylvania Department of Education would support the taking away of any discretion on the part of parties as to timing of observations.

Good management conducts observations with the goal to see what is good and not what they can find fault with. I do not know what the observation practice is in the Ligonier Valley School District but the goal of any professional evaluator is to encourage good teaching and to provide guidance in areas that are weak. To that end, no administrator worth his/her salt would “stack the deck” by conducting an evaluation during a period of time wherein even Horace Mann would have control problems. I also see no problem with notifying the teacher in advance that they are going to be observed – after all what you want to see is good teaching practices. You would also not want to pop in when the class is taking a test or are watching a film. This is especially true as during this fact-finding it has become painfully obvious that everyone appears to be stretched for time.

**Recommendation** - It is recommended that observations be conducted with the full knowledge of the teaching personnel in advance of the observation date. This does not mean that the administrator/supervisor has to seek permission, it merely means that every teacher being observed will be advised as to the time and date at least two days in advance of said observation. The administration shall not conduct formal evaluative observations on the day before and after a holiday break.

#### **Issue 5: Article 35: Teacher Absences and Absorbing Other Assignments**

The current contract language reads as follows:

35. Absorbing Other Assignments - Staff members may be required to absorb the assignments of other staff members who leave or absent from their regularly assigned duties during the normal teaching day. Bargaining Unit members will be compensated at the Summer School/ Adult Education/Homebound Instruction rate (section 9 a ) with minimum one-hour remuneration whenever an administrator directs that a planning period be used by the employee to substitute for another Bargaining Unit Member. This does not include any volunteer time one member may grant another.

#### **The Association’s Position**

The Association proposes that all members of the Bargaining Unit who are directly involved with the daily instruction and supervision of students maintain the right to request a substitute teacher to accommodate their absences. In cases of emergencies staff members may occasionally be required to absorb the assignments of other staff members who leave or are absent from their regularly assigned duties during the normal teaching day. Bargaining Unit members will be compensated with minimum one-hour remuneration at the average hourly rate of all bargaining unit members calculated at the beginning of each school year whenever an administrator directs that a scheduled planning period be used by the employee to substitute for another Bargaining Unit member. A sign –up sheet for teachers who may be willing to substitute during their preparation periods will be kept in the administration office of each school building. All available volunteers will be asked before directing a bargaining unit member to substitute during their preparation period. This does not include any volunteer time one member may grant another. Under no circumstances will a member of the Bargaining Unit be directed to combine classes in order to accommodate a shortage of substitute teachers.

The Association argues its position by alleging that the District has a history of having a substitute teacher problem that it has not addressed sufficiently and asserts that the District has not tried to get substitutes when needed. Further, the Association states that some Special Education teachers have been told not to request a substitute when they are planning an absence and the Association believes that this is a violation of the IEP contractual agreement between the parents, teacher and District. The Association supported its claim by alleging that there have been violations of the IEP contracts. The Association states that it has records of such violations dating back to 2007. The Association remarks that although the District claims to have addressed the problem of substitute teachers, the problem continues to this day.

The Association offers that the language they offer allows the District to get substitutes but in the event that it cannot, it would permit those teachers who are less pressed for preparation time to volunteer to give up their preparation time to help other teachers to

maintain compliance by not pulling teachers out of the classroom or by not forcing teachers to combine classes. In support of its allegations, the Association offered e-mails dated 12/9/2011 discussing the possibility of a shortage of substitute teachers in the upcoming week.

The Association expressed serious concerns about the quality of education, compliance with Special Education mandates and pressures on the teaching staff regarding the upcoming teacher evaluation system.

### **The District's Position**

The District is not proposing any changes to the current language. The rationale offered by the District is that the District covers a very large geographic area and has had a great difficulty recruiting substitutes even though it offers compensation that is very similar to the surrounding regional schools. The District states that it is doing the best that it can and advertises every month for substitutes. The District offered documentation from other regional schools for class covering compensation as follows:

There is no language regarding class covering compensation in the CBA's for Derry Area, Greater Latrobe, Blairsville-Saltsburg, Westmont Hilltop, Mt. Pleasant, Somerset and Connemaugh Township. United School District's CBA states : "using a staff member as a substitute for coverage depriving him/her of preparation time is undesirable and will be avoided."; Greater Johnstown offers 328 minutes of coverage awarded or an additional sick day; lost prep time is at \$20/prorated.

The District admits that there have been extensive discussions about this problem between the District and the Association during the past year. But the District cannot place itself in a situation that might not provide coverage for students as a result of absences by Bargaining Unit members. Superintendent Oldham denied that there have been any IEP violations.

The District believes that the current rate is both fair and reasonable and avers that it cannot move to an average hourly rate of Bargaining Unit members.

**Discussion and Recommendation** – This is a serious problem for both the District and the Association. Not only is the shortage of substitute teachers a problem in covering absences and absorbing other assignments but this shortage pervades several other parts of this contractual relationship and appears to have caused ill will and a deterioration of morale. Most of all it erodes the relationship between the teaching staff and the administration of the Ligonier Valley School District.

**Recommendation** – The District shall increase its efforts to recruit a larger list of substitute teachers and will document its efforts. The Bargaining Unit members will assist in this effort. When a teacher is awarded compensatory time, the teacher's supervisor and the teacher will schedule the compensatory time within ten (10) calendar days of the event causing the award of the compensatory time. In no event shall a teacher be denied the use of his/her compensatory time. Combining of classes will only occur only in extreme emergencies and will be avoided. The District will develop a roster of teachers who volunteer to place hold when a substitute is not available, a teacher calls off for an unscheduled absence without prior notice or leaves work due to an emergency. Those volunteers will be utilized before any other measures are used. After all efforts are made and the teacher's supervisor is unable to schedule compensatory time for the teacher with earned compensatory time, the teacher will be reimbursed at the homebound rate in increments of one hour.

### **Issue 7 - Exhibit A: Supplemental Contracts**

The current contract language does not contain the presently filled supplemental positions\_of Choreographer, High School Musical Director Middle School Productions, and Set Construction, High School Drama.

### **The Association's position**

The current Collective Bargaining Agreement does not contain the presently filled supplemental positions of: Choreographer, High School Musical; Director, Middle School Productions, and Set Construction, High School Drama. The Association seeks to place these positions in the Supplemental Contracts matrix.

The Association removed the Director, Middle School Productions from its request.

The Association also requests that the reimbursement rate for the Supplemental Contracts listed in Exhibit be increased from the 2009 – 2010 rates by 2% for the 2014-2015 school year only. Said rates will remain in effect through the 2015-2016 school year.

## **The District's Position**

In the District's April 23, 2013 proposal it agreed with the 2% increase to all Supplemental Contracts, but did not agree to add the new positions.

During the Fact Finding hearing, after discussion, the District agreed to place the Choreographer, High School Musical and the Set Construction, High School Drama positions on the Supplemental Contract Schedule with these positions being paid as income as follows:

2012/2013	2013/2014	2014/2015	2015/2016
\$500	\$500	\$510	\$510

**Recommendation** – It is recommended that the two positions of Choreographer, High School Musical and Set Construction High School Drama be placed on the Supplemental Contracts matrix. These two positions will be reimbursed as income as listed above.

## **Issue 8 - Article 40 - Duration of Agreement**

The current negotiated Collective Bargaining Agreement was a five-year Agreement and was effective from July 1, 2007 through and including June 30, 2012.

### **The Association's position**

The Association's position is that a four -year agreement is necessary to permit the Bargaining Unit to be free from preparation for negotiations. For example, if there is only a three year contract, the proposal for the next Collective Bargaining Agreement will need to be completed by December of 2104-2105 with negotiations starting in January, 2105. Based on this past year's negotiations and the failure to come to resolution on so many issues, the Association anticipates that progress on upcoming negotiations will be as slow as progress has been in the current negotiations. If a four-year agreement is reached, both parties can enjoy one complete school year and an additional three- quarters of a school year of all negotiations and bargaining preparations. The Association asserts that a year away from the table will be good for both parties and will allow the District and the Association to concentrate on educating the student of the District.

### **The District's Position**

The District is proposing a three-year contract. The rationale supporting a three year contract is based on the uncertainty the District faces due to the many issues that have plagued the District in the past few years.

The District presented extensive information about the financial condition the District has experienced during the past several years and what it anticipates as the financial condition in the next few years. The District cites the following problems the District has faced since the 2011 – 2012 academic year. Governor Corbett eliminated the refunding of cyber charter school expenses to all Pennsylvania School Districts and as a result in 2011-2012 the District expended \$1,290, 340 on cyber charter education and \$1,111, 767 in 2012-2013. In 2011-2012 the District received \$779,123 than it received in 2012-2011. Over the past nine (9) years the District has paid out approximately \$4,821,749 more on special education services that it has taken in in state and federal monies.

The District is also extremely concerned about the escalating pension and health care costs. In an effort to cover costs, the District has recently increased the millage by 6 mills, has eliminated some positions and offered an incentive for early retirement.

The bottom line is that due to this financial uncertainty the District is extremely apprehensive about committing to a longer agreement and requests that an agreement be limited to a three year agreement.

## **Discussion and Recommendation**

The District's argument that it faces an uncertain financial future is compelling, however, 2015- 2016 will arrive whether there is an agreement or not. Of great importance is that both parties must be assured of a period of labor peace wherein they are not always continually negotiating. A longer agreement term will also allow the parties to evaluate their respective positions for the future based on a longer period of time.

**Recommendation** - It is my recommendation that the term of this agreement shall be a four-year agreement commencing from July 1, 2012 through June 30, 2016.

**Issue 8 – Other Member Benefits - Healthcare**

Exhibit C – Other Member benefits

The current contract language is as follows:

The following benefits apply only to those members of the bargaining Unit who are in regular attendance and are not extended to employees on leave of absence except where specifically granted elsewhere in this contract, i.e. Family and Medical Leave Act. Members of the Bargaining Unit who work fifty (50) percent or less of the normal work day shall not be entitled to “Other Member Benefits.”

The Bargaining Unit member will be entitled to choose from (1) Blue Cross, Blue Shield U-100 Plan with Major Medical, or 2) Highmark/WIU HOPPO Plans with the following conditions: With the Bargaining Units prior written approval of plan benefits, the Board reserves the right to select a carrier for the group medical insurance with plan benefits that are equal to or better than current coverage.

**A. BLUE CROSS, BLUE SHIELD U 100-PLAN, MAJOR MEDICAL:**

1. The Board will provide payment for Blue Cross, Blue Shield U 100 Plan, individual or family coverage as eligible.
2. Major Medical coverage will be, if elected, \$1,000.000 per individual with a \$250 deductible with the following employee monthly contributions:

**Individual**

2007 - 2008	\$50	2010 - 2011	\$65
2008 - 2009	\$55	2011 - 2012	\$80
2009 - 2010	\$60		

**Parent/Child, Parent/Children, Employee/Spouse or Family Coverage**

2007 - 2008	\$110	2010 - 2011	\$140
2008 - 2009	\$120	2011 - 2012	\$170
2010 - 2011	\$130		

3. The employee will also contribute the monthly difference between the Blue Cross, Blue Shield U-100, Major Medical Plan and the Highmark/WIU HOPPO Plan.

**B. Highmark/WIU HOPPO Plan A:**

1. The Board will provide payment for Highmark/WIU HOPPO Plan A, individual or family coverage as eligible, with the following employee monthly contribution:

**Individual Coverage**

2007 - 2008	\$50	2010 - 2011	\$65
2008 - 2009	\$55	2011 - 2012	\$65
2009 - 2010	\$60		

2. The employee may also elect, if available, another Highmark/WIU HOPPO Plan. If elected, the employee will pay the monthly contribution for Plan A and the monthly difference between Plan A and the other chosen HOPPO Plan.

**Parent/Child, Parent/Children, Employee/Spouse or Family Coverage**

2007 - 2008	\$110	2010 – 2011	\$140
2008 -2009	\$120	2011 – 2012	\$170
2009 -2010	\$130		

The employee may also elect, if available, another Highmark/WIU HOPPO Plan. If elected, the employee will pay the monthly contribution for Plan A and the monthly difference between Plan A and the other chosen HOPPO Plan.

4. If the employee does not elect District Medical coverage, he/she shall choose from OPTION A – an income protection plan coverage at a District contribution rate not to exceed \$125 per month (the member may elect additional coverage at his/her own expense) OR OPTION B – An insurance rebate plan at a District contribution of \$1,500 in an annual lump sum payment and in the member's June 30 pay.

### **The Association's Position**

The Association testified that the majority of its members have opted to use the Westmoreland County Healthcare Consortia PPOA Plan with co-premiums of \$80/\$170 per month for Individual/Dependent coverage at this time. Some of the Association's members have also opted to buy up to the better PPO E plan and are paying the stipulated monthly co premium plus the difference in the monthly plan costs.

The Association argues against paying higher deductibles and higher co-premiums at this time because historically they have been paying consistently higher co-premiums than any other county teachers and for a much longer time. In a comparison of adjacent school district average co-premiums Bargaining Unit members pay much higher co-premiums. The Association seeks to have the High Option PPO Plan A remaining as the base plan with modest increases in co-premium payments with the ability for Bargaining Unit members to buy up to PPO E. The Association offers increases of \$10.00 per month for the first year, no increase in the second year, and \$10 increases in the third and fourth years of the agreement with the final year's co-premiums being \$110/\$200 Individual/Dependent coverage for PPO A.

### **The District's position**

The District's position is supported by a documented consistent increase in the costs of providing health care coverage for the employees of the District. The District believes that these costs will continue to incur increases year by year. In addition, the district cites the uncertainty in increasing costs by the implementation of the Affordable Health Care Act in 2014 to 2016.

The District offers Plan G as the base plan for all employees with in network deductibles of \$250/\$500 and with member contributions of \$90.00 for an individual and \$180 for all others. However, employees may also choose as an alternate Plan A with employee contributions of \$120 per month for individuals and \$250 for all others or Plan B with employee contributions remaining at \$90 for individuals and \$180 per month for all others. The District shall continue to make a one-time contribution for members choosing Plan B as follows: Individual - \$500 and \$800 for all others.

The District also proposes that those employees whose spouses have the opportunity to buy healthcare through their own employees will be precluded from coverage under the District's healthcare plans. In addition, the District also proposes that any new hires or those who move from a part time on or before July 1, 2013 shall receive individual coverage only. (The fact-finder cautions that the District cannot preclude, under certain conditions, dependent children under the age of 26 from remaining on their parent's coverage.)

The District believes that if any additional money is awarded to the salary scales then there should be an offset with additional changes made to health care coverage.

**Discussion and Recommendation** – The District made a compelling argument for the need to implement cost containment controls on health care costs and provided extensive documentation which supports the need to control health care costs. However, the Association also documented that it has paid the highest premiums and contributions for many years in comparison with contiguous school and comparable school districts. The Association is not asking for the status quo and understands the District's need to offset healthcare costs and as result has offered regular increases in co-premiums.

**Recommendation** – The recommendation is to accept the Association's proposal as provided in their pre-fact finding hearing documentation with some modification as follows:

All references to the Blue Cross/Blue Shield health insurance will be removed from the contract. The High Option PPO Plan A will remain as the base plan with the ability for Bargaining Unit members to buy up to PPO E.

Those Bargaining Unit members who participate in District healthcare coverage regardless of the plan choice shall pay an increase in co-premiums of \$10.00 for individual and all others coverage in each year starting in 2012-2013.

2012 – 2013 - A \$10.00 increase in co- premiums in the first year;  
2013 – 2014 - A \$10.00 increase in co-premiums in the second year;  
2014 – 2015 - A \$10.00 increase in co-premiums in the third year; and in  
2015 – 2016 - A \$10.00 increase in co-premiums in the fourth year.

If spousal coverage has been chosen under the employee's health care plan, coverage will continue for all currently employed Bargaining Unit members.

The District shall continue to make contributions into an HRA as follows: Individual \$20 per month and all others \$75 per month.

All other benefits provided under Exhibit C that were not at issue in the fact finding will remain the same as in the current contract.

### **Issue No. 9 – Exhibit B: Salary Schedule**

Current salaries are found in salary schedule covering the years 2007 through 2011-2012 found in the current Collective Bargaining Agreement.

#### **The Association's Position**

The Association proposes that year 2012 -2013 contains a half year vertical freeze and at the half year point, the Bachelor's column is removed and the Bachelor's + 12 becomes the Bachelors column. A vertical step movement takes place ( a 2.91% increase) as well as salary retroactivity.

Year 2: 2013 - 2014 contains a half year vertical freeze and vertical step freeze. Eliminate thStep 1 to maintain the current number of steps. Remain on the 2012-2013 schedule and step with the above changes so incremental steps do not increase. Remain on the 2012-2013 schedule and steps with above changes until 91 days into the school year, then move to the 2013 -2014 attached to the proposal and progress one step (a 3.01% increase for a year.)

Year 3: 2014 - 2015 annual vertical step movement as proposed in their salary proposal with an annual vertical step movement at the beginning of the year culminating in a total 3.25% increase per year.

The Association proposes a four year agreement with proposed salary increases in Year 4: 2015 – 2016 with a 2.00% increase to scale with step movement (a total of 3.9% increase).

#### **The District's Position**

The District presented a dire picture of the financial picture that all school districts in the Commonwealth have been facing and will continue to face in the future. The District is facing increasing costs in the area of health care, pension contributions, an uncertainty about increased health care costs due to the Affordable Healthcare Act, increased unreimbursed special education costs, expenses for cyber charter schools and a myriad of other financial problems. At one point in the past several years, according to the District's presentation, the District was in danger of not being able to cover its costs and was fortunate enough to receive a one-time \$800,000 grant from the Mellon Foundation. The District has also recently raised the millage 6 mills and has made personnel cuts in an effort to raise funds.

The District proposes a wage freeze in year one (2012-2013) with salaries frozen at the 2011-2012 level, in year 2 a 2.23% increase on the schedule with no step movement, in Year 3 a 2.5% increase inclusive of salary schedule movement.

#### **Discussion and Recommendation**

It is impossible to ignore the District's dire financial situation. This same financial problem is epidemic throughout the Commonwealth. A representation of surrounding school districts reveals that many neighboring school districts have adopted salary freezes for the first year and sometimes the second year of new contracts. The Ligonier Valley School District is in precarious financial condition and at this time cannot continue to raise salaries without some controls until the financial picture becomes more stable. The Association does understand this situation and has offered a delay in salary raises by offering a split schedule form. In comparison with surrounding school districts, whether in Westmoreland County or in those counties to the south and east of the District, the District's salaries are competitive. Of course, there are those districts where there is a higher starting and ending salaries but there are also those districts that are much lower. But regardless of that, the compelling argument in the matter at hand is that the District has lost significant revenue, has suffered a significant student loss to cyber charter schools, has experienced the continuing loss of Federal and state revenues and has even put serious repairs to the infrastructure on hold. At no time during the fact finding hearing was there a representation that the District has not been a prudent steward of the tax payer's money. As a result, the District's salary package is the most persuasive option. It permits the District to have control over expenditures during the next critical years and plan for the future.

**Recommendation** – It is recommended that the District’s proposed salary schedule as attached be adopted for school years 2012-2013 through 2014- 2015. The District proposes a wage freeze in year one (1) (2012-2013) with salaries frozen at the 2011-2012 level, in year Two (2) (2013– 2014) an increase on the schedule with no step movement, in year three (3) (2014 – 2015) an increase inclusive of salary schedule movement. In addition, I propose a salary schedule with an increase for year four (4) (2015 – 2016) with no step movement.

Salary schedules are attached.

The Fact Finding Report is completed.

I recommend that all Tentative Agreements agreed to prior to and during the fact-finding hearing be adopted and that all other applicable language in the contract, not subject to these proposed recommendations remain as is.

Respectfully submitted,

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Jennie K. Bullard, Esquire  
Fact Finder

Vandergrift PA  
July 29, 2013

#### **CERTIFICATE OF SERVICE**

This is to certify that. Pursuant to the parties’ agreement, an electronic copy of the foregoing was e-mailed this 29<sup>th</sup> day of July, 2013, to the Pennsylvania Labor Relations Board at [plrb@dli.state.pa.us](mailto:plrb@dli.state.pa.us); and e-mailed to Kathy Bish Bell at [Kbish@psea.org](mailto:Kbish@psea.org); and e-mailed to Carl P. Beard, Esquire for the District at [cbeard@andrewsbeard.com](mailto:cbeard@andrewsbeard.com).

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Jennie K. Bullard, Esquire  
Fact Finder

**2012-2013 Salary Matrix**

Step	BA	BA + 12	BA + 24	MA	MA + 12	MA +24	MA + 36
1	40000	40500	41000	41500	42000	42500	43000
2	40250	40750	41250	42000	42500	43000	43500
3	40500	41000	41500	42500	43000	43500	44000
4	40750	41250	41750	43000	43500	44000	44500
5	41000	41500	42000	43500	44000	44500	45000
6	41500	42000	43000	44500	46000	46500	47000
7	42000	43000	44000	45000	47000	47500	48000
8	42500	43500	45000	46000	48000	48500	49000
9	43000	44000	46000	47000	50000	50500	51000
10	43500	44500	47000	48000	51000	51500	52000
11	45000	46000	48000	50500	53000	53500	54000
12	46000	47000	49000	53000	55000	55500	56000
13	47000	48000	51000	55500	59000	59500	60000
14	48000	49000	54000	60500	63000	63500	64000
15	49500	52000	57000	65500	67000	67500	68000
16	50000	55000	60000	73500	74000	74500	75000

**2013-2014 Salary Matrix**

Step	BA	BA + 12	BA + 24	MA	MA + 12	MA +24	MA + 36
1	40450	40950	41450	41950	42450	42950	43450
2	41100	41600	42100	43100	43600	44100	44600
3	41350	41850	42350	43600	44100	44600	45100
4	41600	42200	42700	44200	44700	45200	45700
5	42100	42700	43700	45200	46700	47200	47700
6	42600	43700	44700	45700	47700	48200	48700
7	43100	44200	45700	46700	48700	49200	49700
8	43600	44700	46700	47700	50700	51200	51700
9	44100	45200	47700	48700	51700	52200	52700
10	45600	46700	48700	51200	53700	54200	54700
11	46600	47700	49700	53700	55700	56200	56700
12	47600	49000	51900	55600	59700	60200	60700
13	48600	49600	54600	61100	63600	64100	64600
14	50100	52600	57600	66100	67600	68100	68600
15	50350	54100	59100	70100	71100	71600	72100
16	50450	55700	60800	74300	74800	75300	75800

**2014-2015 Salary Matrix**

<b>Step</b>	<b>BA</b>	<b>BA + 12</b>	<b>BA + 24</b>	<b>MA</b>	<b>MA + 12</b>	<b>MA +24</b>	<b>MA + 36</b>
1	40950	41450	41950	42450	42950	43450	43950
2	41550	42050	42550	43550	44050	44550	45050
3	41800	42300	42800	44050	44550	45050	45550
4	42050	42650	43150	44650	45150	45650	46150
5	42550	43150	44150	45650	47150	47650	48150
6	43050	44150	45150	46150	48150	48650	49150
7	43550	44650	46150	47150	49150	49650	50150
8	44050	45150	47150	48150	51150	51650	52150
9	44550	45650	48150	49150	52150	52650	53150
10	46050	47150	49150	51650	54150	54650	55150
11	47050	48150	50150	54150	56150	56650	57150
12	48050	49450	52350	56050	60150	60650	61150
13	49050	50050	55050	61550	64050	64550	65050
14	50550	53050	58050	66550	68050	68550	69050
15	50800	54550	59550	70550	71550	72050	72550
16	50900	56150	61250	74750	75250	75750	76250

**2015-2016 Salary Matrix**

<b>Step</b>	<b>BA</b>	<b>BA + 12</b>	<b>BA + 24</b>	<b>MA</b>	<b>MA + 12</b>	<b>MA +24</b>	<b>MA + 36</b>
1	\$41,450	\$41,950	\$42,450	\$42,950	\$43,450	\$43,950	\$44,450
2	\$42,050	\$42,550	\$43,050	\$44,050	\$44,550	\$45,050	\$45,550
3	\$42,300	\$42,800	\$43,300	\$44,550	\$45,050	\$45,550	\$46,050
4	\$42,550	\$43,150	\$43,650	\$45,150	\$45,650	\$46,150	\$46,650
5	\$43,050	\$43,150	\$44,650	\$46,150	\$47,650	\$48,150	\$48,650
6	\$43,050	\$44,650	\$45,650	\$46,650	\$48,650	\$49,150	\$49,650
7	\$44,050	\$45,150	\$46,650	\$47,650	\$49,650	\$50,150	\$50,650
8	\$44,550	\$45,650	\$47,650	\$48,650	\$51,650	\$52,150	\$52,650
9	\$45,050	\$46,150	\$48,650	\$49,650	\$52,650	\$53,150	\$53,650
10	\$45,050	\$47,650	\$49,650	\$52,150	\$54,650	\$55,150	\$55,650
11	\$47,550	\$48,650	\$50,650	\$54,650	\$56,650	\$57,150	\$57,650
12	\$48,550	\$49,950	\$52,850	\$56,550	\$60,350	\$61,150	\$61,650
13	\$49,550	\$50,550	\$55,550	\$62,050	\$64,550	\$65,050	\$65,550
14	\$51,050	\$53,550	\$58,550	\$67,050	\$68,550	\$69,050	\$69,550
15	\$51,300	\$55,050	\$60,050	\$71,050	\$72,050	\$72,550	\$73,050
16	\$51,400	\$56,650	\$61,750	\$75,250	\$75,750	\$76,250	\$76,750