

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LABOR RELATIONS BOARD

IN THE MATTER OF THE EMPLOYES OF :
 :
MINERSVILLE AREA SCHOOL DISTRICT : ACT 88-15-14-E

REPORT AND RECOMMENDATIONS

FACT FINDER: Debra K. Wallet, Esquire

FOR THE EMPLOYER:

Kevin Wigoda, School Dist. Board
Vice President and Committee Chair
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P.O. Box 787
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FOR THE UNION:

Steven J. Cholish, Uniserve Rep.
PSEA
4950 Medical Center Circle
Allentown, PA 18106-9692

BACKGROUND

Pursuant to Act 88 of 1992 (Act 88) and the Public Employee Relations Act (PERA), the undersigned was appointed by the Pennsylvania Labor Relations Board (PLRB) on April 10, 2015 as the Fact Finder in the impasse between the Minersville Area School District (School District) and the Minersville Area Education Association, PSEA/NEA (Association).

In accordance with the PLRB's Order of April 10, 2015, both parties filed with the Fact Finder written statements of the issues in dispute. It appears that there are the following unresolved issues: duration of agreement; salary; medical insurance; language relating to the Affordable Care Act and excise tax.

A Fact Finding was held at the Minersville Career and Counseling Center on May 11, 2015, at which time both Parties were afforded a full opportunity to present testimony, examine and cross-examine witnesses, introduce documentary evidence, and argue orally in support of their respective positions regarding the issues in dispute. Both sides made professional and courteous presentations to the Fact Finder.

The following recommendations constitute 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 rationale in support of the recommendations, but rather represents only an agreement to resolve the issues by adopting the recommendations. The Parties are directed to review the Report and, within ten (10) days of its issuance, notify the PLRB of their decision to accept or reject the recommendations.

ISSUES

The Fact Finder has made recommendations on the following issues:

1. Duration of agreement
2. Salary and retroactivity
3. Medical insurance
4. Patient Protection Affordable Care Act (PPACA) Excise Tax language

OVERVIEW AND BARGAINING HISTORY

The School District is located in northeastern Pennsylvania along the Interstate 81 corridor, approximately 50 miles from Harrisburg. It encompasses Branch, Cass, Foster, and Reilly Townships as well as Minersville Borough. The School District has three physical structures: two elementary buildings and one junior/senior high school which houses grades 7 through 12. The Llewellyn Early Child Center houses 4K and kindergarten students. There are approximately 1,234 students presently in the District. The School District serves a predominantly rural community with a large senior citizen population on fixed incomes.

This Bargaining Unit consists of approximately 88 professionals as described in PLRB Certification PERA-R-472-C. The Bargaining Agent is Minersville Area Education Association. The prior collective bargaining agreement began July 1, 2011 and expired June 30, 2014, but the parties continued to work under the terms and conditions of this expired contract while bargaining on a successor agreement. The parties met numerous times in an effort to reach an agreement, including sessions with the Mediator, but when these efforts were unsuccessful, the Association requested Fact Finding. The undersigned Fact Finder was appointed April 10, 2015.

TENTATIVE AGREEMENTS

At the Fact Finding there was some dispute regarding what provisions to which there had been tentative agreement during negotiations. The Association believed that only one article, Leaves of Absence (Article IX), with respect to vacation and sick days allowed to be taken in half day increments, has been the subject of any tentative agreement. Section 2 of Article IX would allow for five days of paid bereavement leave, deleting any reference to the day of death and the day after the funeral.

The School District believes that in addition to this tentative agreement, there has been an agreement with respect to reducing the work year from 187 to 186 days. The Association denies any agreement with respect to this reduction. The Fact Finder must, therefore, conclude that no such agreement has been made.

There had also been some discussions regarding retroactivity but only if the contract was settled by February 27, 2015 or March 15, 2015 if negotiations continued. Obviously, as of the May 11 Fact Finding, no settlement has been reached. This provision on retroactivity is moot.

Subsequent to the Fact Finding, the Parties agreed to language changes in Article IX. Those provisions will be adopted as part of this Report.

The Fact Finder Adopts the Following Provisions Agreed to by the Parties:

Article IX: Section 1 – Vacation Days

Delete the first paragraph and replace with:

Professional employees shall be afforded two (2) vacation days of absence during the school year, provided that written notice of the day desired is given to the Superintendent at least two (2) days in advance, and provided further that no more than one vacation day shall be permitted on the last school day before, and the first school day after, a vacation or holiday, or for the purpose of engaging in service or activities for which remuneration or compensation in any form will be paid. These days can be taken in half-day or full-day increments.

Article IX: Section 2 – Death of a Relative

For death in the immediate family (parent, wife, husband, parent-in-law, brother, sister, son or daughter) leave of absence not to exceed five (5) teaching days will be allowed without deduction of salary.

For the death of a near relative (first cousin, aunt, uncle, niece, nephew, grandparent, grandchild, brother-in-law, sister-in-law, daughter-in-law, or son-in-law) one day's absence for attendance at the funeral without deduction of salary will be allowed.

For the death of a "near relative" as defined above or any other relative who makes his/her home with the employee, leave of absence not to exceed three (3) teaching days will be allowed without deduction of salary.

Article IX: Section 5 – Sick Leave

In opening any school year whenever a professional employee is prevented by personal or immediate family illness or accidental injury from following his/her occupation, the Board shall pay to said employee for each day of absence, the full salary to which the employee is entitled as if said employee were actually engaged in the performance of duty, for a period of ten (10) days which may be used in half-day or full-day increments. Any such unused sick leave shall be cumulative from year to year in the school district of current employment or its predecessors without limitation. No employee's salary shall be paid if the accidental injury is incurred while engaged in remunerative work unrelated to school duties.

FACT-FINDER'S DISCUSSION AND RECOMMENDATIONS

ARTICLE XIV – MISCELLANEOUS PROVISIONS

SUBSECTION I. DURATION OF AGREEMENT – EFFECTIVE DATE

Association Proposal

Throughout negotiations, the Parties discussed a three-year agreement commencing July 1, 2014 through June 30, 2017. At the Fact Finding, the Association sought a four-year agreement covering the time period from July 1, 2014 through June 30, 2018, arguing that the parties are now three quarters of the way through the first year of the proposed agreement.

School District Proposal

The School District continues to espouse a three-year agreement.

Fact Finder's Recommendation

Although the Association raises a good point and suggests that the parties will be bargaining very quickly on a new agreement if a three-year agreement is imposed, in view of the Fact Finder's decision regarding retroactivity, the recommendation will be for a three-year period.

Recommended New Agreement

Article XIV, Subsection I – Duration of Agreement – Effective Date

This Agreement shall be effective July 1, 2014 and shall continue in effect until June 30, 2017, the date of expiration. This Agreement, or any provision of it, shall not be extended orally, and it is expressly understood that it shall expire on the date indicated. The Board and Association agree that the contract provisions will continue to be enforced after the expiration date providing that both parties will continue to bargain in good faith.

ARTICLE XV: SALARY SCHEDULE

Association Proposal

- 2014-2015: \$140,867 placed into a 23 step salary schedule
- 2015-2016: \$146,712 placed into a 23 step salary schedule
- 2016-2017: \$146,727 placed into a 23 step salary schedule

All salary increases to be retroactive to July 1, 2014.

School District Proposal

- 2014-2015: \$1,600 applied to each teacher's salary
- 2015-2016: \$1,650 applied to each teacher's salary
- 2016-2017: \$1,650 applied to each teacher's salary

No retroactivity.

Fact Finder's Recommendation

The current salary schedules consist of a compacted schedule having resulted from the removal of significant steps at the Bachelor's Degree, the Bachelor's Degree plus 15, and the Master's Degree levels during the last negotiations. This action compacted the schedule from 35, 36, or 37 steps to either 20, 21, or 22 steps, depending upon the degree level.

The Association argues that these are not true salary steps because the employer may place an individual anywhere on these steps, not just at Step 1. Within current Article XV, Section 1, Subsection 5, "The Board of Education will have the unilateral right to place a new employee, with proper certification, on a salary step not to exceed five (5) steps above their experience level." The Association points out that employees will never reach "career level" because there is no step movement, only a flat increase as negotiated for each year of the Agreement. This results in a teacher with identical experience being paid more than another association member with the same experience, depending upon where the teacher had been placed initially on the salary schedule.

The Parties' dollar proposals for pay increases are very close. After hearing extensive analysis from the Association concerning the ability of the School District to pay its proposed increases, with no rebuttal from the School District, ability to pay does not seem to be an issue. The School District does a good job of budgeting (actual revenue has exceeded budgeted revenue in every year since 2010) and is a prudent manager of resources (its fund balance has exceeded budgeted fund balance in every year since 2010). Nevertheless, the School District has increasing demands on use of its revenue and fund balance. The real debate here is about retroactivity. The Fact Finder will grant retroactivity and accept the School District's proposed increases.

The Association makes a strong argument that the salary schedule should be modified to a standard 23 steps with consistent starting salaries. The rationale includes the following arguments:

- A salary schedule guarantees equity: the same pay for people with equal credentials and experience doing the same job.
- Schedules make costing and adjusting the payroll easy; this simplifies negotiations.
- Salary schedules such as the schedule proposed by the Association are successfully implemented in 95% of the school districts in Pennsylvania.
- The starting salaries proposed will assist the District in recruiting highly qualified applicants for teaching positions.
- When comparing Minersville's salary position with comparable districts, namely the districts of Blue Mountain, Mahanoy Area, North Schuylkill, Pine Grove Area, Pottsville Area, Saint Clair Area, Schuylkill Haven Area, Shenandoah Valley, Tamaqua Area, Tri-Valley, and Williams Valley,¹ the data shows that Minersville's average salary is only approximately \$700 above the average of the county despite the fact that Minersville's teachers have an average of 14.8 years of service as compared to the composite of 12.6 years of service.

Perhaps more compelling is the statistic that Minersville is in the bottom ¼ of percentage with Master's degrees. The Association suggests that Minersville's professional employees have little motivation to obtain their Master's degree.

While it is true that Minersville's career rates and the average salary are both slightly above the composite rate for the comparable districts, average salary increases for 2014-2015 for those districts who have concluded bargaining is approximately \$1,450. Averages for 2015-2016 are \$1,755 and averages for the three comparison schools (North Schuylkill, Tamaqua, and Tri-Valley) for 2016-2017 are \$1,783.

Unfortunately, even when pressed, the School District could not give a good reason why compaction to a 23-step salary schedule would in some way harm the School District or be otherwise unacceptable. The only reason given was that unequal raises "will cause strife among teachers." This may be true, but it is the Association that represents these teachers.

Having found that the argument for a 23-step salary schedule is persuasive, the Fact Finder's recommendation will be: (1) adoption of the School District's total dollar increase but with retroactivity to July 1, 2014; (2) adoption of the proposed 23-step salary schedule with a step increase in the second and third years of the Agreement; and (3) a compromise on the starting salaries.

Recommended New Agreement

Total salary increases will be as follows:

- 2014-2015: \$1,600 x 88 = \$140,800
- 2015-2016: \$1,650 x 88 = \$145,200
- 2016-2017: \$1,650 x 88 = \$145,200

Starting salaries will be: Bachelor's: \$36,252 in 2014-2015; \$36,350 in 2015-2016; and \$37,000 in 2016-2017.

Teachers will move up one step on the salary schedule in years 2015-2016 and 2016-2017.

The proposal will be made retroactive to the first pay period after July 1, 2014 with payment on the retroactivity to be made in the first pay period after the signing of the Agreement. The Fact Finder recommends the salary schedule provided by the Association utilizing these numbers and placed into a 23-step salary schedule. The salary schedules are attached hereto as Exhibits A, B, and C for the three years of the Agreement.

ARTICLE XII – FRINGE BENEFITS

SECTION 1 – MEDICAL COVERAGE FOR EMPLOYEE AND FAMILY

SECTION 4 – DENTAL

SECTION 7 – PRESCRIPTION PLAN

SECTION 8 – PSEA HEALTH AND WELFARE FUND VISION PLAN

SECTION 9 – MAJOR MEDICAL COVERAGE

SECTION 12 – CO-PAY

Currently, the Collective Bargaining Agreement provides for one traditional indemnity plan and one Preferred Provider Organization (PPO) plan. The traditional plan contains a \$100 per member deductible and a \$300 per family deductible. The PPO is offered with a \$250 per member, \$500 per family deductible in network and a \$380 per member, \$1,140 per family deductible out of network. Both of these major medical coverages provide for unlimited lifetime payments.

¹ These are those school districts within Schuylkill County and the same districts which make up the IU.

In Section 12 of Article XII, co-pay percentages were applicable to medical, dental and prescription coverage with an increase in the co-pay during the years of the contract. Those increases were based upon a percentage of the plan's actual premiums. The member would pay, for example, a base percentage plus "50% of any premium increase greater than 3%."

At the Fact Finding, the School District revealed that it had decided to go to a self-funded plan through a new consortium and that this decision had been made irrevocably. This information came as a surprise to the Association and makes the prior proposals from both the Association and the School District difficult to assess because they each are based upon increases in "premiums." If the plan is self-funded, there will be no "premiums," but rather the School District will be paying actual claims. Further, the School District was unable to present facts establishing its current costs for health care premiums² and only an "estimate" of \$2 million as the expected 2015-16 "insurance expense." Understandably, all of this has also posed difficulty for the Fact Finder.

The Parties have been able to agree that the traditional plan will be eliminated in favor of an offering of two PPO plans. This is recognized as a major concession by the Association and should result in significant savings to the School District. The elimination of the traditional plan will be adopted by the Fact Finder. The other recommendations will provide for two PPO plans with increases in the contributions by Association members for PPO #1 in years 2 and 3 of the Agreement.

The 2014-15 School Year is nearly over and the new health care plans will be in place beginning July 1, 2015. Association members have already made nearly all of their contributions for the year ending June 30, 2015, in accordance with the prior Agreement. Consequently, only recommendations for 2015-16 and 2016-17 will be made by the Fact-Finder.

The negotiations had centered around no payments by those Association members who opted for the high deductible plan on the theory that their costs could be equal to the maximum of the deductible if the member used enough of the health plan services. If they used few services, their yearly cost would be minimal. Correspondingly, a member who used very few services would cost the District very little. Although there was no actual agreement, the Fact Finder will adopt this suggestion of no cost to the member for the high-deductible plan.

After the Fact Finding, the School District sent proposed monthly costs for the first year of contributions into the consortium pool. These were considered by the Fact Finder in reaching her recommendations. For example, PPO #1 is expected to cost the District a monthly total of \$725.33 for both medical and drug coverage for a single individual. Estimated family costs for both medical and drug coverage could total \$1,792.76. Of course, all of these rates will be adjusted upward or downward based upon actual claims made.

So that Association members will have a better idea of their actual costs under PPO #1, the Fact Finder will recommend dollar figures for annual contributions during the two-year agreement. This two-year period will necessarily be one of significant change for both the School District and Association members. Once the actual costs "shake out," the next round of negotiations can address needed changes in the contribution rates of Association members. Both parties must recognize that health care costs will likely continue to rise and members will necessarily need to make greater contributions to those increases.

Recommended New Agreement

ARTICLE XII – FRINGE BENEFITS

The School District will provide two PPO options:

PPO #1 (\$250/\$500 in network deductible; Rx: \$5.00/\$10.00/\$10.00)
with the following contributions annually by Association Members:

	2015-16	2016-2017
Single	\$ 725	\$ 900
Two-Person	\$ 1,700	\$1,800
Family	\$ 1,850	\$1,950

PPO #2 (high deductible plan: \$1,250 single and \$2,500 family (out of pocket maximum \$2,000 single and \$4,000 family) for participating providers; and \$2,500 single and \$5,000 family (out of pocket maximum \$4,000 single and \$8,000 family) for non-participating providers; Rx: \$ 0/\$25.00/\$50.00)

² The Association presented detailed information about what it believed to be the costs, but commented that information obtained from the School District was inconsistent. According to the Association's figures, the Association's proposals would lower health care costs by 8%. The Fact Finder has not relied on any of these figures in making her Recommendations.

Zero paid by the Member for 2015-16 and 2016-17.

All other Sections under Article XII - Fringe Benefits remain the same with the exception of Section 13.

ARTICLE XII – FRINGE BENEFITS

SECTION 13 – MEDICAL COVERAGE PLAN BUY-OUT

Association Proposal

The Association requests that the stipend for those eligible employees who decline healthcare coverage (usually because the spouse provides coverage) be increased to \$4,000 from the current \$2,000 annual stipend.

School District Proposal

The School District proposes a \$3,000 buy-out.

Fact Finder’s Recommendation

Those employees who elected not to be covered by the School District health plan, including medical, dental, and prescription, for a full year and who opted coverage under a spouse’s insurance currently received \$2,000 for each of the three years of the prior contract payable in two equal installments during the fiscal year. Neither party proposes changes to the way in which this buy-out is to be paid or the language concerning re-enrollment after an opt-out. The only issue is the amount of the yearly stipend. Considering other aspects of this report which are more valuable to the Association’s members, the Fact Finder will recommend the School District’s proposed \$3,000 buy-out.

Recommended New Agreement

Article XII – Fringe Benefits – Section 13 – Medical Coverage Plan Buy-Out

Any district employee who elects not to be covered by the District Group Health Plan (Medical, Dental, Rx) for a full year and instead opts coverage under a spouse’s insurance will be granted the following amounts payable in two (2) equal installments during the fiscal year:

- 2014-2015: \$3,000
- 2015-2016: \$3,000
- 2016-2017: \$3,000

Proof of the substitute medical coverage is required to qualify for this payment. A written request for this option must be submitted to the Superintendent at the outset of the plan year and becomes irrevocable for the year selected, subject to the following exceptions relative to a change in an employees’ family status during a plan year. He/She will be allowed to re-enroll after providing to the Superintendent proof of the family status change limited to the following conditions:

- marriage or divorce
- death of a dependent
- birth or adoption of a child
- termination of employment by spouse
- employee or spouse changes from part-time to full-time or from full-time to part-time employment
- there is significant change in the spouse’s health coverage attributable to spouse’s employment.

It is additionally understood that any of the above acceptable changes in status shall oblige the employee to reimburse the District within ten (10) calendar days, on a pro-rata basis, the appropriate share of the per year buy-out payment received.

PATIENT PROTECTION AFFORDABLE CARE ACT (PPACA) EXCISE TAX LANGUAGE

School District Proposal

On April 7, 2015, the School District proposed the following language to address the Excise Tax under the PPACA:

The parties acknowledge potential for the agreed-upon health benefit plan to become subject to the PPACA-mandated excise tax. Employer agrees to propose plan options of benefit value below the mandated thresholds in an effort to avoid the excise tax. should the bargaining unit select, negotiate and approve a plan with benefit value that exceeds the mandated thresholds causing the plan to incur an excise tax liability, the bargaining unit members enrolled in the plan will be responsible for satisfying that liability through an increase in established payroll deductions for health plan benefits.

Association Proposal

The Association raises an issue of standing with regard to this issue. If the plan year runs from July 1 through June 30 of each year, any excise tax related to the PPACA would not come into effect until the year following the ending date of this Agreement. It is scheduled to take effect in 2018. However, the Association states that it would agree to the following language:

If through the Affordable Care Act, an excise tax is implemented or if there is danger of reaching the established thresholds, the parties agree to meet to explore possible cost saving measures. These discussions are exploratory and non-binding.

Fact Finder's Recommendation

The Fact Finder agrees that because the PPACA-mandated excise tax is not scheduled to take effect until 2018, after the expiration of this Agreement, there is no need for the language proposed by the School District. However, the agreement to meet and "explore possible cost saving measures" in advance of 2018 appears reasonable and will be recommended.

Recommended New Agreement

NEW LANGUAGE: ARTICLE XII – FRINGE BENEFITS

Section 15 – Possible Excise Tax

If through the Affordable Care Act, an excise tax is implemented or if there is danger of reaching the established thresholds, the parties agree to meet to explore possible cost saving measures. These discussions are exploratory and non-binding.

ALL OTHER MATTERS

Any other matters not specifically addressed herein are recommended to be withdrawn. As noted above, any agreements mutually made prior to the commencement of the Fact Finding that are not specifically addressed in this Report are recommended to be included, as agreed upon, in the new Agreement.

Date: May 20, 2015
Camp Hill, Pennsylvania

Debra K. Wallet, Esquire
Fact Finder

EXHIBIT A

Minersville Area EA 2014-2015 Salary Schedule

Step	B	B + 15	M	M+15
1	3625	3675	3700	3725
2	3793	3843	3868	3893
3	3961	4011	4036	4061
4	4129	4179	4204	4229
5	4297	4347	4372	4397
6	4466	4516	4541	4566
7	4634	4684	4709	4734
8	4802	4852	4877	4902
9	4970	5020	5045	5070
10	5138	5188	5213	5238
11	5307	5357	5382	5407
12	5475	5525	5550	5575
13	5643	5693	5718	5743
14	5811	5861	5886	5911
15	5980	6030	6055	6080
16	6148	6198	6223	6248
17	6316	6366	6391	6416
18	6484	6534	6559	6584
19	6652	6702	6727	6752
20	6821	6871	6896	6921
21	6989	7039	7064	7089
22	7157	7207	7232	7257
23	7325	7375	7400	7429

EXHIBIT B

Minersville Area EA 2015-2016 Salary Schedule

Step	B	B + 15	M	M+15
1	3635	3685	3710	3735
2	3789	3839	3864	3889
3	3958	4008	4033	4058
4	4127	4177	4202	4227
5	4296	4346	4371	4396
6	4465	4515	4540	4565
7	4634	4684	4709	4734
8	4802	4852	4877	4902
9	4971	5021	5046	5071
10	5140	5190	5215	5240
11	5309	5359	5384	5409
12	5478	5528	5553	5578
13	5647	5697	5722	5747
14	5816	5866	5891	5916
15	5985	6035	6060	6085
16	6154	6204	6229	6254
17	6323	6373	6398	6423
18	6491	6541	6566	6591
19	6660	6710	6735	6760
20	6829	6879	6904	6929
21	6998	7048	7073	7098
22	7167	7217	7242	7267
23	7336	7386	7411	7438

EXHIBIT C

Minersville Area EA 2016-2017 Salary Schedule

Step	B	B + 15	M	M+15
1	3700	3750	3775	3800
2	3781	3831	3856	3881
3	3951	4001	4026	4051
4	4121	4171	4196	4221
5	4291	4341	4366	4391
6	4461	4511	4536	4561
7	4631	4681	4706	4731
8	4801	4851	4876	4901
9	4971	5021	5046	5071
10	5141	5191	5216	5241
11	5311	5361	5386	5411
12	5480	5530	5555	5580
13	5650	5700	5725	5750
14	5820	5870	5895	5920
15	5990	6040	6065	6090
16	6160	6210	6235	6260
17	6330	6380	6405	6430
18	6500	6550	6575	6600
19	6670	6720	6745	6770
20	6840	6890	6915	6940
21	7010	7060	7085	7110
22	7179	7229	7254	7279
23	7349	7399	7424	7451