

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LABOR RELATIONS BOARD**

IN THE MATTER OF THE FACT FINDING BETWEEN :
 :
Pennsbury School District :
 :
and : CASE NO. ACT- 88-16-14-E
 :
 :
Pennsbury Education Association :

FACT FINDING REPORT AND RECOMMENDATION

APPOINTMENT: April 8, 2016
REPORT DATE: May 18, 2016
FACT FINDER: Mary Theresa Metzler, Esquire
FOR THE DISTRICT: Peter C. Amuso, Esquire
Michael P. Clarke, Esq.
Rudolph Clarke, LLC
Seven Neshaminy Interplex, Suite 200
Trevose, PA 19053
FOR THE ASSOCIATION: Bradley Gross, UniServ Representative
Pennsylvania State Education Association, NEA
Mideastern Region
601 Bethlehem Pike, Building "C"
Montgomeryville, PA 18936

INTRODUCTION

On April 8, 2016, the Pennsylvania Labor Relations Board ("PLRB") appointed the undersigned as Fact Finder pursuant to Act 88 of 1982 ("Act 88") and the Public Employee Relations Act ("PERA"), in the impasse between the Pennsbury School District ("District" or "Employer") and the Pennsbury Education Association ("Association" or "Union") for the District's professional employees.

BACKGROUND

The District provides K-12 education to approximately 10,500 students in the townships of Falls and Lower Makefield, and the boroughs of Yardley and Tullytown. There are ten elementary facilities, three middle school buildings, and one high school consisting of two buildings.

The Association is the certified bargaining representative for professional employees of the District, including the positions of Inductee, Instructor I, Instructor II, Professional Educator I, Professional Educator II and Advanced Professional Educator. Currently, there are approximately 847 professionals in the bargaining unit.

The District and Union are currently parties to a one year collective bargaining agreement with effective dates from July 1, 2015 through June 30, 2016. ("Agreement") The previous collective bargaining agreement was dated 2010-2015 which resulted when the parties adopted the recommendations of a previous Fact Finder's Report. The District and the Association have engaged in negotiations for a new collective bargaining agreement. The parties held approximately 8 bargaining sessions and utilized the assistance of a state mediator. However, they have been unable to reach a successor agreement.

The formal fact finding hearing in the instant matter was held before the undersigned on May 5, 2016 in Trevose, PA. At that time, the parties were afforded a full opportunity to present testimony, documentary evidence and reports, as well as oral argument, in support of their positions. The record was also supplemented by oral argument telephonically on May 13, 2016.

ISSUES

After reviewing the documentary evidence, data and exhibits, and considering the arguments in support of the parties' respective positions on the issues, the Fact Finder makes the following analysis and recommendations. Where the parties have reached a tentative agreement on an issue, I have so indicated.

1. Term of Agreement (Article XLV.)

Both parties have proposed a three year term for the new agreement.

Tentative Agreement between the parties on this issue.

2. Salaries (Article XVII, Section 1)

Association Proposal

The Association emphasizes that the salary schedule for the employees has only increased a total of 1 % between 2009 and 2016, a span of seven years. That 1% raise was received in the 2015-2016 contract. The employees had no wage increase to their salary schedule for the 6 years prior to 2015. In the past seven years, the members of the bargaining unit were limited to 1 full step movement and 2 delayed step movements; there were 4 years with no step movements.

Additionally, for a period of 5 years, the employees were unable to advance their positions through column movement, which is based on obtaining certain degrees, educational credits, or a combination thereof, and fulfilling certain service components. It was only during the current Agreement that employees were finally permitted to make column movements. Therefore, upon the 14th pay (mid-year for the 2015-2016 year) eligible employees were able to make one column movement, and at the end of the year (June 30, 2016) all eligible bargaining unit members who apply will be placed in the appropriate column. There is no step movement permitted during the current Agreement. The Union does not want to limit future column or step movement.

In addition to the wage freeze, the Association argues that the employees have made a number of other financial sacrifices to assist the District with its budgetary issues. Those sacrifices include increased premium co-shares for health insurance premiums, increased co-pays for medical services, and the adoption of an inferior health plan for long-term substitutes and new hires.

According to statistics presented by the Union, the Pennsbury Education Association teachers rank the lowest among professional employees of other school districts in Bucks County with respect to: maximum attainable salary, and growth of salary between 2009 and 2016.¹ They are the second lowest for the Career Rate (Masters Top Step). The employees' salaries have not kept up with inflation, and even under the Association's proposal, the employees will still be left with a gap. Therefore, the Association makes the following salary proposal:

2016-2017

- \$500 on each cell of the salary schedule
- One step increase at first pay
- Column movements as currently defined by contract (a reference to Article XVII, Section 4)

2017-2018

- \$2000 on each cell of the salary schedule
- One step increase at first pay
- Column movements as currently defined by contract

2018-2019

- \$1000 on each cell of the salary schedule
- One step increase at first pay
- Column movement as currently defined by contract

¹ The Association did not include the Vo-Tech and Neshaminy School Districts, as those employees are not represented by PSEA.

District Proposal

The District points out that the parties agreed to adopt the recommendations, issued by the previous Fact Finder in 2013, that there be a freeze on all column movements for 5 years and only 2 salary steps (mid-year in the 2013-2014 year and mid-year in the 2014-2015 year). The School Board did not raise school taxes for a period from 2010-2014. There were school tax increases of 2.1 % for the 2014-2015 year, and 2.9% for the 2015-2016 year. As there had been no column movement for employees for a number of years, the Employer and Association agreed to allow 1 column movement mid-year 2015-2016, and an additional column movement will be effective for the first pay of the 2016-2017 year. These column movements have incurred significant costs for the District.

There are other increased costs for the District including an additional \$2.1-2.2 million (after state reimbursement), for the pension fund (PSERS) for 2016-2017, increased costs for special education needs, technology upgrades and costs associated with implementation of a new math curriculum. The District is also renovating a middle school which has projected costs of about \$50 million. While, the District has a fund balance of about \$14 million, \$1.5 million will be used towards this year's budget. The District must be careful to maintain its good Moody's credit rating which is based, in part, on the size of the fund balance.

Significantly, the District's Proposed Budget shows a \$4,084,000 deficit. In some prior budgets which also projected a deficit, the District did not experience actual deficits due to a good job of managing costs. While the District desires to maintain its core programs, it is also reasonably concerned about the community's ability to pay. Act 1 limits the amount that a school board can raise taxes without holding a referendum. The Act 1 index for the upcoming year is 2.4%. If that tax increase was implemented, it would result in \$3.2 million which is still insufficient to cover the projected deficit. Of the 13 school districts in Bucks County, Pennsbury School District has the 3rd highest millage rate.

The District's proposal focuses on providing salary schedule increases to employees, who are at the top step of their positions, since they have only received a 1% increase since 2010. ² During the first year of the new contract, the District proposes a smaller dollar amount increase for all other employees. The District's Proposal is as follows:

2016-2017

- \$1000 on Step 13 cell for all employees at Step 13
- \$250 on all other cells
- No step or column movement

2017-2018

- ½ step movement on the 13th Pay
- One column movement at the beginning of year
- No further column movement during the year

2018-2019

- \$500 on Step 13 cell for all employees at Step 13
- One column movement at the beginning of the year
- No further column movement during the year

Discussion

The District is dealing with financial challenges, not unusual for most school districts in the current economic environment. The District, while committed to providing a good education for its students, is also attempting to be a prudent steward of its resources and is concerned about raising taxes and the ability of the community to pay for that education. The Association, on the other hand, convincingly demonstrated that its employees have financially fallen behind their peers in surrounding districts. Thus, the employees have received a total of 1% increases to their salary schedules over a 7 year period of time. That salary schedule increase only came in the 2015-2016 contract, and the teachers had gone for a period of 6 years with no salary schedule raises. This has resulted in the teachers' salaries being at the bottom, or close to the bottom, when compared to other Bucks County districts.

Both parties must be aware, and concerned, about the impact that this situation will have on the District's ability to retain its staff, and recruit new teachers to the District. While the Employer's proposal primarily puts increases at the top cells of each column, the Union argues that such a proposal is actually more costly to the Employer in the long run. Further, the Union's position is that it is more equitable to evenly distribute the dollar increases throughout the salary schedule. I agree.

² In its submitted Statement of Issues in Dispute, the District's proposal included salary schedule increases only for Advanced Professional Educators on Step 13 (in addition to the \$250 cell increase during the first year for all employees). At the Fact Finding hearing, the District clarified that it was proposing that the other increases (\$1000 in 2016-2017 and \$500 in 2018-2019) would be applicable to the Step 13 cell for all employees on Step 13 of the Salary Schedule Chart.

The District has stated that it cannot afford to pay the costs of the Association's proposal. The District has traditionally budgeted deficits, but during the past 12 years actually had surpluses in 6 of those years, and in the other 6 years had a lower deficit than projected. According to the District, this is because it has been able to effectively manage costs. The Association has made limited proposals during negotiations, as they have focused on the need to improve the compensation of the bargaining unit members. Both parties understand that no one can turn back the clock and make up for the years where the District chose not to raise taxes.

While I appreciate the District's financial pressures and limitations, I am also of the view that the salary proposal recommendations below, better reflect the valuable contribution of the teachers to the District's mission, while balancing the economic challenges facing the District.

Recommendation

Having considered each side's arguments, I am recommending salary changes that are less than those being proposed by the Association, but more than those being proposed by the District. I am also mindful that in the current Agreement, the parties have addressed the pent up demand for column movement.

2016-2017

- \$500 increase on each cell of the salary schedule
- One step movement at the beginning of the school year
- No column movement during the year

2017-2018

- \$750 increase on each cell of the salary schedule
- One step movement at the beginning of the school year
- One column movement at the beginning of the school year

2018-2019

- \$500 increase on each cell of the salary schedule
- One step movement at the beginning of the school year
- Column movements as currently defined by Article XVII, Section 4 of Agreement

The recommended salary schedules are set forth in **Appendix A** to this Report.

3. Career Ladder (Article XVII, Section 9)

District Proposal

The District is proposing to eliminate some career ladder criteria. Under the current Agreement, in order to progress to a higher level position (known as column movement on the salary schedule), an employee must obtain certain educational degrees, credits, or a combination thereof and fulfill service components.³ As an example, for an Instructor I to advance to an Instructor II position, the employee currently must have obtained a Master's Degree, or alternatively, possess a Bachelor's Degree plus have 30 additional credits. Under this example, the District desires to eliminate the alternative of Bachelor's Degree plus 30 credits, and instead, require that the employee obtain a Master's Degree in order to advance.

The District wants to encourage employees to take higher level courses leading to an advanced degree. The District's proposal would eliminate the following, currently permissible criteria for advancing:

Instructor II: Bachelors + 30

Professional Educator I: Bachelors + 45 & Masters

Professional Educator II: Bachelors +55 & Masters

Advanced Professional Educator: Bachelors + 65 & Masters

Under the District's proposal, this new criterion would be applicable to teachers hired on or after July 1, 2016.

³ The Service Components are the subject of another proposal discussed below.

At the Fact Finding hearing, the District clarified that its proposal does not seek to change the status of those employees who are covered by grandfather language in Article XVII, Section 9, if they began employment with the District, as a permanent teacher or long-term substitute, before certain dates set forth in that section. Thus, the District's proposal would not impact the Bachelors + 45 option for Professional Educator I, the Bachelors + 55 option for Professional Educator II, and the Bachelors +65 option for Advanced Professional Educators who are grandfathered under the Agreement.

Association Position

The Association notes that this issue was never raised by the District at the bargaining table. Further, there are bargaining unit employees who wish to remain with the current process of career advancement. The Association sees no rationale for the change and seeks to remain with the existing language.

Discussion

While, I understand that the District would prefer that all employees take courses of a high level, which might lead to an advanced degree, I find that to require that employees only advance through the career ladder based on achievement of a degree would place a heavy burden on the teachers. Certainly, the employees are able to improve their skills, education, and value to the students and the District by taking courses which may not result in a Master's degree.

Recommendation

I recommend that the language of the current Agreement remain.

4. Service Component (Article XVII, Section 7)

Association Proposal

The Association proposes to remove Section 7 of Article XVII which requires teachers satisfy certain service components each year. In addition, teachers, who move from one column to the next during a school year, must fulfill the service components of the higher level position. If a teacher fails to meet the service component requirement by June 30, the teacher forfeits compensation increases received during the year.

In the Union's view, the tasks associated with the service components are duties which the teachers routinely perform as part of their teaching role and functions. The service component requirements are burdensome to the teachers and the District with respect to maintenance, paperwork and recording. The Union is unaware of a teacher who has been negatively impacted by the service component requirement.

District Position

The District's position is that the language of the current Agreement should remain in place. A document is maintained for each teacher to keep track of the service components. The District's Human Resources Department confirms with the school that the teacher has fulfilled the requirements. The District would agree to remove the service component section, only if the Union agrees to the District's proposal to change Article X, Section 1, by increasing the maximum number of meetings outside of the workday from 13 to 20.

Discussion

The Association does not agree to the District's proposal to increase the number of meetings held outside the workdays, as will be discussed in a separate section below. While I understand the Union's position that teachers are already performing the various kinds of duties set forth in the service component language, I see no compelling reason to change the existing requirement. The record did not disclose that the amount of paperwork associated with the process was overly burdensome, or time-consuming, for the teachers or the District.

Recommendation

I do not recommend the Association's proposal.

5. Medical Insurance (Article XX, Section 2)

District Proposal

The District investigated the possibility of joining the Bucks/Montgomery County Health Insurance Consortium ("Consortium") at the Union's suggestion. The District determined that it would be more expensive to join the Consortium, as the District is currently self-insured and has a certain level of flexibility which it would lose by joining the Consortium. Further, the District would incur additional costs.

However, the District has researched the possibility of revising the plans it offers to employees in a manner that would save the District money which it could then use to help fund wage increases. Under the current Agreement, there are 4 health insurance plans. Under the District's proposal, it would offer the following 3 plans:

- A. A plan "substantially similar" to the Personal Choice ("PC") 20/40/70 plan offered by the Consortium. This 20/40/70 plan would become the new benchmark plan for all current employees, including long-term substitutes and new hires. This plan would replace the current PC 20/30/70 benchmark plan. The premium share for the employees would increase from the current 12%, as follows:

- 2016-2017- 14%
- 2017-2018- 15%
- 2018-2019- 16%
- Prescription premium share -10% (same percentage as under current Agreement)

Under the current Agreement, long-term substitutes and new hires have a different benchmark plan with a 10% premium share. Those employees would be covered under the new 20/40/70 plan, with the higher premium rate schedule set forth above. The actual plan design with the details of the costs/co-pays, etc. is not yet known and has not been provided to the Association or to the Fact Finder.

- B. Keystone POS 15S 30/40 will continue to be offered as a buy-down plan for all employees, but no employee will be required to join this plan. As noted above, this Keystone POS plan is the current benchmark plan for long-term substitutes and new hires, with a 10% premium share. The premium share under the District's proposal would be:

- 2016-2017- 11%
- 2017-2018- 12%
- 2018-2019- 13%
- Prescription premium share-10%

- C. Personal Choice ("PC") 10/20/70 would remain as a buy-up plan for all employees. The premium share costs to the employees would remain as is set forth in Article XX, Section 2(C) requiring the employee to "pay the applicable percentage of the benchmark plan in addition to 100% of the difference in costs between the benchmark plan and the plan in which they are enrolled."

Under the District's proposal, the 4th available plan, currently available as a second buy-up plan to employees, i.e., Personal Choice 20, would be eliminated.

The District is also proposing to eliminate Article XX, Section 2 (E) which provides for a \$2250 "maximum annual employee contribution" to the benchmark plan.

The District calculates that it will save approximately \$116,000 by increasing the employees' premium shares from the current 12% to 14%, and that an additional \$400,000 in savings would result by modifying the benchmark plan, as proposed.

Association Proposal

The Association has never proposed that the District join the Consortium, only that the District investigate entry into the Consortium, as a possible means of saving money while maintaining a high quality, health care program at an affordable price. The Union is not disputing the District's conclusion that by joining the Consortium, it would fail to achieve costs savings and that it might result in reduced quality plans and more out-of-pocket costs for the employees.

Since the District claims financial success with respect to remaining self-funded, and achieving lower claims and lower cost history, the Union does not see the need to increase the premium share paid by employees, or decrease the plan benefit by switching to a 20/40/70 plan, as proposed by the Employer. The Association is agreeable to eliminating the current two-tiered health care system of two benchmark plans, one for most employees and a second for long-term substitutes/new hires. The Association proposes that the current PC 20/30/70 plan, at the 12% premium share, be the singular benchmark plan for all employees.

In addition, the Union proposes that the 3 other current health care plans remain in place. Thus, the Keystone POS 15 S 30/40 would be the optional buy-down plan, and the PC 10/20/70 and PC 20 plans would be the optional buy-up plans. The Association rejects any increases in premium share for any of the plans. The Union is also opposed to eliminating the language of Article XX, Section 2 (E).

Discussion

The District's proposal to change the benchmark plan to a singular system, rather than a two-tiered system, is conceptually agreeable to the Union. Likewise, the Union states that it is willing to review the plan design and details of the District's proposed new benchmark 20/40/70 plan. However, the plan design, which contains important details, was not yet available from the health care provider and therefore, could not be shared with the Association or the Fact Finder. This is unfortunate as the District anticipates that there could be significant costs savings resulting from the adoption of the plan. Indeed, if the anticipated premium is less than the current plan, then the employee premium share should be positively impacted.

However, the Union understandably has many questions about the new plan that need to be answered before it can accept the plan. Those answers would also benefit the Fact Finder, as a claim that the plan is "substantially similar," is not the same as a claim that the plan is "identical."

In light of the lack of information available about the plan designs, I have no basis to determine that the plans should change, that the premium shares should increase, or that the maximum annual contribution should be eliminated. Thus, the new plan design might include increased co-pays which would impact the overall costs to bargaining unit members. On the other hand, the new plan could contain details financially beneficial to employees. If, and when, the District obtains the plan designs, it will be beneficial for both parties to meet and discuss the proposed changes, which may achieve cost savings for both the Association's members and the Employer.

Recommendation

I do not recommend the District's proposal but strongly encourage the parties to meet and discuss once the plan details become available relating to the District's proposal. Further, I am not recommending the elimination of Article XX, Section 2 (E).

6. Child Rearing Leave (Article XIV, Section 5 (E))

District Proposal

The District proposes reducing the amount of time a teacher can be on a child rearing leave of absence. Currently, the maximum amount of leave is "eight (8) quarters, in addition to any quarters of leave taken during the school year during which the leave is commenced." The District proposes reducing the maximum amount of leave to three (3) semesters, including the semester during which the leave commenced.

The District also proposes that teachers may only return to work at the beginning of a semester. Currently, teachers are able to return to work at the beginning of a quarter. The District's proposal states that the leave should commence when a child is born or adopted.

Association Position

The Association will agree to the District's proposal to reduce the maximum amount of child rearing leave to 3 semesters, including the semester during which the leave commences. However, the Union does not agree to the District's proposal that an employee must return from such leave at the beginning of a semester. The Union desires to maintain the current language which permits a teacher to return at the beginning of a quarter. While the Union acknowledges a need for stability, it also believes that a teacher should be able to return to his/her position when they are able and desirable of returning. This flexibility should not be eliminated.

The Union agrees that the leave should commence when a child is born or adopted, as currently set forth in the Agreement.

Discussion

The parties are in agreement that the overall amount of time for child rearing leave should be reduced as employees are currently able to be out on this leave for over 2 years. By reducing the length of leave to 3 semesters, the maximum amount of leave would now be one and one-half years. As the parties are in agreement on this point, I will recommend the proposal in that regard.

With respect to returning employees, I was not presented with any compelling reason to prohibit teachers from returning to the classroom at the beginning of a quarter. Since the total amount of child rearing leave is being significantly reduced, it is appropriate to allow the teachers to maintain their current flexibility on the return from leave.

Recommendation

The District's proposal to reduce the maximum amount of child rearing leave to 3 semesters, including the semester during which the leave commenced, was accepted by the Association and is recommended. I do not recommend the District's proposed restriction on an employee's return to work at the beginning of a semester. The current language should be maintained permitting a teacher to return at the beginning of a quarter. The parties agree that the leave commences when a child is born or adopted, as set forth in the current Agreement.

7. Child Rearing Leave-Insurance (Article XIV, Section 5 (M))

District Proposal

The District clarifies that employees currently on child rearing leave receive life insurance paid for by the District. Other insurances are paid for by the employees while on such leave. The District proposes that teachers should also pay for the life insurance, and the language of Article XIV, Section 5 (M) would be revised as follows:

“Employees granted child rearing leave may be allowed to remain a member of District group insurance plans, including life insurance, medical insurance, dental insurance, prescription drug insurance and vision insurance plans, during their leave at their own expense, subject to the approval of the carrier(s)…”

The District acknowledges that the cost of the life insurance is minimal.

Association Position

The Association rejects the District's proposal.

Discussion

The District admitted that the cost of the life insurance for teachers out on child rearing leave is minimal. There was no evidence that the cost savings to the District would be of any significance such that it would impact the District's financial status. There appears to be no reason to change the status quo.

Recommendation

I do not recommend the District's proposal.

8. Family Death (Article XIV, Section 10)

Association Proposal

The Association proposed to add “grandchildren” to the definition of immediate family members set forth in Article XIV, Section 10. That provision relates to absence when there has been a death in the immediate family.

District Position

The District is in agreement with the Union's proposal on this issue.

Tentative Agreement between the parties on this issue.

9. Family Illness Leave (Article XIV, Section 11)

Association Proposal

The Association proposes to increase the number of sick leave days which may be used to care for members of a teacher's immediate family from 2 days to 5 days. The Union emphasizes that it is not requesting an increase in the total number of sick days granted to its members, which is 10 days. There are a number of new, younger teachers in the bargaining unit over the past few years. With having to care for young children and/or elderly parents, there is an increased need for flexibility to utilize sick days when a family member becomes ill.

In the Union's view, allowing an extra 3 days for family illness, increases the benefit to members without imposing a financial cost on the District. Further, the Association argued that by only allowing 2 days for family illness, the District ranks as the 2nd or 3rd lowest among Bucks County school districts.

District Position

According to the District, the number of days available for family illness should remain at 2. It points out that under the current Agreement, the District Superintendent may allow an additional day of sick leave for family illness for “good cause shown.” The

District notes that 99% of the time, requests for the additional day are approved. Further, the District contends that there is an absenteeism problem in the District.

Discussion

It is understandable that the Association would like more flexibility for use of sick leave to care for family members who become ill. The data presented by the Union demonstrates that the District is almost at the bottom of the chart, among other Bucks County school districts which grant more flexibility to its employees in this regard. While the District raised concerns about controlling absenteeism, the record did not disclose the nature or extent of any such problem.

Recommendation

I recommend that one (1) additional day of sick leave be allowed for family illness reasons. Therefore, Article XIV, Section 11 should be revised to reflect that “Up to three (3) days’ paid absence ...” may be used for family illness purposes. The language of the provision otherwise should remain as is.

10. Grading Days (Article V, Sections 1 & 3)

District Proposal

The District proposes to eliminate 2 of the 3 current “Grading Days” which are granted to teachers “for grade level, department or faculty meetings and for completing grades for the marking period.” A Grading Day is usually scheduled at the conclusion of each of the 3 marking periods, but that may vary if there have been snow days, for example.

Under the District’s proposal, one of the 2 Grading Days to be eliminated will simply be removed from the calendar, and the 2nd Grading Day to be eliminated will become a student day. Thus, the number of student days would increase from 180 to 181 days, and the total number of teacher days would be reduced from 191 to 190.

The District argues that Grading Days are a relic of a non-technological past where teachers had to handwrite grades and fill out report cards. Now, teachers enter grades electronically throughout the school year.

Association Position

The Association is strongly opposed to the District’s proposal to eliminate any of the 3 Grading Days. The Union acknowledges that due to the electronic nature of the grading system, less time is now spent on entering the grades but those days are still used to complete the grading process. These Grading Days are also necessary to accomplish a number of other tasks associated with the breaks between marking periods. Those tasks include students taking make-up examinations, dealing with student failure issues, completing work to wrap-up the old course and begin the new course, and increased work related to mid-common assessments.

For elementary level teachers, these Grading Days are especially important as they must meet with other teachers to obtain grades. Special Education teachers utilize these days to prepare Individualized Education Programs (“IEP”). Again, they must meet with other teachers to obtain the necessary information to be incorporated into the IEPs. The Association also points out that if the District adds another student day, there will be significant cost increases for the District.

Discussion

The District’s position that Grading Days are obsolete, since grades are entered electronically, is understandable. However, the Union persuasively argued that these days, which historically have been called “Grading Days,” are utilized for much more than just grading tasks. Teachers, such as elementary level and Special Education teachers, still perform grading tasks on those days, as may many other teachers. But these days have proven crucial to the bargaining unit members to accomplish a number of other professional duties. I also agree with the Association that adding another student day to the schedule will incur significant costs to the District, such as personnel costs for other staff and student transportation.

Recommendation

I do not recommend the District’s proposal.

11. Trade Days (Article V, Section 2)

District Proposal

The District proposes to eliminate the current 3 teacher days designated as “Trade Days” and instead, those 3 days will become District-directed professional development days during the school year. Per Section 2 of Article V, the District can schedule 3 teacher days for professional staff development. However, employees may elect to substitute “District-approved or District sponsored

summer or weekend workshops or curriculum activities” for the trade days. The problem, as explained by the District, is that there is slim attendance at the 3 professional staff development days throughout the school year, since so many teachers opt-out. The District would like more control over the professional development training it provides to the entire staff.

Association Position

The Union is opposed to eliminating the flexibility which teachers currently possess in terms of obtaining professional development training. According to the Union, the District schedules other, additional professional staff development days during the school year. According to the Union, the Trade Days are typically scheduled around a holiday, such as the Monday after Thanksgiving and the Tuesday after President’s Day. These have become days when teachers are able to travel with their families. This is especially important since teachers are unable to utilize their personal leave days on the days before, or after, a holiday.

Discussion

The parties both acknowledge that there are additional, professional development days throughout the year although they could not agree on the number. Thus, the District does have opportunities, in addition to the 3 Trade Days, to train the entire staff. However, I am persuaded that the District’s desire to conduct more training with its entire staff present, is an admirable goal. If a training is conducted and only a small percentage of the staff attend, it seems a waste of time for everyone. I am also mindful of the Association’s concern that teachers have limited ability to travel, and having the flexibility to opt-out of a Trade Day allows them that time. Therefore, I will only partially recommend the District’s proposal.

Recommendation

I recommend the elimination of 1 Trade Day; that day should be replaced with a professional staff development day during the school year.

12. Co-Directed Teacher Day (Article V, Section 5)

District Proposal

The District proposes to eliminate the current “Co-Directed” Teacher Day which is described in the Agreement as a teacher day, whose use is “determined jointly by the District and the Association.” The parties are supposed to collaborate on the use of the day. While the District’s position was that this day could be used for professional staff development, historically it has not been used in that fashion.

Association Position

The Union argued that there is no reason to eliminate this day. The parties have sometimes worked together to discuss the use of this day, but the District appears to want the Association to have less input on the needs of the profession.

Discussion

The District did not present any compelling evidence to persuade me that this day should be eliminated. While the parties may not have worked together as much as possible to coordinate the day’s activities, certainly that option is available to them for future Co-Directed Teacher Days.

Recommendation

I do not recommend the District’s proposal.

13. Joint Labor-Management Committee (Article V, Section 6)

District Proposal

The District proposes to eliminate the Joint Labor-Management (“Joint”) Committee which was established at the suggestion of the previous Fact Finder in his 2013 report. According to the District, there is simply no need for this Joint Committee, as teachers may meet with management over issues of concern.

Association Position

The Association views the District’s proposal as yet another attempt to limit any collaboration with the Union on joint interests. The employees who teach every day have a good understanding of their professional needs. While the Union acknowledges that the Joint Committee did not meet, the Union would like to see the language remain in the Agreement.

Discussion

As I understand it, this Joint Committee, only established in the 2013-2014 school year, never got off the ground. It is my inclination to retain the language and encourage the parties to use the Joint Committee as a forum to discuss interests of mutual concern. To eliminate the Joint Committee at this juncture is premature, in my view.

Recommendation

I do not recommend the District's proposal.

14. Professional Staff Committee (Article XXX)

District Proposal

The Agreement states that the purpose of the Professional Staff ("PS") Committee is to "investigate and review areas and problems related to the improvement of understandings and relationships between teachers, administrators, parents, students and the Board." The PS Committee has never met, so it should be eliminated.

Association Position

The Union expressed its willingness to work with the District on language that appears "safer" to the District, but the Union is opposed to eliminating the PS Committee.

Discussion

Essentially, the District here makes a similar proposal, as the one above regarding the Joint Committee, i.e., to eliminate the PS Committee because it has never met. While the record did not establish when the PS Committee was formed, it appears obvious that the parties have not made much use of it. I cannot determine, based on the limited record before me, which of the parties is at fault for the failure to implement the PS Committee. My reasoning for not recommending the District's proposal is similar to that set forth above. This Committee appears to provide the parties with a forum to sit down and discuss their differences, as well as their common goals and interests. However, this PS Committee also involves the Board.

Recommendation

I do not recommend the District's proposal. It is my recommendation to retain the language and encourage the parties to use the PS Committee as a forum to discuss interests of mutual concern.

15. Additional Mandatory After-School Activity (Article IX, Section 1 & 3)

District Proposal

The District proposes to replace the current language of Article IX, Section 1, to read as follows:

"At the High School level, two (2) of the mandatory after-school activities will be Back-to-School Nights (one (1) per semester). In the Fall and Spring, the High School staff, in cooperation with the building principals, will determine the scope of these activities and establish dates upon which the activities will be held.
At all other levels, one (1) mandatory after-school activity will be Back-to-School Night and/or Open House. In the Fall, the staff, in cooperation with the building principal, will determine the scope of this activity by building and establish a date upon which the activity will be held."

The District also proposes to change the language of Article IX, Section 3, to read as follows:

"The maximum number of after-school activities any staff member will be required to attend will be four (4)."

The District explained that the second Back-to-School Night is needed at the High School, since the students' teachers change mid-year.

Association Position

The Association's view is that the District is again requesting the employees to take additional time away from their families without additional compensation. The Union had considered it might agree to the second Back-to-School Night, if the amount of time spent at the current Back-to-School Night, was split between the 2 Nights.

Discussion

It appears that the District's request for a second Back-to-School Night at the High School level is reasonable. However, adding an additional after-school activity to the teachers' calendar imposes an additional burden on the employees, both in terms of time and

money. I am hesitant to recommend a limit on the amount of time for the second Back-to-School Night. There is little purpose served, if the evening is too rushed, and the goals of such an event fail to be accomplished. The parties may feel comfortable agreeing to a set amount of time for the evening activities, and I encourage them to meet and discuss a reasonable solution to this issue.

Recommendation

I do not recommend the District’s proposal. However, I also recommend that the parties meet and discuss over this important issue to reach a compromise that will work for all parties.

16. Meetings Outside Work Day (Article X, Section 1)

District Proposal

The District proposes to increase the maximum number of meetings employees must attend outside the teacher work day from 13, as currently required, to 20. This would allow for more regular department and building meetings. According to the District, there is an ongoing need to meet with the employees about new information and new regulations. The meetings are already limited in length to one hour.

Union Position

The Association rejects the District’s proposal to add 7 more work hours to the teachers already busy schedule, for the additional 7 hour-long meetings. This amounts to almost another full day’s work, without additional compensation.

Discussion

The record did not demonstrate any compelling reason to increase the maximum number of meetings outside the work day, from its current 13 meetings. While I am recommending a modest salary increase, as set forth above, the amount of money is not so high as to justify such an extra burden on the teachers’ time.

Recommendation

I do not recommend the District’s proposal.

17. Teacher Protection –Injury (Article XXIII, Section 4)

District Proposal

The District proposes to change the language in Section 4 in 4 ways. First, the District proposes to replace the term “Workers’ Compensation benefits” with “Workers’ Compensation payments” in the first sentence. Second, the District proposes adding language that employees would have to utilize 1 day of sick leave for every 3 days of absence. Third, the District has proposed additional language regarding take-home pay meeting certain requirements. Fourth, the District appears to be revising the section to reflect the correct title of the statute. Thus, the section would read, as follows:

“Absence due to injury incurred in the course of a Bargaining Unit Member’s employment for which a Bargaining Unit Member is eligible for *Workers’ Compensation payments* shall not be charged against the Bargaining Unit Member’s sick leave days for the first fourteen (14) days of absence. Thereafter, for every three (3) days of absence, one (1) day of sick leave will be deducted from the Bargaining Unit Member. The Bargaining Unit Member’s take-home pay must meet the minimum requirements of the Pennsylvania Department of Labor & Industry regarding the *Workers’ Compensation Act*. The Bargaining Unit Member shall sign over all *Workers’ Compensation payments* to the District except for those payments received by the Bargaining Unit Member during the summer months.” (emphasis added)

The District’s rationale is that employees should be required to utilize sick leave days, when they are receiving payments from Workers’ Compensation.

Association Position

The Union is opposed to any change in the language. Currently, a teacher’s use of Workers’ Compensation does not impact the teacher’s sick leave and it should remain that way. If this section is degraded, the “protection” for the teacher who has been injured during the course of their employment, has been weakened.

Discussion

In the unfortunate situation where a teacher has been injured during the course of his/her employment, and is eligible to receive Workers’ Compensation benefits, the teacher currently does not have to use up their sick leave. There was no compelling rationale or evidence to demonstrate that this has caused issues for the District, financial or otherwise. To recommend the District’s proposal,

would put additional financial burdens on the employees without apparent basis. There was insufficient evidence to support the District's basis for the other proposed language changes. I will recommend that the contractual language be changed to accurately reflect the name of the statute as "Workers' Compensation," rather than "Workmen's Compensation."

Recommendation

I recommend that the language of the Article be revised to replace the words, "Workmen's Compensation" with "Workers' Compensation." I do not recommend the District's other proposals.

18. Tuition Reimbursement (Article XVIII, Sections 1-5)

District Proposal

The District makes a number of proposals with regard to the Tuition Reimbursement section of the Agreement. One of the District's major concerns is that employees are taking online courses that are not of a high quality. The District wants to encourage employees to take higher quality courses, and higher level courses leading to a degree. To address these concerns, the District makes the following proposal:

- (a) The District proposes that the maximum number of credits any employee may take during each school year would be 15. Any credits beyond 15 would not be reimbursed and would not count toward salary/column movement increases during the bargaining unit member's employment by the District.
- (b) All new employees and long term substitutes may only take 9 credits per year during the life of the contract. Again, additional credits beyond the 9 would not be reimbursed and would not count towards salary/column movement increases during the employee's employment with the District.
- (c) Credits related to an employee's current assignment, outside of a Master's Degree or Certification program, will be reimbursed and count towards salary/column increases.
- (d) Credits within an accredited Master's Degree in Education Program, or Master's in an employee's specific content area, will be reimbursed and count towards salary/column advancement. Employees must submit a letter of acceptance for the accredited Master's Degree program prior to approval, as well as a course list for tracking purposes.
- (e) After an employee has obtained a Master's Degree (as outlined above), credits within an accredited Certification program, an additional Master's Degree, or Doctoral program will be reimbursed and will count toward salary/column advancement. Bargaining Unit Members must submit a letter of acceptance for the aforesaid programs prior to approval and a program course list is required for tracking purposes.
- (f) Credits outside the employee's current assignment, other than those that are part of an approved and accredited Master's Degree or Certification program, will not be reimbursed and will not count towards salary/column advancement, unless approved by the Superintendent or his/her designee.
- (g) Courses unrelated to teaching will not be reimbursed nor count toward salary/column increases.
- (h) Bargaining Unit Members must be employed by the District for 3 years prior to taking courses leading to an administrative certification. Such courses will be reimbursed and count toward salary/column increases.
- (i) Employees may only take credits through "on-line" courses from certain accredited institutions listed on an Appendix, as agreed to by the Bargaining Unit and the District. Any requests for credits through "on-line" courses not listed on the Appendix will not be reimbursed and will not count toward salary/column increases, unless approved by the Superintendent or his/her designee. This section will not apply to courses that are part of an approved program as outlined above.
- (j) Rate of reimbursement will be consistent with the current Agreement.
- (k) Add tuition recovery language to this section which will require an employee who leaves the District within 2 years of the academic year in which they were reimbursed for a course(s), to repay "100% of that money to PSD for the school year immediately prior to leaving the District and 50% of that money to PSD for the second school year prior to leaving the District." School year is defined as July 1 through June 30.
- (l) Exceptions will be made for employees who leave the District because of "serious illness or disability; relocation of a spouse or significant other to a location which would make it impossible or impracticable for the member to continue to work for the District, or to care for a sick parent, spouse, child, etc., as defined by the Family and Medical Leave Act." All such requests for exceptions would require documentation.

Association Position

The Association is open to discussing a 15-credit /year limitation, but is opposed to a two-tiered system which would only allow new hires/long term substitutes to take 9 credits/year. The Union completely rejects the concept that if any employee takes credits beyond the yearly limitation, that those credits could not be banked for future column movements. In the Union's view, it would be punitive to withhold future advancement to an employee who is dedicated to the profession and takes additional

courses. Consideration could be given to restrictions on the frequency of column movement. The Association also notes that the current Agreement has a reimbursement maximum of \$1300/year per teacher.

With regard to limitations on employees taking course leading to an administrative certification, the Union agrees in concept, but would counter-propose that such courses would not be reimbursed, or count toward salary/column increases, until the conclusion of the 14th year. The Union is also amenable to developing an Appendix for “on-line” courses, as the District proposes, if the Appendix is approved annually, outside the Agreement, and determined by a committee consisting of representatives of the bargaining unit and District.

The remaining proposals of the District on tuition reimbursement and tuition recovery are rejected by the Union.

Discussion

The Union is amenable to a 15 credits/year limitation for reimbursement and I will recommend the same. However, I agree with the Union that if an employee has taken more credits, even if not reimbursed, those credits should be able to be banked for future consideration in salary/column movements.

The District’s goal of encouraging employees to take educational courses of high quality and value is a reasonable and admirable one. Such courses will not only enhance the quality of the teachers’ professional skills, but will add value to the students and the entire educational system. Under the current Agreement, the courses to be reimbursed must be approved prior to registration by the District. However, the District would like more specificity in the Agreement concerning the nature of the courses it will reimburse. I believe that request is not unreasonable but also note that the record did not disclose the multitude of variations in courses and programs one would need to examine to make a determination.

Recommendation

I recommend the District’s proposal for a maximum 15 credits/school year for reimbursement purposes, but to be applicable to all employees, including new hires and long-term substitutes. I do not recommend the District’s proposal that additional credits beyond the 15 credits become ineligible for future salary/column movement. I recommend that the parties meet and discuss to develop guidelines for the nature and level of courses which employees must take for use in salary/column advancement and reimbursement, keeping the goals of the District in mind.

I recommend the District’s proposal regarding a 3 year wait period before employees take courses leading to an administrative certification.

I recommend that the parties adopt a proposal limiting the overall number of online courses to be taken each year, and that they place restrictions on the nature of the online programs which will be deemed acceptable for reimbursement and salary/column advancement. I recommend the Employer’s proposal that an Appendix of accredited institutions offering acceptable online courses be developed in conjunction with the Union. For example, the parties may agree that credits which are part of a Master’s program from a non-virtual institution, such as Temple University, are acceptable. The parties are in agreement that the current rate of reimbursement of a maximum of \$1300 for each year of the contract will remain.

I recommend a modified version of the District’s proposal regarding tuition recovery, as follows:

Add to Article XVIII, language which will require a teacher who leaves the District within 1 year of the academic year in which he/she was reimbursed for a course(s), to repay 75% of the reimbursement amount to the District for the school year immediately prior to leaving the District. School year is defined as July 1 through June 30. Exceptions will be made for employees who leave the District because of “serious illness or disability; relocation of a spouse or significant other to a location which would make it impossible or impracticable for the member to continue to work for the District, or to care for a sick parent, spouse, child, etc., as defined by the Family and Medical Leave Act.” All such requests for exceptions would require documentation.

Other than the recommendations set forth above, I do not recommend the District’s other proposals.

19. Sick Leave Bank Regulations (Appendix A-Section B)

District Proposal

The District has determined that the structure and management of the Sick Leave Bank is antiquated and cumbersome. It proposes working collaboratively with the Association to solve the current problems of the Sick Leave Bank in a manner amenable to both parties.

Association Position

The Association is agreeable in concept and is willing to work with the District on investigating solutions to the District and Board’s concerns.

Discussion

The parties are both willing to discuss this issue and work on solutions to existing problems with the Sick Leave Bank Regulations. Perhaps organizing a committee to meet and discuss the outstanding issues will help move this project along towards resolution.

Recommendation

I recommend the District’s proposal.

20. I.E.P. Planning Days

The Association had proposed to increase the number of I.E.P. planning days for Special Education Teachers from the current 3 days to 5 days. The Union withdrew this proposal at the Fact Finding hearing. Therefore, no recommendation is necessary.

21. Memorandum of Understanding and Personal Leave (Article XIV, Section 13)

Association Proposal

The Association would like to incorporate the various Memorandum of Understandings (“MOU”), between the District and the Association, into the new collective bargaining agreement with one exception. The exception relates to the MOU dealing the inability of employees to utilize personal leave days before, or after, a holiday without approval. The Union had indicated some willingness to reduce the number of Trade Days, if the District would allow employees to use personal leave days on the days before, or after, a holiday.

District Proposal

The District is opposed to removing the restriction on the use of personal leave days before, or after, a holiday. In fact, the District proposes adding the language of the parties’ August 8, 2014 MOU to Article XIV, Section 13 of the Agreement. The District states that this language is important to combat the absenteeism issue. With respect to the remaining MOUs, the District is conceptually agreeable but would have to examine each of the MOUs.

Discussion

The parties appear to have a number of MOUs which are set forth in various letters and memoranda, dating back to at least 2001. Certainly, it might make sense to review those MOUs to determine if they are still relevant and if it would be better to incorporate some of the language into the new contract. Both parties stated that they are conceptually in agreement that this would be a worthwhile exercise.

With regard to the personal leave day issue, the District is not willing to remove the current restrictions. While the District raised the issue of an absenteeism problem, the record did not disclose the nature or extent of any such problem.

Recommendation

I do not recommend the District’s proposal to add the language of the MOU regarding use of personal leave days to the Agreement. I do recommend that the parties meet and discuss over the issue of possible incorporation of the various MOUs into the new agreement.

22. Wage Freeze Language (Appendix A, Section G)

District Proposal

The District proposes removing the language in the Appendix relating to possible wage freezes and the impact on benefits.

Association Position

The Association sees no reason to remove the language and it preserves the history of the document.

Discussion

There was no compelling reasoning presented as to why this language should be removed.

Recommendation

I do not recommend the District's proposal.

Other Matters

Any contractual language that has been mutually agreed upon by the parties is understood to be recommended by this Report. I recommend that any other proposed changes to the Agreement, not specifically addressed and recommended for change herein, remain the same as set forth in the current Agreement.

The above recommendations are respectfully submitted to the parties for their careful consideration with the hope that they will lead to a resolution of the parties' impasse.

May 18, 2016

Mary Theresa Metzler, Esq.

APPENDIX A to FACT FINDER'S REPORT

PENNSBURY SCHOOL DISTRICT and PENNSBURY EDUCATION ASSOCIATION

Pennsbury School District

Salary Schedule

2016-2017

Steps	Inductee	Instructor I	Instructor II	Prof. Educator I	Prof. Educator II	Adv. Prof. Educator
0	\$46,128	\$48,002	\$50,637	\$52,514	\$54,389	\$56,610
1	\$48,530	\$50,503	\$53,277	\$55,252	\$57,225	\$59,564
2	\$49,845	\$51,784	\$54,507	\$56,856	\$58,804	\$61,120
3	\$51,461	\$53,398	\$56,105	\$58,825	\$60,757	\$63,452
4	\$53,399	\$55,329	\$58,430	\$61,142	\$63,066	\$66,186
5	\$0	\$57,261	\$60,755	\$63,857	\$65,779	\$68,904
6	\$0	\$59,331	\$62,771	\$66,238	\$68,142	\$71,635
7	\$0	\$62,127	\$65,954	\$69,412	\$71,328	\$75,217
8	\$0	\$63,691	\$67,710	\$71,171	\$73,276	\$77,370
9	\$0	\$65,255	\$69,467	\$72,929	\$75,222	\$79,522
10	\$0	\$68,763	\$72,988	\$76,583	\$79,264	\$83,981
11	\$0	\$0	\$80,821	\$83,188	\$84,972	\$89,463
12	\$0	\$0	\$83,057	\$85,707	\$87,993	\$93,618
13	\$0	\$0	\$86,978	\$89,966	\$92,810	\$99,704

Pennsbury School District

Salary Schedule

2017-2018

Steps	Inductee	Instructor I	Instructor II	Prof. Educator I	Prof. Educator II	Adv. Prof. Educator
0	\$46,878	\$48,752	\$51,387	\$53,264	\$55,139	\$57,360
1	\$49,280	\$51,253	\$54,027	\$56,002	\$57,975	\$60,314
2	\$50,595	\$52,534	\$55,257	\$57,606	\$59,554	\$61,870
3	\$52,211	\$54,148	\$56,855	\$59,575	\$61,507	\$64,202
4	\$54,149	\$56,079	\$59,180	\$61,892	\$63,816	\$66,936
5	\$0	\$58,011	\$61,505	\$64,607	\$66,529	\$69,654
6	\$0	\$60,081	\$63,521	\$66,988	\$68,892	\$72,385
7	\$0	\$62,877	\$66,704	\$70,162	\$72,078	\$75,967
8	\$0	\$64,441	\$68,460	\$71,921	\$74,026	\$78,120
9	\$0	\$66,005	\$70,217	\$73,679	\$75,972	\$80,272
10	\$0	\$69,513	\$73,738	\$77,333	\$80,014	\$84,731
11	\$0	\$0	\$81,571	\$83,938	\$85,722	\$90,213
12	\$0	\$0	\$83,807	\$86,457	\$88,743	\$94,368
13	\$0	\$0	\$87,728	\$90,716	\$93,560	\$100,454

**Pennsbury School District
Salary Schedule
2018-2019**

Steps	Inductee	Instructor I	Instructor II	Prof. Educator I	Prof. Educator II	Adv. Prof. Educator
0	\$47,378	\$49,252	\$51,887	\$53,764	\$55,639	\$57,860
1	\$49,780	\$51,753	\$54,527	\$56,502	\$58,475	\$60,814
2	\$51,095	\$53,034	\$55,757	\$58,106	\$60,054	\$62,370
3	\$52,711	\$54,648	\$57,355	\$60,075	\$62,007	\$64,702
4	\$54,649	\$56,579	\$59,680	\$62,392	\$64,316	\$67,436
5	\$0	\$58,511	\$62,005	\$65,107	\$67,029	\$70,154
6	\$0	\$60,581	\$64,021	\$67,488	\$69,392	\$72,885
7	\$0	\$63,377	\$67,204	\$70,662	\$72,578	\$76,467
8	\$0	\$64,941	\$68,960	\$72,421	\$74,526	\$78,620
9	\$0	\$66,505	\$70,717	\$74,179	\$76,472	\$80,772
10	\$0	\$70,013	\$74,238	\$77,833	\$80,514	\$85,231
11	\$0	\$0	\$82,071	\$84,438	\$86,222	\$90,713
12	\$0	\$0	\$84,307	\$86,957	\$89,243	\$94,868
13	\$0	\$0	\$88,228	\$91,216	\$94,060	\$100,954