

**PENNSYLVANIA
LABOR RELATIONS BOARD**

FACT-FINDING

CASE # ACT 88-14-7-W

IN THE MATTER BETWEEN

**DUQUESNE CITY SCHOOL DISTRICT
AND
DUQUESNE EDUCATION ASSOCIATION, PSEA**

**FACT-FINDER
THOMAS L. HEWITT**

DISTRICT

WILLIAM C. ANDREWS, ESQUIRE
ANDREW F. EVANKOVICH, ESQUIRE
ANDREWS & PRICE

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Paul Rach Chief Recovery Officer
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ERIC H. SANOBA, MEDIATOR

VIA E-MAIL; HARD COPY TO FOLLOW

BACKGROUND

The teachers of the Duquesne City School District are represented by the Duquesne Education Association, PSEA, under a Collective Bargaining Agreement effective July 1, 2009, through June 30, 2012. The Duquesne City School District was declared to be in severe financial recovery status by the Secretary of Education on November 16, 2012, and a twenty-nine page Recovery Plan was completed on February 11, 2012. The elected School Board declined to approve the Recovery Plan and the Secretary of Education petitioned the Allegheny County Court of Common Pleas to appoint a Receiver and implement the Recovery Plan. The Senior Judge granted the Petition on April 2, 2013, and the Recovery Plan was officially implemented on that date.

Serious problems of the District cited by the Secretary of Education:

- Senior high school eliminated in 2007 (9-12);
- Junior high school eliminated in 2012 (7-8);
- 2012-2013 Supplemental Funding from Commonwealth - \$2.5 Million;
- Annual debt service obligation exceeds revenue from local taxes;
- District requested and received four advances on Basic Educational Subsidy 2004, 2005, 2006 and 2007;
- District certified in financial distress on October 11, 2000 and remains so;
- District lacks a long-term plan to address financial difficulties and become fiscally self-sufficient.

All the students in Grades 7-12 have been transferred to West Mifflin and East Allegheny School Districts and to various charter schools. Since it is legally impossible to eliminate a school district, this leaves the District with levels K – 6, consisting of 369 pupils and 35 teachers, plus the Administrative Staff. At present, the law requires that the Administrative Staff must stay in existence to monitor all the students, even if levels K - 6 are assigned to other school districts. The cost of sub-contracting the students to other school districts and charter schools is considerably, and in some cases extremely, higher than the cost of educating the students in the Duquesne City School District. The PSSA or SAT tests scores of the 7 - 12 grade students transferred to other school districts do not show an appreciable increase.

The Recovery Plan addresses both finance and education for this K - 6 educational unit. The dual goal of the Plan has been to re-establish high quality public education while achieving stable and sustainable finances.

Financially, local real estate taxes and earned income taxes have been in line with the budget financial report. The average house is valued at \$10,000 and the taxes generated from real estate are well below the state average in this 1.9 square mile city. Many of the households are comprised of single parents with low incomes. Other households are retired persons with some raising their grandchildren while on Social Security. Since the main industries that provided the necessary tax base are no longer in existence, the result has been traumatic. Necessary funds to operate the District are unavailable from the current tax base.

The City of Pittsburgh School District and the Allegheny Intermediate Unit both have attempted to resolve the educational problem in this District, which has both the lowest PSSA scores and the lowest financial position in Pennsylvania's five hundred school districts. The Recovery Plan addressing both finance and education has been implemented and appears to be working, but achieving the goals set is very difficult considering all the problems involved. One positive example of achievement is there are fewer documented behavioral problems.

One of the results of the financial side of this two point recovery plan is that many of the District's teaching programs have been eliminated. For example, there is no longer a computer introduction program in this elementary school. Without computer knowledge, it may be more difficult for students to achieve increases in their test scores. The arts programs and many others also have been eliminated. This may be productive in reaching the financial goal, but it appears to this Fact-Finder to be counterproductive in the educational goal. Many of the administrative positions have been eliminated, and other cost-saving procedures have been initiated; even the pencils are often personally supplied by the teachers. Some administrators and teachers have sought and found employment elsewhere. There is no question the future looks bleak from all aspects.

A Receiver was appointed by the Court and any labor contract settlement must be acceptable to the Receiver in order to be recommended to the Judge, who must also find the settlement acceptable and within the guidelines, and recommend acceptance by the Court. The Court must then approve the contract settlement or in this case, the Fact-Finder's report. The Fact-Finder does not know what effect the Union's refusal has in this process.

The District and the Receiver both insist on a compensation plan based upon a ten (10%) percent performance increase and other indicators of effectiveness, as have been presented by the District. One of the most important considerations in the plan is to increase the proficiency in reading and math by ten (10%) percent, based upon the PSSA standardized tests and other indicators. Salary based upon test scores is an issue which has been approached in contract negotiations statewide without any acceptance in any of the school districts in the state. This bargaining unit advised the Fact-Finder in no uncertain terms that they would not accept any salary increases based upon performance. The teachers are not adverse to an additional bonus system tied to performance, but not one tied to increases in their basic wage scale. The District suggested that the step increase lost in the first year of the contract be implemented in the third year, based upon the understood ten (10%) percent increase in performance criteria. The teacher's Local and State Union representatives declined this offer with very little consideration.

On the educational side, a very comprehensive plan of training of the teachers at Duquesne has been implemented to such a degree that the teachers voice that they are the most trained teachers in Pennsylvania. They not only have developed individual lesson plans for the special education students but have also developed *individual lesson plans for every pupil*.

The teachers point out that thirty-two (32%) percent of the student body are special education students and a ten (10%) percent improvement in their performance is not comparable to an overall performance increase of ten (10%) percent in an average student body. The teachers further advance that a ten (10%) percent increase in test performance from their current thirty (30%) percent level should not be considered an increase from thirty (30%) percent to forty (40%) percent, but a ten (10%) percent increase from thirty (30%) percent to thirty-three (33%) percent. They state that a thirty (30%) percent to forty (40%) percent increase in overall performance based upon the criteria of the District is not within the realm of possibility no matter how well trained, academically achieved or “how good of a teacher they are.”

The Education Association presented a list of thirty-four (34) demands that were not on the table at the last negotiation session, chaired by the State Mediator Eric H. Sanoba, and therefore they are considered as additions for the purpose of achieving something in Fact-Finding they were unable to achieve in negotiations. However, for the record, they are individually considered and denied based upon their costs and the finances of the District. Some of the demands deal with contract housekeeping and those have been agreed to by the District in this hearing and therefore are a Finding [existing Tentative Agreement on Seniority language in Article XIV, E; clarification that language on day-to-day subs is informational only; strike references to Major Medical Plan no longer in existence; other editorial change (dates, etc.). An updated seniority list shall be provided by the District.]

Wages for the teachers were frozen for the 2012-2013 school year and they feel they have already lost the step increase for that year. Consequently, the teachers request that they be moved up **two steps** on the wage scale in 2013-2014, to help make up for this loss. The teachers point out that the loss of this step increase is a perpetual loss which will affect their wages in every year of the contract, for the rest of their employment.

The District proposed a freeze in the first year of this contract. They proposed in the second and third year the step increase be paid based upon the “10% performance criteria.” Additionally, the District proposed to implement the first year’s lost step, as an additional step, in the third year if it was based on the “10% performance criteria” of the second year. **See Rationale below for more detail.**

This is a much more involved and complicated situation than included in this report and has been addressed and re-addressed by others. Pennsylvania Acts 14, 16, 48, 93, 95 and 178 are involved and presented by the parties. The facts, presentations, testimony, evidence and arguments at the Fact-Finding, as well as local and total revenues, local tax effort, state subsidies, revenue shortfalls, fund balance, expenditures, starting rate, minimum and maximum rates, average salary, comparisons with other districts, prior labor agreements, the welfare of the public and such other factors not confined to those listed above, which are normally and traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in public service or private sector employment, are considered by this Fact-Finder.

FINDINGS

ARTICLE II TERM OF AGREEMENT

Finding:

This Agreement shall be effective July 1, 2012 and shall continue in effect until June 30, 2015, subject to the Association’s right to negotiate a successor Agreement. This Agreement shall not be extended orally and it is expressly understood that it shall expire on the date indicated.

Rationale: *The uncertainty of the situation does not warrant unsustainable projections.*

ARTICLE XXI SALARIES

Finding:

Salaries shall be paid on the fifteenth (15th) day or the closest working day prior to the fifteenth (15th) of the month and the last working day of the month. The District shall provide a list of all identified paydays no later than September 15th of each year. There shall be no change in supplemental pay.

The following is the salary schedule; step movements permitted each year, with a Nine Hundred (\$900) Dollar bonus for all current employees in first year, and a Five Hundred (\$500) Dollar bonus to be paid in 2013-2014 school year, to employees already on Step 15, and a Five Hundred (\$500) Dollar bonus to be paid in 2014-2015 for those already on Step 15 that year. The bonus for the first year of the contract is to be paid to current employees the payday following contract acceptance. It shall be prorated where applicable. The bonus for each of the other two (2) years shall be paid on the last payday before the conclusion of the school year. It also may be pro-rated.

**FROZEN ON STEP FOR 2012-2013
2012-2013 SALARY SCALE**

Step	Bachelors	Bachelors +24	Masters	Masters +10	Masters +20	Master +30
1	\$42,319	\$45,576	\$48,833	\$52,090	\$55,347	\$58,604
2	\$42,824	\$46,081	\$49,338	\$52,595	\$55,852	\$59,109
3	\$43,155	\$46,412	\$49,669	\$52,926	\$56,183	\$59,440
4	\$43,458	\$46,715	\$49,972	\$53,229	\$56,486	\$59,743
5	\$43,884	\$47,141	\$50,398	\$53,655	\$56,912	\$60,169
6	\$44,416	\$47,673	\$50,930	\$54,187	\$57,444	\$60,701
7	\$44,948	\$48,205	\$51,462	\$54,719	\$57,976	\$61,233
8	\$45,479	\$48,736	\$51,993	\$55,250	\$58,507	\$61,764
9	\$46,012	\$49,269	\$52,526	\$55,783	\$59,040	\$62,297
10	\$46,469	\$49,726	\$52,983	\$56,240	\$59,497	\$62,754
11	\$48,598	\$51,855	\$55,122	\$58,369	\$61,626	\$64,883
12	\$50,259	\$53,516	\$56,773	\$60,303	\$63,287	\$66,544
13	\$51,771	\$55,028	\$58,285	\$61,542	\$64,799	\$68,056
14	\$55,078	\$58,335	\$61,592	\$64,849	\$68,106	\$71,363
15	\$72,395	\$75,652	\$78,909	\$82,166	\$85,423	\$88,680

There shall be no step movement in the 2012-2013 school year. All present employees on the payroll at the end of the 2012-2013 school year shall receive a bonus of Nine Hundred (\$900) Dollars. Those who worked less than the whole school year shall be pro-rated.

2013-2014

Employees shall move up on step. Employees already on top Step 15 shall receive a bonus of Five Hundred (\$500.00) Dollars on the last payday in November.

2014-2015

Employees shall move up on step. Employees already on top Step 15 shall receive a bonus of Five Hundred (\$500.00) Dollars on the last payday in November.

Rationale: (DISTRICT PROPOSAL) Along with the learning committees' duties outlined, the indicators of effectiveness must be achieved and the pay will be retroactive for the year. All documentary indicators of effectiveness are achieved but if PSSA indicators of effectiveness fall short of the ten (10%) percent goal for reading and/or math, then partial step movement shall be awarded based on the combined percentage improvements for reading and math divided by twenty (20%) percent. In other words, percent step movement (percent improvement reading + percent improvement math) = twenty (20%) percent.

This is a partial proposal of the District in regard to the compensation based upon performance issue. This is a group incentive and if some fall short, all the others fail to receive an increase that year. No other school district in Pennsylvania has a step movement based solely upon performance criteria. Some may have bonus incentives based upon performance, but none were presented at this hearing. Included in this compensation performance is the fact the teachers do not get paid until July following the end of that school year, as this is when the test results become available for that year.

As to the makeup of the step lost in a year with a freeze, a freeze is the loss of an increase in that year and that includes the loss of the step increase. Freezes are rather commonplace when one works without a contract for over a year and especially for multiple years. This is akin to the Employer saying we gave you another week of vacation last year but we only meant that to be for that year only and we did not expect it to go on forever.

RESOLUTION OF ISSUES

All collective bargaining proposals or issues not addressed in this Fact-Finder's Report, whether submitted or not, are considered moot, resolved or unchanged from the previous contract. There shall be no other changes, additions or modifications to the previous Agreement, including supplemental contracts, and all unchanged language not addressed in this report shall continue in effect and shall be incorporated into the new Collective Bargaining Agreement unless it had a specific termination date.

Issued at Latrobe, Pennsylvania, on this 31st day of March in the year of our Lord Two Thousand Fourteen.

/s/ Thomas L. Hewitt

Thomas L. Hewitt, Fact-Finder