

COMMONWEALTH OF PENNSYLVANIA

Pennsylvania Labor Relations Board

**In the Matter of the Employees of  
Red Lion Area School District  
Case No. ACT 88-15-29-E**

REPORT AND RECOMMENDATIONS

Diana S. Mulligan, Fact Finder

Hearing: August 17, 2015

For the Association: Rhonda Jacoby, PSEA Uniserv Representative

For the School District: Katherine Heintzelman, Esq.

BACKGROUND

Pursuant to ACT 88 of 1992 and the Pennsylvania Employee Labor Relations Act, Act 195 of 1970, notice was received by the Pennsylvania Labor Relations Board (PLRB) from the Bureau of Mediation that no agreement had been reached by the Red Lion School District (SD or RLASD) and the Red Lion Area Education Association (RLAEA or Association). By letter dated July 21, 2015, the PLRB appointed the undersigned to act as Fact Finder, vested with the authority set forth above. Subsequent to such notice, the parties were duly notified and a hearing was held on August 17, 2015 in Red Lion, Pennsylvania at which time all parties in interest were afforded a full opportunity to present testimony and introduce documentary evidence. The Advocates and Fact Finder further discussed the issues via email.

The SD proposed several editorial changes to the expired CBA in its presentation of Open Issues for Fact Finding, many of which were accepted by the Association. Prior to the hearing, via email, the Fact Finder advised the parties that there would be Recommendations in the Fact Finding Report only for the substantive issues. If the parties cannot agree to the SD's edits, which are not considered to be substantive issues, the language in the expired CBA will remain as is.

In accordance with §95.62 of PLRB regulations, the parties presented the following issues for Fact Finding:

MUTUAL ISSUES

1. II. Grievance Procedure
2. IV. Hours and Conditions
  - (a) 402 - Length of the Work Day
  - (b) 404 - Preparation Period
3. V. Employee Benefits
  - (a) 501 - Health and Hospitalization
    - (1) Office Co-Pays (Urgent Care)
    - (2) Premium Share
    - (3) Deductibles
    - (4) Prescription Drugs
  - (b) 507 - Coverage of Working Spouse
  - (c) 508 - Excise Tax
4. VII. Main Salary
  - (a) 702 - Payment Options
  - (b) 703 - Placement on Salary Scale
  - (c) Appendix B Salary Schedule

ASSOCIATION ONLY ISSUES

1. III. Professional Items - Fair Share (New)
2. Appendix A - Extra-Curricular Base Salary Schedule, Non-Athletic Activities

Prior to the Fact Finding hearing, the parties agreed to the following issues. Therefore, they are no longer in dispute and no Recommendations will be made for these issues.

1. Grievance Procedure

## 2. Urgent Care co-payment of \$30

Although the Association did not agree with the SD's proposal that all pay checks be distributed electronically, the Fact Finder advised the parties, via email, that there is no need for paper checks in this electronic age. Therefore, all pay checks will be distributed electronically.

This Report contains Recommendations for the unresolved issues which constitute the settlement proposal upon which the parties are now required to act, as directed by statute and PLRB regulations. Without any comment, the issues already agreed upon by the parties and the undisputed portions of the expired CBA shall be incorporated without change into the successor Contract.

Pursuant to statutory authority, this Report will be released to the public if not accepted. A vote to accept the Report does not necessarily constitute agreement with or endorsement of the rationales but, rather, represents only an agreement to resolve the disputed issues by adopting the Recommendations.

The parties are hereby directed to review the Report and within ten (10) calendar days of its issuance, notify the PLRB and each other if they accept or reject the Recommendations.

### RECOMMENDATIONS

#### **Issue #1: IV. Hours and Conditions**

##### **Sub-Issue #1 (a): 402 - Length of the Work Day**

###### *Position of the Parties*

The SD proposes adding language which would grant a thirty (30) minute duty free lunch "for each of the 191 days." The Association wants to maintain the current practice of allowing a ninety (90) minute lunch period if an in-service day requires travel from building to building.

###### *Discussion*

Even if a teacher can walk from building to building (which they can't, given that the SD encompasses 140 square miles), thirty (30) minutes is a very short amount of time, since the school cafeterias are closed when students are not in school. Most teachers' lounges have a refrigerator but I have not seen any of a size which could accommodate the bag lunches of almost 400 teachers. The SD has not presented any compelling reasons, for the few times per year that in-service days occur, for having the same amount of time for lunch as when bargaining unit members are teaching and have access to the cafeteria or can safely store their bag lunch.

###### *Recommendation*

Maintain the status quo and do not add the SD's proposed additional language.

##### **Sub-Issue #1 (b): 404 - Elementary Preparation Period**

###### *Position of the Parties*

The SD wants to remove the word "consecutive" from the forty five (45) minute elementary preparation period. The Association wants to maintain the status quo.

###### *Discussion*

According to the SD, the requirement that the minutes be consecutive leads to impediments at the elementary level. As an example of these impediments, the SD argues that, when teachers are required to attend IEP, IST, data, parent or faculty meetings, the provision of consecutive time can be difficult. The principals provide the teachers with preparation time during "specials" which run anywhere from fifteen (15) to thirty (30) minutes and they have "approximately" fifteen (15) minutes of unassigned time at recess. The SD, in its answer to the Fact Finder's pre-hearing questionnaire, did not explain where the other fifteen (15) minutes would come from if a "special" lasted only fifteen (15) minutes but it did state, in the questionnaire, that the SD considers PLCs, grade level and data team meetings as planning periods. In its hearing binder, the SD states the elementary teachers will be given five (5) prep periods "within the cycle," although they may not have one the day of the monthly faculty meeting.

I fully appreciate the SD's argument that, since the forty five (45) minute consecutive prep period for elementary dates from the 1981-83 Contract, the demands of education have changed dramatically and the SD needs to be flexible. However, if I am reading the

information in Tab 4 of the SD's hearing binder correctly, the SD has a bigger problem. On p. 1, the information compiled by the principals clearly states, "The teachers will be given 5 prep periods within the cycle." The CBA also clearly states, "The employer will make every effort to assign at least one (1) preparation period to each employee per work day, but in any event will provide at least five (5) preparation periods per five (5) day work week." If the cycles are eight (8) days long, as they appear to be in SD Tab #4, (e.g., Sept 29-Oct.6, Oct. 7-15, etc.) and the SD is providing five (5) prep periods in eight (8) days, there could be a problem.

Prep periods are traditionally used for planning an individual teacher's instructional day. Next to the dated cycles on SD Tab #4, the SD lists PLC and grade level and data meetings and considers these to be prep periods which would fulfill the contractual obligation to provide one (1) prep period per day. The Association apparently does not, which seems to be evidenced in its additional proposal that, except for one half (½) of a prep period allowed for administrator initiated meetings, any other meetings scheduled or extending beyond the prep period cap will be compensated at twice the teacher's pro rata hourly rate. The parties did not present, as an issue in dispute for Fact Finding, whether or not PLC and grade level and data meetings are prep periods. Therefore, that issue will not be addressed in this Report.

I am convinced that, with the increasing mandates for numerous matters not directly related to the subject matter (e.g., technology, increasing number of students with IEPs, etc.) principals are hard pressed to find forty five (45) consecutive minutes for the teachers in the elementary schools to comply with the contractual planning mandates.

#### *Recommendation*

Remove "consecutive" from the elementary planning sentence.

#### **Sub-Issue #1 (c): 404 - Addition of Day**

##### *Position of the Parties*

The Association wants to have the SD schedule two (2) days for planning and clerical work at the end of the first and third marking periods. The SD opposes this proposal.

##### *Discussion*

According to the Association, the teachers previously had two (2) half days for report cards, planning and clerical work and it wants them returned. Presumably, the other day would be used for additional meetings for data collection and analysis which, according to the Association's response to the pre-hearing questionnaire, have become more numerous. In the SD's presentation of issues for Fact Finding, I found that one (1) day would be used for "assessment processing" among the agreed upon issues. Without having any more information on the parties' understanding of "assessment processing," if it is the clerical day sought by the Association, it has already been agreed upon. If it is something else, then there is no agreement.

##### *Recommendation*

The teachers should be granted one (1) additional day for clerical purposes. If the "assessment processing" day, as agreed to by the parties on May 27, 2014, is a clerical day, then no Recommendation is needed. If this term refers to another matter, then the teachers should be given one (1) clerical day.

#### **Sub-Issue #1 (d): 404 - Meetings/Planning Periods/Coverage**

##### *Position of the Parties*

The Association wants preparation time to be used exclusively for planning except that one half (½) of a preparation period can be used once a month for administrator scheduled meetings. Should the meetings extend over the ½ preparation period limit, the Association wants the teacher to be compensated as twice his/her pro rata hourly rate. The Association also wants payment of one-seventh (1/7) of the per diem rate if the teacher has to cover another teacher's class. If the elementary teachers cover split classes, the Association wants those teachers to be compensated with a whole or half day substitute pay split between the two (2) teachers. The SD opposes these proposals.

##### *Discussion*

According to the Association, meetings have been running overtime lately and would be more effective if their time was limited. The SD provided a lengthy meeting schedule in its answer to the pre-hearing questionnaire. The SD acknowledges that faculty meetings at the senior high school may "run over a few minutes." For Joint Council meetings, the Department Representatives are paid a stipend when meetings go past the contracted day, monthly core meetings are held during the contracted day, and optional

monthly non-core meetings begin at 2:45 P.M.. There are no regularly scheduled faculty meetings at the junior high school, but two (2) voluntary meetings were held in 2014-15. At the elementary school, a monthly meeting is held between 8:00 and 8:45 A.M. which may eliminate the preparation period for some teachers that day, but they will still have five (5) planning periods during the cycle. (See discussion above on what constitutes a “planning period.”)

Very few things make meetings (which we all know can be very lengthy and boring) more efficient than ordering an employer to compensate employees if the time limit for their completion is exceeded. On the other hand, teachers are professional employees and attending meetings is part of their professional duties. The Association has not provided evidence that the meetings extend an inordinate amount of time over their contracted day for the high school. If, say, the meeting ran until 3:08 instead of ending at 3:05, the SD would have to calculate the hourly rate for each teacher (Due to their length of service and placement on the horizontal scale, a separate calculation would be necessary for virtually every teacher.) for that three (3) extra minutes extrapolated from the published annual salary scale. There are a few “voluntary” or “optional” meetings held from time to time in the high school and junior high school but, again, there is not enough evidence to show that they run over to an extent that the teachers should be paid double their pro rata hourly rate.

There is apparently a serious problem throughout the County regarding coverage when teachers take a sick day. There simply are not enough substitutes available. When the SD cannot secure a substitute for the day, it has only two (2) choices – ask another teacher to cover the class during a prep period or leave the children to fend for themselves. The answer to this problem is obvious. The teachers, who are already in the building and who are already receiving a salary want extra pay for covering these classes. The elementary situation is the most problematic and, in my opinion, with the salaries and medical insurance being of prime importance, likely was not fully bargained. If the same issues with prep periods continue, they should be dealt with more completely in the negotiations for the next Contract.

#### *Recommendation*

Keep the first two (2) paragraphs of Section 404 as is.

### **Sub-Issue 1 (e): 404 - Waiver of Preparation Time**

#### *Position of the Parties*

The Association proposes to delete the current language which states that employees may voluntarily waive their preparation time. The SD wants to maintain the status quo.

#### *Discussion*

All contracts outline the rights and obligations of both parties. I have yet to see an employment contract which contains express language concerning a waiver of rights of one of the parties. Rights can always be waived without the need for contract language so stating. I never learned how this language got there in the first place, but had to ask myself if the SD would even think of proposing language stating that an employee can voluntarily waive his/her salary.

In its response to the Fact Finder's pre-hearing questionnaire, the Association stated it does not want the administration to place undue pressure on the teachers to waive their planning period. The SD replied that, while waiver of the preparation period is not demanded by the principals, failure to waive can “cause issues with regard to engage in appropriate meetings with parents and team members.” While the principals cannot contractually make teachers attend, if the SD lets them know they are basically shirking their professional duties by not attending “appropriate” meetings, especially if they are with parents, the SD is putting pressure on the teachers to give up their planning period.

#### *Recommendation*

Delete the paragraph about voluntary waiver of preparation time.

### **Issue #2: V. Employee Benefits**

#### **Sub-Issue 2 (a): 501 – Health and Hospitalization: Premium Share**

#### *Position of the Parties*

The Association, in its presentation of issues for Fact Finding, for July 1, 2015, states only that it wants to move to 5 tiers without stating a premium share. As of July 1, 2016, it proposes a premium share of \$56 per month for Single coverage (S), \$90 for Parent/Child (P/C), \$121 for Employee/Spouse (E/S), \$105 for Parent/Children (P/CH) and \$132 for Family (F). The SD proposed

a premium share of \$54 for S, \$118 for 2 Party (P/C & E/S) and \$138 for Family (P/CH & F), beginning on July 1, 2105. Both parties agreed on \$54, \$111 and \$121 beginning on July 1, 2014.

### *Discussion*

The information presented by both parties in their hearing binders and response to the Fact Finder's questionnaire was, at times confusing, if not inaccurate. The Association, in its response to the questionnaire, stated that it proposed changes in 2015-16 and 2016-17 with no additional changes in 2017-18. As stated hereinabove, there was no amount of premium share proposed by the Association for 2015-16 in its presentation of issues for Fact Finding – the proposed change was to go from a three (3) tier to a five (5) tier configuration which the Association alleged would help the SD with cost containment. In Tab 6 of its hearing binder, the Association did propose the \$56, \$90, \$121, \$118 and \$138 premium share amounts for 2015-16. The Association also showed what premium share teachers in thirteen (13) other districts were assessed. (Some had a base and a high plan, with those in the base plan paying a lower premium share.) Six (6) districts have a percentage premium share but there is no information (except for those with dollar amount caps ranging from \$100 to \$150) of what dollar amount premium share the teachers actually pay. Of the remaining districts, the employee premium share ranges from \$10 (base plan) to \$60 for S to \$30 (base plan) to \$132 for F. At least for 2015-16, the Association's proposal is generally in line with the premium shares paid by teachers in other districts. According to the Association's hearing binder (Tab 3, p. 6) the majority of these comparison districts have a higher career rate and higher salary at the top of the schedule than the RLASD.

It is customary for school districts to engage the services of consultants to assist them in administering their health insurance plans. The RLASD engaged the firm of Conrad Siegal Actuaries for this purpose. The information provided by the Siegal firm is of limited use since the information it provided on p. 11 of SD Tab 3, is not the same as the information provided by the SD in its presentation for Fact Finding. There are four (4) boxes on p. 11 starting with the current plan year of 2014-15 and there are 5 tiers, although the premium share has the same amounts for E/S (H/W on the Siegel document) and P/C and P/CH and F, which is the current three (3) tier system. (Because the document titled “Lincoln Benefit Trust – Benefit Comparison” (SD Tab 3, second pull-out sheet) has the RLASD administration and teachers in the same column, without further information, I am assuming that the intent of the SD is that both will pay the same premium share.) In boxes 2 (7/2015 – 6/2016), 3 (7/2016-6/2017) and 4 (7/2017-6/2018), the heading states, “Professional employees pay slightly more than last year.” This is incorrect. In all three (3) years, the teachers' premium share is exactly what the Association proposed. The total premium goes up, the dollar amount stays the same and the percentage paid by the employees decreases by about one percent (1%) from 2015-2018. This document also shows the administrators paying the same premium share, on a three (3) tier system for all four (4) years despite the fact that the SD proposed increases every year. The one usable piece of information which can be obtained from this document is that the Association is correct when it states the SD will save money with a five (5) tier system. For 2016-16, the total cost is \$5,027,340 with the Association proposed premium share on five (5) tiers. On p. 12 of SD Tab 3 (“Excise Tax Projection – Option F”) with the separate five (5) tiers, the cost is still \$5,027,340, but, on p. 13, where H/W, P/C and P/CH/F are consolidated into a three (3) tier premium share, the total cost is \$5,093,652. Therefore, the five (5) tier system, in 2015-16 alone, saves the SD \$66,312.

The Siegel report projects an increase in premium rates of 8.3% from 7/2016-6/2017 and 8.4% from 2017-18. Applying these projections to the Association's premium share proposals for 7/2015-6/2016 (Association hearing binder, Tab 3, p. 8) the premium share should increase by the same percentage. Since the teachers' share of the premium is stated in fixed dollar amounts, and not percentages where the premium share can fluctuate, the defined dollar amount must be stated in the Contract.

### *Recommendation*

2014-15 – three (3) tiers with employee premium share of \$54 S, \$111 2-Party, \$121 F. (Agreement)  
2015-16 – five (5) tiers with employee premium share of \$56 S, \$121 E/S, \$90 P/C, \$105 P/CH,  
\$132 F.  
2016-17 – employee premium share of \$61 S, \$131 E/S, \$97 P/C, \$114 P/CH, \$143 F.  
2017-18 – employee premium share of \$66 S, \$142 E/S, \$105 P/C, \$124 P/CH, \$155 F.

## **Sub-Issue 2 (b): 501 – Health and Hospitalization: Deductibles**

### *Position of the Parties*

The Association proposed a \$250/500 deductible, beginning January 1, 2015 and \$350/750 beginning January 1, 2016 and continuing through June 30, 2018. The SD proposed a \$250/500 deductible beginning July 1, 2015, \$250/750 beginning July 1, 2016 and \$500/1,000 beginning July 1, 2017.

### *Discussion*

The SD made a special point of introducing the recently ratified contract for the support staff wherein they agreed to a \$250/\$500

deductible through 2019. Given the fact that the average support salary is \$23,129 v. the average professional salary of \$64,152 (SD hearing binder, Tab 3, p. 1), the SD feels the higher deductibles for the professional staff are warranted. There are no deductibles in the expired Contract and the SD noted in this Exhibit that “Introducing deductibles will lower the overall health insurance cost to the district allowing annual increases for the Professional employees.” This statement is particularly interesting in that the SD proposed a total wage and step freeze for 2014-15. At the Fact Finding hearing, the Association acknowledged that it should pay deductibles and an increase in premium share because of the rising cost of health insurance.

*Recommendation*

\$250/500 deductible beginning July 1, 2015.

\$350/750 deductible beginning July 1, 2016 and continuing throughout the term of the CBA.

**Sub-Issue 2 (c): 501 – Health and Hospitalization: Prescription Drugs**

*Position of the Parties*

	SD PROPOSAL		ASSOCIATION PROPOSAL	
	July 1, 2014 – June 30, 2015			
	Retail	Mail Order	Retail	Mail Order
Generic	\$15	\$30	\$10	\$20
Brand Formulary	\$30	\$60	\$25	\$50
Brand Non-Formulary	\$35	\$70	\$30	\$60
			(Current Contract)	
	July 1, 2015 – June 30, 2017			
Generic	\$15	\$30	\$10	\$20
Brand Formulary	\$30	\$60	\$25	\$50
Brand Non-Formulary	\$35	\$70	\$35	\$60
	July 1, 2017 – June 30, 2018			
Generic	\$15	\$30	\$10	\$20
Brand Formulary	\$35	\$70	\$30	\$60
Brand Non-Formulary	\$45	\$90	\$40	\$80

*Discussion*

In its presentation of issues for Fact Finding, the Association's proposal for the RX co-pay makes it appear that it is willing to increase retail co-pays as of July 1, 2105 by \$10 for retail Brand Formulary and \$15 for retail Brand Non-Formulary and increase mail order co-pays by \$20 for Brand Formulary and Brand Non-Formulary. The original co-pays listed by the Association correctly state that they were in effect as of July 1, 2011 but the expired CBA shows co-pays beginning July 1, 2013 as shown above. Therefore, the Association wants to keep the same RX co-pays from July 1, 2013 through June 30, 2017 (except for a \$5 increase for Brand Non-Formulary) is willing, beginning on July 1, 2017, to pay an additional \$5 for retail Brand Formulary and \$10 for Brand Non-Formulary and an additional \$10/\$20 for mail order. In the expired contract, except for generic, all co-pays increased by \$5 per year for retail and \$10 per year for mail order.

Although it is not specifically stated in the expired Contract or in the parties' presentation of issues, the retail prescription is usually for a thirty (30) day supply. There are many generic drugs which can be obtained, usually from a big box pharmacy, for \$10 for a ninety (90) day supply. The entire purpose of keeping generic prices low is so that, if the generic works as well as the brand name, the consumer will want to save money (as will the employer) by choosing the generic.

*Recommendation*

1. Keep generic prices the same throughout the term of the CBA.
2. July 1, 2015 – June 30, 2017, Brand Formulary should be \$30/\$60 and Brand Non- Formulary should be \$35/\$70.
3. July 1, 2017 – June 30, 2018, Brand Formulary should be \$35/\$70 and Brand Non- Formulary should be \$40/\$80.

## **Sub-Issue 2 (d): 507 – Coverage of Working Spouse/Opt Out**

### *Position of the Parties*

Beginning with the 2017-18 school year, the Association, in its presentation of issues for Fact Finding, proposed that a teacher pay a spousal surcharge of \$50 per month for health and hospitalization insurance if the spouse has eligible coverage available from his/her own employer.. The SD proposes that a spousal surcharge of \$200 per month should be paid beginning on July 1, 2015 if the employee has elected coverage for his/her spouse under the SD's health and hospitalization AND/OR (emphasis added) dental insurance.. This payment is in addition to the premium share.

For the opt out portion of this provision, beginning with the 2017-18 school year, the Association, in its presentation of issues for Fact Finding, proposed that the SD pay an employee \$1,000 per year in the event that a spouse, currently on the SD's medical plan, elects to discontinue coverage with the SD. The SD proposes that, beginning with the 2015-16 school year through June 30, 2017, the opt out incentive should be \$1,000 per year and decrease to \$500 per year beginning on July 1, 2017. The SD further proposes that only employees covered by the SD's health plan as of the end of the 2013-14 school year be eligible for the incentive payment and that spouses who do not have coverage through their own employers may remain on the SD's health plan by paying the appropriate premium share.

### *Discussion*

To state that the presentation of this issue is a disaster is a gross understatement. Both parties made it very clear that any agreed upon issues must be signed by both. In its presentation for Fact Finding, the SD listed Section "505. Opt-Out Provision" as having been agreed upon on March 17, 2014. There is a signed copy of this provision in Tab 10 of the Association's hearing binder, which is identical to the one in the expired CBA . Section 505, inter alia, has an opt out incentive of \$2,000 with no beginning or ending dates. Yet, both the SD and Association, in their presentation for Fact Finding, proposed a new section 506 (It should be 507 since Vision Insurance is section 506.) reducing that amount to \$1,000 or \$500, depending on whose proposal it is. If, after more than a year and a half of bargaining, the parties don't know their own issues, I do not know how I am supposed to discern what their intentions are after the exchange of a few emails and a one (1) day hearing. The only conclusion I can draw on the opt out provision is that they changed their minds after March 17, 2014 and agreed not to agree any more although I see no evidence of any rescission of the March 17<sup>th</sup> agreement on this issue. This conclusion is further justified since both parties proposed to change the opt out amounts, although with different starting dates.

This is not the only confusing part of Section 507. In its presentation of issues for Fact Finding, the Association proposed a \$50 per month spousal surcharge and a \$1,000 opt out incentive, both beginning with the 2017 school year. Yet, in its hearing binder, except for the \$50 spousal surcharge, the Association's proposal for Section 507 is identical to that of the SD, including the reduction of the opt out incentive and the limitation of eligibility for the opt out payment to employees who had spouses covered by the SD's health plan as of the end of the 2013-14 school year. I see no signed agreement on this issue, nor, in its rationale for its proposals does the Association say anything about the opt out incentive. Just as I must conclude that both parties made a mistake when they added a different opt out incentive in their presentation of open issues for Fact Finding after they had already agreed to something else, I must also conclude that the Association, in fact, never intended to agree with the SD's proposal for section 507 (except for the \$50 surcharge) in its hearing binder. Therefore, I will address the Association's proposals for 507 from its presentation of open issues for Fact Finding.

On the spousal surcharge issue, the Association listed eight (8) County districts with recently settled contracts. Easter York, Southern York and York City have no spousal surcharge; Central's is \$75 per month and Southwestern and York Suburban are \$150 per month; Dallastown pays 55% of the difference between the individual and family rate and South Eastern will not allow a spouse with coverage from his/her own employer to be on the district's plan.

It is to an employer's benefit to have spouses of employees on a 2-party or family plan covered from another source. Using the 2014-15 annual premium cost attributable to the SD (SD Tab 3, p. 11) for S (\$517 X 12 = \$6,204) v. the annual SD premium cost for H/W (\$1,260 X 12 = \$15,120), it is easy to see that paying the spouse an incentive to get out of the SD's plan is cheaper than paying the H/W premium. A more recent innovation in trying to control health care costs is the introduction of the spousal surcharge. The surcharge combined with an opt out incentive should really make RLASD employees think twice about having a spouse elect to take coverage from his/her own employer's plan.

The SD has a more expanded version of the spousal surcharge by specifically mentioning the payment of the premium share in addition to the surcharge, which is only logical since the spouse is now part of a group (H/W or F) and his/her spouse (the employee of the RLASD) pays the larger premium share (instead of the S). The SD also states, in its proposal, that spouses without individual coverage through their own employers can remain on the SD's health plan. To avoid any misunderstanding, as long as the SD has a lengthier proposal with precise language regarding working spouse coverage, it should also have language ensuring that the non-working spouse can also be covered by the SD's plan. Since employers would like their employees to be on another

employer's plan, it is somewhat surprising that the RLASD, in its hearing binder, wants to discontinue this payment unless the spouse was covered by the SD's health plan at the end of the 2013-14 school year. This brings up another question – if the spouse has opted out, how can (s)he be covered by the SD's health plan since (s)he is no longer on the RLASD plan and is covered by his/her own employer's plan?

#### *Recommendation*

1. There should be language in this provision ensuring that a non-working spouse can be covered under the RLASD's health plans.
2. The spousal surcharge should be \$100 per month beginning on July 1, 2016.
3. The incentive payment for opting out of the RLASD's plan should be \$1,000 per year beginning July 1, 2016.
4. The SD's proposal on the limitation of opt out eligibility (the 2013-14 school year language) should not appear in the Contract.

#### **Sub-Issue 2 (e): 508 – Excise Tax**

#### *Position of the Parties*

The Association proposes that, if an excise tax is imposed pursuant to the Affordable Health Care Act (ACA), the parties will agree to “take action” to eliminate the tax, including the re-opening of negotiations for the limited purpose of eliminating such tax. The SD proposes that the parties only “Meet and Discuss” ways to eliminate the tax. The SD further wants the Association to be responsible for fifty percent (50%) of the tax and to pay the SD \$1,000 in liquidated damages for each day the Association fails or refuses to pay its share of the tax.

#### *Discussion*

According to the SD, their excise tax penalty will not be assessed until the 2021-22 or 2023-24 school year, depending on plan design, but it is never too early to have the ability to discuss the possibility of the excise tax and make plans to ensure that the penalty will be unnecessary. Currently, as written, the law states that the employer is responsible for the tax but, it may be possible, as the SD suggested at the hearing, that the parties can agree to split the cost by way of a CBA. I have read several position papers on this issue and, frankly, no one seems to know with any certainty what will happen when the tax goes into effect on January 1, 2018. Since this CBA will expire on June 30, 2018 and, according to the SD's own calculations, the tax will not be imposed at that time, more detailed language can be negotiated for the next Contract. However, there should be something in the 2014-2018 CBA addressing this issue. The Siegel exhibit (SD Tab 3, p.12) has no explanation why, beginning in 2015-16, it now lists only Single or Family coverage.

#### *Recommendation*

The parties should have language in this Contract stating that, upon sixty (60) days' written notice, they will “Meet and “Discuss” the excise tax issue.

#### SPECIAL FACT FINDER'S NOTE

This Fact Finding has been particularly difficult since it is sometimes impossible to determine what the parties are actually proposing (See comments on the spousal surcharge/opt out proposals.). I also have no idea how accurately the parties were able to cost out their various proposals since they base the costs on different data. For example, they do not have the same matrix for salary comparisons . The SD bases its salary costs on 360 professional employees (SD Tab 2 pp. 12, 13 & first pull out sheet), the Association, on 360.08 (A Tab 3, p. 9). Yet, on Tab 5, p.1, the SD shows that, in 2013-15 (the same years where the SD had 360 teachers), 365 teachers took sick days. With no heading on SD Tab 2, second pull out sheets, in 2013-14, there are 339 employees listed, with their salaries adding up to \$23,012,862.

SD Tab 2, ( first pull out sheet) is titled, in part, “Step Incremental Cost Summary – Increases are for Salary Only – Does not Include Pension and other Benefit Costs Tied to Salaries.” Tab 2, p.12 states only, “Total Salary” and p. 12 also states that increases are for salary and do not include benefit costs. In all three (3) exhibits, the salary cost for the SD's proposal is listed as \$24,367,706 for 2014-15, \$24,817,988 for 2015-16, \$25,127,853 for 2016-17 and \$25,578,534 for 2017-18. In its exhibit (Tab 3, p. 9), the Association, in its costing out of the SD's proposal, shows \$24,349,571, \$24,775,008, \$25,084,696 and \$25,506,686 for the same years. Although the Association's exhibit states that these numbers are “Total Payroll Cost[s],” they may not include the payments made off scale at the top. Even so, since the SD proposed a total freeze in 2014-15 this, to me, means the same 360 employees' salaries are fixed at the 2013-14 base year. Therefore, the salary costs for 2014-15 should be identical to those in 2013-14. Yet, the SD's exhibit shows it paid \$18,135 more in salaries for this unit than does the Association's exhibit.

Even more intriguing, is SD Tab 1, p. 4. Although the exhibit is intended to show PSERS costs, it does have a "Salary Only Cost" column. For 2013-14, the SD shows actual salary as \$24,221,696. With "2014-15 Base Salary – Freeze from 2013-14" on the next line, the SD now paid out \$24,367,706. This discrepancy might be explained because the SD hired more teachers in 2014. It certainly cannot be explained by that extra .08 teacher on the Association's matrix. However, the only other indication of the number of teachers in 2013-14 is in SD Tab 2, second series of pull out sheets, where the salary cost for 339 employees was \$23,012,862. The difference between the pull out sheets and the amount on p. 4 of Tab 1 is over a million dollars. Unless the SD hired 21 teachers between 2013-14 and 2014-15 with an average salary of \$57,563, I do not know how to explain the difference. I also do not know how it is possible that with a total freeze (if there were 360 teachers in 2013-14), the salary-only costs on p. 4 of Tab 1 increased by \$146,010. For 2013-14, this exhibit shows an actual "Salary Only Cost of \$24,221,696. In the next series of boxes, with the heading on the columns stating, "Even if NO salary Increase is given, RLASD expenses still increase..." , it shows the following year's (2014-15) freeze as costing \$24,221,696. How can this be reconciled with the \$24,367,706 listed as the 2014-15 cost only five (5) lines above on the same page?

The last discrepancy I found was with the average salary. The Association lists it as \$67,624 in 2013-15 with the SD's proposed freeze (Tab 3, p. 9). The SD lists it as \$64,152 with no year stated (Tab3, pp.1 & 4).

### **Issue #3: VII – Main Salary, Section B.**

#### **Sub-Issue #3 (a): 703 – Placement on Salary Schedule**

##### *Position of the Parties*

The SD proposes no step movement for 2014-15 and 2016-17. The Association wants step movement every year of the Contract.

##### *Discussion*

According to the Association, because of past step freezes, a teacher working for the SD for sixteen (16) years is currently at step 9. This places the RLASD teachers 12<sup>th</sup> out of 14 in career rate (Association Tab 3, p. 6). This is likely due to the fact that the RLASD career rate is for 2013-14 and the rate of most of the other districts is for 2015-16. The SD (Tab 2, p. 15 shows that, out of five (5) districts, RLAEA is in the middle of career earnings. These two (2) comparisons show that, if nothing else, statistics can be used to support any monetary proposal. The Association also included the salary schedule for thirteen (13) other districts in its hearing binder. The only reference to steps is in the Central York School District where some employees stay on step because the schedule was designed to increase starting salaries and York Suburban School District where the scales state that step movement is not an indication of years of service.

##### *Recommendation*

No step movement in 2014-15 with step movement in each of the last three (3) years of the CBA.

#### **Sub-Issue #3 (b): 703 – Placement on Salary Schedule, Section C. Horizontal Movement (New)**

##### *Position of the Parties*

The SD proposes to limit horizontal movement on the salary scale to one (1) time per year. The Association wants to maintain the status quo wherein teachers could advance across the scale when credits are earned.

The SD currently reimburses for nine (9) credits per school year or twelve (12) credits per fiscal year through a Master's degree and nine (9) credits per fiscal year for degrees beyond the Master's. The CBA is silent on the teacher paying for his/her own credits. Looking at the 2013-14 salary schedule, one can see that movement across the columns involves a pay increase of around \$3,000 past the Master's degree and around \$4,000 from Level II to the Master's column. Those not employed in the public school system sometimes criticize the arrangement whereby an employee not only gets reimbursed by the employer for getting more education, but also gets a fairly substantial salary increase as well. Unless the teacher wants to fund his/her own credits (which (s)he may want to do given the proliferation of on-line courses which may be cheaper), it takes fifteen (15) credits to move horizontally and, as a practical matter, horizontal movement occurs not more than once a year. I could see, however, that, depending on the timing of obtaining credits, there may be an occasion when the movement could occur twice in a fiscal year.

##### *Recommendation*

1. Include Section C in the CBA.
2. Horizontal movement should occur in every year of the CBA if an employee is eligible, beginning on July 1, 2014.

### **Sub-Issue #3 (c): Appendix A**

#### *Position of the Parties*

The Association wants those participating in Math Counts and Envirothon (2 per building) to be paid \$600 beginning with the 2014-15 school year. The SD opposes this proposal.

#### *Discussion*

I have reviewed both athletic and non-athletic stipends from the 2010-14 CBA. Those coaching in sports get paid anywhere from \$821 for girls' intramural volleyball to \$6,396 for the assistant athletic director. Those involved in non-athletic activities get paid anywhere from \$522 for the madrigal choir to \$4,347 for the band director. As a firm believer in the premise that schools should focus on academics rather than sports, the Math Counts and Envirothon mentors (especially since these activities usually involve travel to participate in contests) should be paid something given that intramural sports have a stipend. However, at this point, there is not enough information in the Association's presentation of issues for Fact Finding (The Association only stated the amount these people should be paid.) to make an accurate assessment of exactly what the mentors do and what their time is worth vis-a-vis those coaching or mentoring other activities.

#### *Recommendation*

Do not add Math Counts and Envirothon to the CBA.

### **Sub-Issue #3 (d): Appendix B – Salary Scales**

#### *Position of the Parties*

The Association proposes a 2.95% annual increase inclusive of step movement. The SD proposes a total freeze in 2014-15, Step +\$400 on Step 15 for 2015-16, 1.25% with no step movement in 2016-17 and step + \$400 on step 15 for 2017-18.

#### *Discussion*

The first information presented by the Association at a Fact Finding hearing is a series of exhibits showing that the SD can afford to pay its salary demand. These exhibits include average salary increases of other districts. (The Association used contiguous and York County districts for its comparisons. Some districts are in both categories.) These increases range from a low of 0% to a high of 3.3%. The SD also used salary comparisons from five (5) districts but showed only total expenditures for salaries. This information is of limited use since all of these districts have a different student population and salary per teacher cannot be determined from this limited information.

Other indicators of the ability to pay are fund balances, aid ratios, value of property, tax effort, personal income and budgets v. expenditures. Both parties agree that the RLASD has been very prudent in keeping its fund balance within the prescribed percentage which is a good thing. Everyone, including school districts, must have some reserves for a "rainy day." The RLASD has a healthy fund balance but much of it is restricted (e.g., PSERS, debt service). Both parties also agree that PSERS contributions are very high and, especially now, state aid is a total unknown and both federal and state aid is decreasing or holding steady while unfunded mandates are increasing.

Market Value/Personal Income Aid Ratio is a measure of relative wealth of a district and affects state funding. The RDASD ranks 9<sup>th</sup> out of 9 in contiguous districts and 13<sup>th</sup> out of 15 in York County (Association "Demographics," pp. 6 & 7). Since 2009, market value of property has increased 2.9% in the RLASD and 2.7% contiguous districts. In York County, these numbers are 2.9% and 3.3%. The numbers are similar for assessed value. Using four (4) other districts as a comparison group, the RLASD has a chart in its hearing binder which shows that 94% of its tax revenue is from residential/agricultural sources. Spring Grove (91%) and Eastern (89%) come close in that category but Dallastown and Central York have a larger commercial/industrial base. Looking at Central York's 2015-16 salary scales compared with the RLASD's offer at starting pay, 8<sup>th</sup> step and top, RLASD is ahead for starting pay and step 8 but falls behind at the top. Dallastown is an outlier. It pays more than any other district in any comparison group. Eastern York is unusual in that it is way behind at the start and Step 8 then exceeds RLASD at the top by several thousand dollars. The only salary scales in evidence from Spring Grove are from 2013-14. I studied all of the salary scales presented by the Association in its hearing binder and concluded, that, depending on where a teacher is on the scale, both vertically and horizontally, some make out better at the RLASD and some would be happier working elsewhere.

Tax effort measures the burden placed on residents' income. Although the latest statistics available are from 2011-12, RLASD is in the top third of the comparison groups in tax effort and has not increased its millage in three (3) years although taxes have increased by 89% since 1998. In its hearing binder, the RLASD stated that it is constrained in the amount of taxes it can impose by

the Act 1 Index but it also wants to manage any additional burden on taxpayers in light of the “challenged economy, high unemployment rates and continued inflation.” (SD Tab #1, p. 2) (According to the Association (“Demographics Tab, p. 2), the 2014 inflation rate for 2014 was 1.2% to 1.4%, depending on the comparison group and in negative territory for 2015.)

According to the Association's statistics presented at the Fact Finding hearing, the personal income of the RLASD residents has decreased (-.2%) while that of the comparison group has increased (1% for contiguous districts and .8% for York County.) The Association also showed that the SD has consistently over budgeted for expenditures and under budgeted for revenue, ending up with an average surplus of revenue over expenditures of about \$1.5 million per year.

As with many other districts, the RLASD is also being hit with cyber and charter school costs and a huge PSERS obligation. Conversely, the SD will be saving money by instituting a deductible plan and spousal surcharges in its health care plan, both of which the teachers have agreed to (although not in the same amount).

*Recommendation*

2014-15: \$500 for all employees off scale.  
2015-16: 2.50% increase including increment.  
2016-17: 2.50% increase including increment.  
2017-18: 2.35% increase including increment.

**Issue #4: Fair Share (New)**

*Position of the Parties*

The Association wants to add “Fair Share” to the CBA. The SD opposes this proposal.

*Discussion*

Fair share requires members of the bargaining unit who have elected not to join the Association to pay an assessment for that portion of Association dues which cover services provided by the Association for collective bargaining. The theory behind making non-Association members pay this assessment is that the Association is legally responsible for representing the entire bargaining unit on an equal basis and that it is unfair for those who choose not to join the Association to get the same salary and benefits as the dues paying members. The contrary argument is that these employees have no choice in negotiating their own salary and benefits and are forced to take what the Association has negotiated for them whether or not they agree with the terms and conditions of this group Contract.

Although it is currently legal, there is now a case progressing through the courts seeking to make Fair Share illegal. This is an issue which usually arises when increasing numbers of bargaining unit members decide not to join or not renew their membership in the Association. Having received no information other than the standard Fair Share proposal, this issue is best left for the next negotiations when the current court case has, hopefully, been concluded.

*Recommendation*

Do not include Fair Share in the CBA.

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_  
Diana S. Mulligan, Fact Finder

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_  
Rhonda Jacoby, for the Association

ACCEPT REJECT

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_  
Katherine Heintzelman, Esq., for the School District

ACCEPT REJECT

**Red Lion School District  
2013-2014 (Base Year)**

To Top	Steps	B	B+	m	m+15	m+30	m+45	m+60
14	1	43,941	48,204	52,467	55,310	58,153	60,996	63,839
13	2	45,388	49,651	53,914	56,757	59,600	62,443	65,286
12	3	46,834	51,097	55,360	58,203	61,046	63,889	66,732
11	4	48,281	52,544	56,807	59,650	62,493	65,336	68,179
10	5	49,728	53,991	58,254	61,097	63,940	66,783	69,626
9	6	51,175	55,438	59,701	62,544	65,387	68,230	71,073
8	7	52,622	56,885	61,148	63,991	66,834	69,677	72,520
7	8	54,069	58,332	62,595	65,438	68,281	71,124	73,967
6	9	55,515	59,778	64,041	66,884	69,727	72,570	75,413
5	10	56,962	61,225	65,488	68,331	71,174	74,017	76,860
4	11	58,409	62,672	66,935	69,778	72,621	75,464	78,307
3	12	59,856	64,119	68,382	71,225	74,068	76,911	79,754
2	13	61,303	65,566	69,829	72,672	75,515	78,358	81,201
1	14	62,750	67,013	71,276	74,119	76,962	79,805	82,648
Top	15	64,196	68,459	72,722	75,565	78,408	81,251	84,094

*No  
Increase  
No Step  
Movement -  
\$500 off  
scale  
increase*

*Average \$  
0Increase  
Average %  
0.00%Increase*

**Red Lion School District  
2014-2015**

To Top	Steps	B	B+	m	m+15	m+30	m+45	m+60
14	1	43,941	48,204	52,467	55,310	58,153	60,996	63,839
13	2	45,388	49,651	53,914	56,757	59,600	62,443	65,286
12	3	46,834	51,097	55,360	58,203	61,046	63,889	66,732
11	4	48,281	52,544	56,807	59,650	62,493	65,336	68,179
10	5	49,728	53,991	58,254	61,097	63,940	66,783	69,626
9	6	51,175	55,438	59,701	62,544	65,387	68,230	71,073
8	7	52,622	56,885	61,148	63,991	66,834	69,677	72,520
7	8	54,069	58,332	62,595	65,438	68,281	71,124	73,967
6	9	55,515	59,778	64,041	66,884	69,727	72,570	75,413
5	10	56,962	61,225	65,488	68,331	71,174	74,017	76,860
4	11	58,409	62,672	66,935	69,778	72,621	75,464	78,307
3	12	59,856	64,119	68,382	71,225	74,068	76,911	79,754
2	13	61,303	65,566	69,829	72,672	75,515	78,358	81,201
1	14	62,750	67,013	71,276	74,119	76,962	79,805	82,648
Top	15	64,196	68,459	72,722	75,565	78,408	81,251	84,094

**Average \$**  
**1,689 Increase**  
**Average %**  
**2.50% Increase**

**Red Lion School District**  
**2015-2016**

To Top	Steps	B	B+	m	m+15	m+30	m+45	m+60
14	1	44,365	48,656	52,947	55,809	58,670	61,532	64,394
13	2	45,812	50,103	54,394	57,256	60,117	62,979	65,841
12	3	47,258	51,549	55,840	58,702	61,563	64,425	67,287
11	4	48,705	52,996	57,287	60,149	63,010	65,872	68,734
10	5	50,152	54,443	58,734	61,596	64,457	67,319	70,181
9	6	51,599	55,890	60,181	63,043	65,904	68,766	71,628
8	7	53,046	57,337	61,628	64,490	67,351	70,213	73,075
7	8	54,493	58,784	63,075	65,937	68,798	71,660	74,522
6	9	55,939	60,230	64,521	67,383	70,244	73,106	75,968
5	10	57,386	61,677	65,968	68,830	71,691	74,553	77,415
4	11	58,833	63,124	67,415	70,277	73,138	76,000	78,862
3	12	60,280	64,571	68,862	71,724	74,585	77,447	80,309
2	13	61,727	66,018	70,309	73,171	76,032	78,894	81,756
1	14	63,174	67,465	71,756	74,618	77,479	80,341	83,203
Top	15	64,620	68,911	73,202	76,064	78,925	81,787	84,649

**Average \$**  
**1,730 Increase**  
**Average %**  
**2.50% Increase**

**Red Lion School District**  
**2016-2017**

To Top	Steps	B	B+	m	m+15	m+30	m+45	m+60
14	1	44,843	49,166	53,489	56,372	59,255	62,137	65,020
13	2	46,290	50,613	54,936	57,819	60,702	63,584	66,467
12	3	47,736	52,059	56,382	59,265	62,148	65,030	67,913
11	4	49,183	53,506	57,829	60,712	63,595	66,477	69,360
10	5	50,630	54,953	59,276	62,159	65,042	67,924	70,807
9	6	52,077	56,400	60,723	63,606	66,489	69,371	72,254
8	7	53,524	57,847	62,170	65,053	67,936	70,818	73,701
7	8	54,971	59,294	63,617	66,500	69,383	72,265	75,148
6	9	56,417	60,740	65,063	67,946	70,829	73,711	76,594
5	10	57,864	62,187	66,510	69,393	72,276	75,158	78,041
4	11	59,311	63,634	67,957	70,840	73,723	76,605	79,488
3	12	60,758	65,081	69,404	72,287	75,170	78,052	80,935
2	13	62,205	66,528	70,851	73,734	76,617	79,499	82,382
1	14	63,652	67,975	72,298	75,181	78,064	80,946	83,829
Top	15	65,098	69,421	73,744	76,627	79,510	82,392	85,275

**Average \$**  
**1,671 Increase**  
**Average %**  
**2.35% Increase**

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**Red Lion School District**  
**2017-2018**

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<b>To Top</b>	<b>Steps</b>	<b>B</b>	<b>B+</b>	<b>m</b>	<b>m+15</b>	<b>m+30</b>	<b>m+45</b>	<b>m+60</b>
14	1	45,321	49,676	54,031	56,935	59,839	62,743	65,647
13	2	46,768	51,123	55,478	58,382	61,286	64,190	67,094
12	3	48,214	52,569	56,924	59,828	62,732	65,636	68,540
11	4	49,661	54,016	58,371	61,275	64,179	67,083	69,987
10	5	51,108	55,463	59,818	62,722	65,626	68,530	71,434
9	6	52,555	56,910	61,265	64,169	67,073	69,977	72,881
8	7	54,002	58,357	62,712	65,616	68,520	71,424	74,328
7	8	55,449	59,804	64,159	67,063	69,967	72,871	75,775
6	9	56,895	61,250	65,605	68,509	71,413	74,317	77,221
5	10	58,342	62,697	67,052	69,956	72,860	75,764	78,668
4	11	59,789	64,144	68,499	71,403	74,307	77,211	80,115
3	12	61,236	65,591	69,946	72,850	75,754	78,658	81,562
2	13	62,683	67,038	71,393	74,297	77,201	80,105	83,009
1	14	64,130	68,485	72,840	75,744	78,648	81,552	84,456
Top	15	65,576	69,931	74,286	77,190	80,094	82,998	85,902